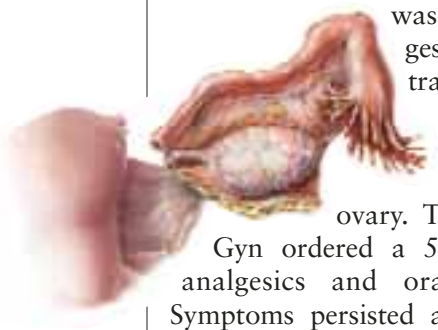
Was ovary removed without consent?

Buchanan County (Mo) Circuit Court

A 33-year-old woman presented to a hospital with severe pain in her lower right quadrant. She had had a hysterectomy 11 years earlier due to painful adhesions; a painful right ovarian cyst 7 years prior was treated with analgesics and oral contraceptives.



An ultrasound revealed a simple cyst on the right ovary. The consulting Ob/Gyn ordered a 5-week regimen of analgesics and oral contraceptives. Symptoms persisted after the regimen's completion, however, so the physician recommended surgery.

The following day the woman had a bilateral oophorectomy. Five days after discharge she returned to the hospital with lower abdominal pain. Testing revealed injury to her left ureter, which was leaking urine resulting in urinoma. A nephrostomy tube was inserted; she wore this with a collecting bag for the following 2 months, after which the ureter was repaired.

In suing, the woman claimed to have consented to removal of her right ovary only—not both. She noted all pain following her hysterectomy had been on her right side. Further, she claimed the physician was negligent for injuring her ureter at the time of surgery, most likely by use of a clamp.

The defendant maintained the patient wanted a bilateral oophorectomy to prevent future pain. He argued that the left ovary was diseased, and noted that at surgery it was scarred and attached to the pelvic sidewall. He denied using a clamp.

- The first trial resulted in a hung jury. The jury in the second trial returned a defense verdict.

New mother dies after normal delivery

Cook County (Ill) Circuit Court

A few hours after an uncomplicated vaginal delivery, a 36-year-old woman began experiencing abdominal discomfort and back pain, which was diagnosed as a distended bladder and musculoskeletal pain. She received analgesics, but subsequently experienced pain in her abdomen and right shoulder so severe that she could not move.

Approximately an hour later, the woman suffered 2 seizures. Nursing staff identified these as eclamptic seizures and called the attending physician at home. Soon after, the woman's blood pressure began to fall and she was brought to intensive care, where she was intubated and received blood due to low hemoglobin.

Though a surgical team was assembled, the woman could not be stabilized for surgery. She died soon after. Autopsy revealed the cause of death to be intraabdominal hemorrhage due a ruptured pancreatic cyst.

The woman's family sued the hospital, alleging that if nursing staff had contacted the physician sooner, blood administration would have begun earlier, allowing the woman to get to the operating room for surgery.

The defense argued that the woman hemorrhaged too quickly for an effective intervention to occur. Further, it maintained that the nurses' assessment of eclamptic seizures was reasonable.

- The jury awarded the plaintiff $12.4 million.

CONTINUED

Nurses urge Ob/Gyn to perform cesarean

Hillsborough County (Fla) Circuit Court

After passing 41 weeks' gestation, a 30-year-old woman was admitted to the hospital and given oxytocin to induce labor. The fetal heart rate tracing was not reassuring and there was a deceleration to 45 beats per minute, which prompted nursing staff to urge the Ob/Gyn to conduct a cesarean section.

When the physician chose not to proceed with a cesarean, the nurses contacted a supervisor, who also recommended cesarean delivery. The doctor ordered an immediate cesarean, but changed the order from "stat" to "ASAP" when the child's heart rate improved.

At delivery a nuchal cord was discovered. The infant, born with brain damage, was never able to walk, talk, or blink. He died of pneumonia at age 2.

The family claimed the doctor was negligent in not initiating cesarean sooner.

The defendant argued that the child suffered chronic hypoxia throughout pregnancy, and noted that placental pathology revealed significant abnormalities, including profound chorangiosis.

- The jury awarded the plaintiffs $2.4 million.

Fetus expelled to floor after D&C

Los Angeles County (Calif) Superior Court

A 28-year-old woman in her first trimester learned that her fetus had no cardiac activity. A dilation and curettage (D&C) was performed.

At home following the procedure, the woman experienced abdominal pain. While in the bathroom, she expelled the fetus onto the floor. The patient required a second D&C procedure. When the woman and her husband requested the fetus for burial, they learned that it was sent to pathology, where it was destroyed.

In suing, the plaintiffs noted that medical records showed that, at the first D&C, only 50 cc of blood and minimal products of conception were collected. They alleged this should have prompted an ultrasound examination to ensure the fetus was completely removed.

The defendants denied negligence, noting that incomplete removal of the fetus is a known risk of the procedure.

- The parties settled for $225,000 at arbitration.

Was fetal presentation compound?

Westchester County (NY) Supreme Court

Shortly after discharge following delivery and tubal ligation, a woman brought her newborn infant to a pediatrician. The physician suggested she take the child to an orthopedic surgeon, who diagnosed brachial plexus injury and Erb's palsy. Surgery was required to repair the child's cosmetic deformities, but full range of motion could not be recovered.

In suing, the plaintiff claimed the Ob/Gyn failed to recognize a compound presentation—which was noted by a delivery nurse—and applied excessive traction to the head and brachial plexus. She claimed the physician was further negligent in failing to recognize the injury.

The mother noted that, due to her tubal ligation procedure, she saw the infant very little prior to discharge, and only when the child was wrapped in a blanket. Thus, she did not notice any abnormalities before her release.

The obstetrician denied a compound presentation, maintained delivery was uncomplicated, and contended the child was in good condition at discharge.

- The jury returned a defense verdict. ■

The cases in this column are selected by the editors of OBG MANAGEMENT from Medical Malpractice Verdicts, Settlements & Experts, with permission of the editor, Lewis Laska, of Nashville, Tenn (www.verdictslaska.com). While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.