Woman refuses hysterectomy, dies of invasive cancer

A 37-YEAR-OLD WOMAN VISITED HER GYNECOLOGIST for an annual physical exam. A Pap smear revealed human papillomavirus (HPV) infection and abnormal cells. The pathology report after cone biopsy indicated adenoid cystic carcinoma. The physician told the patient that she needed a hysterectomy, which she refused.

The patient visited her primary care physician 9 months later because of abdominal bloating. He palpated a pelvic mass and sent her for a CT scan, which showed a mass within the pelvis as well as liver metastases. Surgery was not an option because of the metastases. Chemotherapy was started but the woman died in less than a month.

ESTATE'S CLAIM Although the gynecologist told the patient she needed a hysterectomy, he did not 1) correctly report the results of the biopsy or 2) explain the reasons why he was recommending hysterectomy.

PHYSICIAN'S DEFENSE The patient was properly treated when advised to have a hysterectomy. She refused treatment.

VERDICT A $1.4 million Virginia settlement was reached.

Neonatal death from group B strep

AN INMATE AT A STATE PRISON gave birth to a healthy baby at 39 weeks' gestation. The baby died the next day from a perinatal group B *Streptococcal* (GBS) infection.

ESTATE'S CLAIM The two ObGyns who treated the mother were negligent: the mother's GBS status was unknown; she was never informed that she needed GBS testing; testing was not administered.

PHYSICIANS' DEFENSE The primary ObGyn (Dr. A) denied negligence. The other (Dr. B) claimed that he had no duty to administer GBS testing because he was not the primary ObGyn. Prophylactic antibiotics in the absence of certain risk factors—none were present—were inappropriate.

VERDICT A $150,000 California settlement was reached with Dr. A. A defense verdict was returned for Dr. B.

>> READ ***New group B strep guidelines clarify management of key groups*****,** on page 21.

Difficult delivery, injured baby

FETAL HEART RATE TRACING was not reassuring, and the fetus did not descend during prolonged labor and delivery. After more than 15 minutes of bradycardia, the hospital staff contacted the ObGyn, who then ordered cesarean delivery. At the initiation of surgery, the anesthetic was insufficient and the mother was unable to tolerate the abdominal incision.

The child has cerebral palsy and suffers motor delays and moderate cognitive deficits.

PATIENTS' CLAIM The ObGyn failed to recognize cephalopelvic disproportion. The hospital staff misread fetal monitoring strips, delaying response to fetal distress because the umbilical cord was compressed between the baby's cheekbone and maternal pelvis. A cesarean delivery should have been performed earlier, immediately after the baby showed signs of distress. The staff administered the wrong type of anesthetic to the mother before surgery.

DEFENDANTS' DEFENSE Proper care was provided. An occult prolapsed cord was unpredictable, unpreventable, and unforeseeable.

VERDICT A $6.5 million Illinois settlement was reached, including $300,000 for the mother.

Fistula causes incontinence, prompts multiple surgeries

SEVERAL WEEKS AFTER a vaginal hysterectomy, a woman presented with urinary incontinence; vesicovaginal fistula was diagnosed. She underwent 9 surgeries to repair the bladder injury and fistula.

PATIENT'S CLAIM The injury occurred because the gynecologist used improper technique when retracting the bladder. He should have inspected the bladder for injury before finishing the operation.

PHYSICIAN'S DEFENSE Bladder injury is a known risk of laparoscopic transvaginal hysterectomy.

VERDICT A $796,617 Michigan verdict was returned.

PHOTO: SHUTTERSTOCK

These cases were selected by the editors of OBG MANAGEMENT *from* Medical Malpractice Verdicts, Settlements & Experts, *with permission of the editor, Lewis Laska (www.verdictslaska.com). The information available to the editors about the cases presented here is sometimes incomplete. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation and are meant to illustrate nationwide variation in jury verdicts and awards.*

Ureter kinks during difficult hysterectomy

A 36-YEAR-OLD WOMAN PRESENTED to her gynecologist complaining of heavy menses and abdominal and pelvic pain, especially in the lower left quadrant. Total abdominal hysterectomy was scheduled. During surgery, the gynecologist found that the bladder was densely adhered to the uterus. Brisk bleeding followed attempts to separate the bladder from the uterus. The physician placed a single suture to stop the bleeding, and the procedure was completed.

Three days later, she had pain in the right kidney area; testing determined her right ureter was kinked. She was sent to another hospital for placement of a stent and nephrostomy tube, which were removed 4 months later.

PATIENT'S CLAIM The gynecologist was negligent in failing to provide the patient with alternatives to hysterectomy, and in injuring the ureter during hysterectomy.

PHYSICIAN'S DEFENSE Four treatment options were provided to the patient. The injury is a known complication of the surgery. The patient has completely recovered.

VERDICT A Pennsylvania defense verdict was returned.

Woman delivers at home after fetus dies

AT 16 WEEKS' GESTATION, a woman went to the hospital complaining of vaginal discharge. Ultrasonography revealed that the fetus had died. The woman's cervix was not dilated; when the hospital staff attempted to discharge her, she resisted. Hospital officials threatened to call the police if she did not leave. She left, and later delivered the dead fetus at home. She then called her ObGyn, who promptly admitted her for emergency dilation and curettage to remove the remaining placental tissue.

PATIENT'S CLAIM She alleged a violation of the Emergency Medical Treatment and Active Labor Act (EMTALA), arguing that instead of stabilizing her, she was sent home under the threat of police intervention.

DEFENDANT'S DEFENSE The hospital claimed it had done all it could for the patient; she was not ready to deliver the fetus. She was given instructions to see her ObGyn or return if her condition changed. She never returned.

VERDICT A Maine verdict of $50,000 compensatory damages was returned against the hospital. The jury added $150,000 for punitive damages.

A second ectopic pregnancy?

FOUR YEARS AFTER SUFFERING a ruptured tubal ectopic pregnancy that necessitated salpingectomy, a 30-year-old woman became pregnant again. At her first prenatal visit to a hospital clinic, she saw a certified nurse midwife. The patient reported the prior ectopic pregnancy and complained of spotting with left-sided pain, nausea, and vomiting. Six days later, she went to the emergency department and was given a diagnosis of a ruptured fallopian tube from an ectopic pregnancy. Surgery was performed to remove the fallopian tube, thus making her unable to naturally conceive a child.

PATIENT'S CLAIM The midwife should have responded immediately to the patient's symptoms, ordered a sonogram, and sent her to the hospital. Any of several available options would have saved the fallopian tube if the ectopic pregnancy had been diagnosed before rupture. The patient has spiritual and moral objections to in vitro fertilization.

MIDWIFE'S DEFENSE The midwife ordered a Stat sonogram at the first prenatal visit, but the prescription form was never removed from the chart, and the sonogram never scheduled. It was the hospital's responsibility to get the form to the plaintiff and have the procedure scheduled. The midwife was therefore not at fault.

VERDICT A $2.5 million Maryland verdict was returned; it was reduced under the state cap to $650,000.

ObGyn underestimates birth weight—by approximately 50%

A PREGNANT WOMAN WITH BACK PAIN went to the emergency department. She was discharged but returned the next day with the same complaint, and, shortly, went into labor. The ObGyn, who estimated fetal weight at 7 or 8 lbs, delivered the baby using a vacuum extractor. Shoulder dystocia was encountered, and four maneuvers were used to deliver the baby, who weighed more than 11 lbs at birth. The baby suffered global brachial plexus injury.

PATIENT'S CLAIM The ObGyn was negligent: in underestimating fetal weight; in failing to offer cesarean delivery after 2 hours of second-stage labor; and in applying excessive force to deliver the baby.

PHYSICIAN'S DEFENSE Fetal weight is almost impossible to accurately estimate. A cesarean delivery was unnecessary. Only gentle traction was used to deliver the child.

VERDICT An Illinois defense verdict was returned.