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Pregnant prisoner in preterm labor ... and more, at obgmanagement.com

Child's brain damage blamed on late cesarean

A MOTHER WANTED A HOME BIRTH with a midwife. When complications arose and labor stopped progressing, the midwife called an ambulance. The emergency department (ED) physician ordered an urgent cesarean delivery, but the procedure did not begin for another 2 hours. The child was born with brain damage, multiple physical and mental disabilities, complex seizure disorder, and cerebral palsy.

PARENTS' CLAIM The child's injuries occurred because cesarean delivery was delayed for 2 hours. Based on fetal heart-rate monitoring, the injuries most likely occurred in the last 18 minutes before birth, and were probably caused by compression of the umbilical cord. An earlier cesarean delivery would have avoided the injuries.

DEFENDANTS' DEFENSE All of the injuries occurred prior to the mother's arrival at the hospital, while she was under the care of the midwife. Fetal distress was present for an hour before the ambulance was called. When the mother arrived at the ED, she was an unknown patient, as the midwife did not have a collaborating physician. While the ED physician determined that a cesarean delivery was required, it was not considered an emergency. The mother was taken to the OR as soon as possible. Fetal monitoring strips at the hospital were reassuring.

VERDICT A $55 million Maryland verdict was returned against the hospital, including $26 million in noneconomic damages. After the court reduced noneconomic damages and future lost wages awards, the net verdict was $28 million.

ARDS after hysterectomy

A MORBIDLY OBESE WOMAN underwent a hysterectomy. The asthmatic, 38-year-old patient vomited after surgery. A pulmonologist undertook her care and determined that she had acute respiratory distress syndrome (ARDS). He prescribed the administration of oxygen. When she vomited again during the early morning hours of the second postsurgical day, he ordered intubation and went to the hospital immediately, but the patient quickly deteriorated. She died from cardiac arrest.

ESTATE'S CLAIM The patient's death was due to failure to diagnose and treat ARDS in a timely manner. A bronchoscopy and frequent radiographs should have been performed. If the patient had been intubated earlier and steps had been taken to reduce the risk of vomiting, she would have had a better chance of survival. She should have been transferred to another facility when ARDS was diagnosed.

DEFENDANTS' DEFENSE A bronchoscopy was not necessary. ARDS was diagnosed and treated in a timely manner. She was too unstable to transfer to another hospital.

VERDICT The hospital reached a confidential settlement, and the claim against the anesthesiologist was dismissed. The trial proceeded against the pulmonologist and his group. A New York defense verdict was returned.

Mother's HELLP syndrome missed; fetus dies

DURING HER PREGNANCY, a 23-year-old woman was monitored for hypertension by her ObGyn and nurse midwife. At her 36-week prenatal visit, she was found to have pre-eclampsia, including proteinuria. She was sent directly to the ED, where the baby was monitored and laboratory tests were ordered by a nurse and nurse midwife. After 2 hours, she was told she had a urinary tract infection and discharged. Three days later, she returned to the ED in critical condition; she had suffered an intrauterine fetal demise.

PARENTS' CLAIM Lab results showed critical values and confirmed that the patient had developed HELLP (hemolysis, elevated liver enzymes, and low platelet count) syndrome. The ED nurse and nurse midwife were negligent in their treatment: They never read the lab results or reported the results to the patient or an ObGyn.

DEFENDANTS' DEFENSE The case was settled before trial.

VERDICT A $950,000 Virginia settlement was reached.

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.*

PHOTO: SHUTTERSTOCK

Was this pregnant prisoner in preterm labor ignored?

A PREGNANT WOMAN WAS AWAITING TRIAL in County jail when she went into preterm labor. She was taken to the ED but released 2 hours later, although she was dilated 2–3 cm and having contractions. She was returned to her locked cell and not monitored—no deputy or nurse was within sight or sound of the patient. Her water broke and contractions increased. Despite her screams, and those of other inmates, a nurse didn't arrive for 2 hours, when the baby's head was crowning. EMS services were called and the baby was delivered in the jail cell. The child had no heartbeat or respiration. Mother and baby were transported to the hospital, where the child was resuscitated. She has severe mental impairment and cerebral palsy.

There is no documentation that the mother received any prenatal or postpartum care in jail. The mother is now serving a life sentence after a conviction for felony murder, kidnapping, and conspiracy.

CHILD'S CLAIM The case was brought on behalf of the child, and claimed that deliberate indifference and the failure to provide medical attention caused the child's impairments.

DEFENDANTS' DEFENSE The County claimed qualified immunity as a government entity and argued that, when the child was injured, she was still a fetus, and therefore not protected by the Constitution and civil rights laws.

VERDICT The US Circuit Court of Appeals rejected the County's argument that the child was not protected by the Constitution. An $8 million Michigan settlement was reached.

Dermoid cyst still present after wrong-site surgery

A DERMOID CYST WAS DETECTED on the left ovary of a 28-year-old woman during prenatal ultrasonography (US). A year later, US confirmed the dermoid cyst, and the patient underwent outpatient cystectomy.

At the first postsurgical visit, the patient reported right pelvic pain. When she called the ObGyn's office a few days later to again report right pelvic pain, her call was not returned.

She then went to the ED, where testing determined that the ObGyn had performed a right salpingo-oophorectomy and that her left ovary and cyst were still intact. She again attempted to contact the ObGyn, without response.

PATIENT'S CLAIM The ObGyn performed wrong-site surgery. The patient was not informed of the error during a postsurgical visit, nor were her attempts at contacting the physician returned. Still at risk for malignancy, she is facing a second surgical procedure to remove the cyst. Her fertility is diminished due to the surgical error, and she suffers anxiety and mental stress as a result of the situation.

At first, the ObGyn refused to provide medical records to the patient's lawyer. When the records were obtained and compared with records obtained from another physician who treated the patient, it was evident that the ObGyn had altered the records to state that the patient had complained of right-side pain.

PHYSICIAN'S DEFENSE There was no negligence. The patient was properly treated for right-sided pain. The records were not altered.

VERDICT A $1.42 million Maryland verdict was returned. The state cap on noneconomic damages will reduce the verdict to $680,000.

Sponge left behind after vacuum-assisted closure

A WOMAN WENT TO THE ED with abdominal pain. It was determined that she had an abdominal abscess, and a surgeon assumed her care. After surgically draining the abdominal abscess, the surgeon placed a large black sponge into the abdominal cavity and then used vacuum-assisted closure. The patient was discharged 6 days later. She continued to receive treatment for a surgical-site infection that failed to heal. Two weeks later, the patient was readmitted to the hospital for exploratory surgery. The surgeon found and removed the sponge.

PATIENT'S CLAIM The surgeon was negligent for leaving the surgical sponge in the patient's abdomen. She claimed pain, scarring, wound necrosis, infection, and the need for additional hospitalizations due to retention of the sponge.

PHYSICIAN'S DEFENSE A settlement was reached during the trial.

VERDICT A confidential Florida settlement was reached.

PHOTO: SHUTTERSTOCK