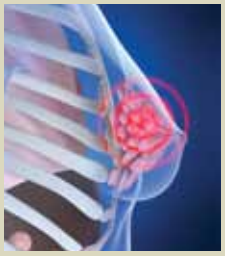

## Breast infection misdiagnosed

**A SWOLLEN, TENDER AREA DEVELOPED** on a mother's right breast 3 weeks after giving birth. She called her ObGyn to report that pus was oozing from the nipple. He prescribed an antibiotic for what he presumed to be a clogged milk duct, and told her to continue to breastfeed. The infection worsened, until milk ceased to flow and the breast was red, painful, and warm.

At an office visit 2 weeks after the phone call, the ObGyn prescribed a new antibiotic, and told the mother to let the right breast milk dry up. Within 24 hours, pus breached the skin several centimeters above the nipple. The patient went to the emergency department, where 100 cc of pus was surgically removed. The infection was diagnosed as methicillin-resistant *Staphylococcus aureus* (MRSA). The patient was found to also have a MRSA infection in her left breast, but that infection was able to be treated by needle drainage. The ObGyn reported that he believed that the MRSA infection had developed shortly after the office visit.

**PATIENT'S CLAIM** The ObGyn was negligent in not diagnosing the infection earlier. MRSA infection could not have developed as quickly as the physician said; it probably started when pus began oozing from the nipple 3 weeks after childbirth.

**PHYSICIAN'S DEFENSE** The initial infection was in a clogged milk duct. Staphylococcal infection is rare in nursing mothers.

**VERDICT** A $200,000 Missouri verdict was returned.

## Postpartum bleeding; then hysterectomy and chronic pain

**TWELVE DAYS AFTER GIVING BIRTH** to her third child, a 30-year-old woman went to the emergency department with heavy vaginal bleeding. An ObGyn, using ultrasonography, found pieces of placental tissue still attached to the uterine wall. He performed suction dilatation and curettage and prescribed medication to help the uterus contract. When the bleeding did not slow or stop, he consulted his partner.

During exploratory surgery, they found several sources of hemorrhage, including diffuse uterine bleeding. After trying to control the bleeding, they performed an abdominal hysterectomy; the woman had already lost one-half of her total blood volume.

**PATIENT'S CLAIM** The ObGyns were negligent in performing the hysterectomy. In addition to being unable to have more children, she also now suffers from chronic pain syndrome.

**PHYSICIANS' DEFENSE** They did what was needed to save the patient's life.

**VERDICT** An Illinois defense verdict was returned.

*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.*

## Drug blamed for osteonecrosis of jaw

**AFTER TAKING ALENDRONATE SODIUM** (Fosamax) for osteoporosis for several years, a woman was found to have osteonecrosis of the jaw.

**PATIENT'S CLAIM** The gynecologist was negligent in prescribing alendronate sodium, which reduced the blood flow to her jawbone, leading to osteonecrosis.

**PHYSICIAN'S DEFENSE** The patient had a history of jaw problems. Her condition could have been caused by her use of steroids for pain resulting from an automobile accident.

**VERDICT** A New Jersey defense verdict was returned.

## Sponge found during laparotomy

**A WOMAN UNDERWENT** a hysterectomy in September. She returned to her gynecologist in December with abdominal pain; a diagnosis of appendicitis was made. During emergency laparotomy, a surgical sponge was found in the abdominal cavity. A third surgery was performed because she developed an abdominal infection that required bowel resection.

**PATIENT'S CLAIM** The gynecologist was at fault for leaving the sponge in her abdomen during hysterectomy. The surgical nurses were at fault for reporting a complete sponge count.

**DEFENDANTS' DEFENSE** The gynecologist maintained that he relied on the surgical nurses' sponge count, and that he had been told it was correct.

**VERDICT** The hospital settled before trial. A Florida defense verdict was returned for the physician.

PHOTO: SHUTTERSTOCK

## Dye not used after 2nd bladder repair; fistula develops

**AFTER COMPLAINING OF PAIN,** excessive menstrual bleeding, and anemia, a woman underwent a hysterectomy.

During surgery, her gynecologist injured, then repaired, the bladder. Indigo carmine dye test was performed; when dye indicated a second, smaller hole, the gynecologist repaired it with a figure-of-8 stitch. The dye test was not performed after the second repair.

The patient underwent repair of a vesicovaginal fistula 2 months later.

**PATIENT'S CLAIM** The gynecologist was negligent in using the figure-of-8 stitch in the bladder, and in failing to perform a second dye test that would have indicated an additional leak.

**PHYSICIAN'S DEFENSE** The figure-of-8 stitch was an appropriate technique to close the second hole. Performing another dye test would have stretched the bladder, weakening the sutures. A fistula is a known complication of a hysterectomy.

**VERDICT** A Missouri defense verdict was returned.

## Should IUGR have been found "incidentally"?

**SEVEN MONTHS' PREGNANT,** an obese woman was admitted to the hospital with hypertension. Dr. A, a hospital-employed ObGyn, discharged her after 3 days.

The woman returned to the hospital 1 month later, but refused to see Dr. A. Another ObGyn (Dr. B) was unable to find a fetal heartbeat, diagnosed fetal death, and performed a cesarean delivery. Fetal death was blamed on intrauterine growth restriction (IUGR). The parents requested an autopsy.

**PATIENT'S CLAIM** Dr. A should have diagnosed IUGR with ultrasonography when the woman was first hospitalized. The autopsy was not performed.

**DEFENDANTS' DEFENSE** The hospital claimed Dr. A acted properly in not ordering the sonogram, based on the patient's complaints and symptoms. The hospital also denied there was any duty to perform an autopsy; the cause of death had been determined.

**VERDICT** A California defense verdict was returned.

## Should conservative care trump surgery?

**A 38-YEAR-OLD WOMAN WAS REFERRED** to a specialty clinic for management of severe urinary stress incontinence and pelvic prolapse. A gynecologic surgeon performed mesh repair of the prolapse, and cystocele repair with bilateral sacrospinous ligament fixation and a prepubic transvaginal sling.

After surgery, the patient suffered increasing pain and fever. Diagnostic laparoscopy failed to find a suspected bowel perforation. An intravenous pyelogram revealed a left ureteral injury; the patient was transferred to another hospital for stent placement. The woman later developed a vesicovaginal fistula, with mesh erosion into the bladder.

**PATIENT'S CLAIM** Conservative treatment should have been offered first. Too many procedures were performed during one operation, increasing the risk of complications.

**PHYSICIAN'S DEFENSE** The patient declined conservative treatment. Her severe symptoms required multiple procedures within one operation. The complications that she developed were known risks of the procedures.

**VERDICT** A California defense verdict was returned.

## Mother dies right after birth of twins

**BECAUSE OF HER HISTORY** of previous obstetrical complications and two cesarean deliveries, a 29-year-old woman, pregnant with twins, was under the care of a high-risk obstetrics clinic at a university hospital.

The patient was hospitalized for 6 days because of preterm contractions, then seen several times in the clinic. Her family testified that she was told to be on bed rest, and that she had complied.

Three weeks after discharge, she delivered twins by cesarean. As delivery was completed, she became unresponsive. Resuscitation attempts failed. An autopsy revealed a massive saddle pulmonary embolus. It had likely broken off from a deep vein thrombosis (DVT) in the legs or pelvis.

**ESTATE'S CLAIM** When bed rest was recommended, she should have been started on DVT prophylaxis.

**DEFENDANTS' DEFENSE** The ObGyn and hospital claimed that no restrictions were placed on the woman's activity following discharge from the hospital for preterm labor. Standard of care requires DVT prophylaxis for patients with a prior history of clots or thrombophilia; the decedent had neither of those conditions. Heparin was not indicated because it would increase the risk of bleeding and cause anesthesia risks. Mechanical prophylaxes such as TED hose and sequential compression devices have not been proved effective in preventing pulmonary embolism or death.

**VERDICT** An Illinois defense verdict was returned.