Delayed birth, intubation failure: $10M settlement

TWO DAYS SHY OF HER DUE DATE, a woman went to an Army hospital to report bloody mucus discharge and sporadic contractions. She was 2 cm dilated and 50% effaced with the baby at –2 station. Fetal heart-rate monitor results were reassuring. She was discharged home but returned 5 hours later with increased pain and contractions. She was 5 cm dilated, 90% effaced; the baby was at –3 station. When contractions ceased, she was discharged. There had been no cervical change for 6 hours with a negative fern test. Fetal monitoring results were reassuring.

The woman returned 3 hours later with increased pain and contractions. She had a fever and high white blood cell and neutrophil counts. She was 6 cm dilated, 90% effaced, but the baby was still at –3 station. Ampicillin sodium/sulbactam sodium was administered. The ObGyn was called 4 times over the next 2.5 hours, when fetal monitoring results worsened and bradycardia developed. The nurses treated fetal distress by changing the maternal position and performing amnioinfusion. Then the ObGyn came to the bedside and ordered cesarean delivery. The baby was born severely compromised from hypoxic ischemic encephalopathy and metabolic acidosis. The pediatrician responsible for the baby's resuscitation failed to get a response with bag ventilation after 5 minutes; 2 attempts at intubation failed. When the chief of pediatrics arrived at 15 minutes, the infant was successfully intubated. The baby was transferred to another facility. The child has profound disabilities.

PARENTS' CLAIM The hospital staff and physician did not deliver the baby in a timely manner when fetal distress was first noted. The pediatrician did not properly resuscitate the newborn.

DEFENDANTS' DEFENSE Chorioamnionitis and funisitis caused or contributed to the infant's injuries. Proper care was provided.

VERDICT A $10 million Washington settlement was reached.

Did OCs cause this woman's stroke?

A 40-YEAR-OLD WOMAN went to a clinic to obtain a prescription for birth control pills. A physician assistant (PA) conducted a complete physical examination. When no contraindications were found, a prescription for oral contraceptives (OCs) was provided. Two months later, the patient suffered a debilitating stroke. After the stroke, the patient was found to have a patent foramen ovale.

PATIENT'S CLAIM The risks and benefits of the OC were not fully explained to the patient by the PA. She was not offered other contraceptive options. OCs are not safe for a woman her age due to a higher risk of stroke.

DEFENDANTS' DEFENSE The patient used OCs in the past, and had received information from other physicians about their use. The stroke occurred because of the foramen ovale, not the use of OCs.

VERDICT A Washington defense verdict was returned.

Ureter injury not treated until the next day

DURING CESAREAN DELIVERY, the ObGyn identified a small ureteral injury but did not repair it. The next day, the ObGyn consulted a urologist and ordered an intravenous pyelogram (IVP). The urologist identified a ureteral obstruction and surgically repaired the injury. The patient was required to use a nephrostomy bag for 6 months until the nephrostomy was reversed.

PATIENT'S CLAIM The ObGyn was negligent in failing to immediately treat the ureter injury. The delay in repair necessitated the use of the nephrostomy bag.

PHYSICIAN'S DEFENSE A ureter injury is a known complication of the procedure. The ObGyn did not cause the obstruction. Failure to perform an immediate repair was due to his concern that the patient might have lost too much blood during cesarean delivery. Bringing in the urologist the next day was appropriate. The patient completely recovered.

VERDICT A $484,141 Mississippi 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.*

PHOTO: SHUTTERSTOCK

Patient didn't want male physician

AFTER A WOMAN EXPERIENCED sexual assault in college, she did not want a male physician to perform a vaginal examination. When pregnant, she discussed that request with her nurse midwives. While she was in labor, a male ObGyn examined her.

PATIENT'S CLAIM The nurse midwives failed to document her request not to be examined by a male clinician. The patient experienced severe emotional distress.

DEFENDANTS' DEFENSE The midwives claimed they were never told of the patient's aversion to having a male physician examine her. The male physician and the birthing center denied knowledge of the request.

VERDICT A $270,000 Washington verdict was returned.

Symptoms attributed to anesthesia: $2M

A 62-YEAR-OLD WOMAN underwent treatment for abnormal uterine bleeding (AUB). Hysteroscopy revealed a retroverted uterus containing a 3-cm polyp. During resection of the polyp, the uterus was perforated and bowel was drawn into the uterus. The injury was not recognized. The patient was discharged home the same day.

The next day, she phoned to report vomiting, abdominal pain, and urinary retention. The gynecologist attributed the symptoms to anesthesia and told the patient to allow more time for resolution.

The patient went to an emergency department (ED) 48 hours later with a distended abdomen and severe pain. She was transferred to a regional hospital with acute sepsis. A small bowel perforation was identified, requiring extensive treatment, including hysterectomy and resection of 27 cm of small bowel.

PATIENT'S CLAIM The gynecologist was negligent in failing to recognize the injury intraoperatively. He didn't examine the patient when she first reported symptoms.

PHYSICIAN'S DEFENSE The injuries are known risks of the procedure. The patient's complaints could reasonably be associated with postanesthesia residuals.

VERDICT A $5 million Virginia verdict was reduced to $2 million by the statutory cap.

Did nosebleeds cause baby's disabilities?

AFTER A 33-YEAR-OLD WOMAN had a nosebleed she noted decreased fetal movement. At the ED, preterm labor was ruled out, fetal monitoring results were normal, and she was discharged. She returned that afternoon with a nosebleed. After 4 hours, when fetal monitoring results were normal, she was again discharged.

The next morning, an otolaryngologist cauterized her right nostril. After another nosebleed, the physician packed the right nasal cavity. She returned with bleeding from the left nostril and remained at the ear, nose, and throat (ENT) clinic for several hours until the bleeding stopped.

The following day, she returned to the ENT clinic asking that the packing be removed, but it needed to remain. She called a covering ObGyn to request anti-anxiety medication because the packing was making her feel claustrophobic.

The next day, after additional nosebleeds, she was taken to the ED with mild contractions. Her hematocrit was 25.6% and her hemoglobin level was 8.8 g/dL. When fetal heart-rate monitoring was nonreassuring, a cesarean delivery was expedited. The child has profound physical and developmental disabilities, uses a feeding tube and ventilator, and needs 24-hour care.

PARENTS' CLAIM The mother and fetus were never properly assessed or treated.

DEFENDANTS' DEFENSE The physicians denied negligence and disputed the severity of most of the nosebleeds. At each ED presentation, hematocrit and hemoglobin levels were normal and the mother was stable at discharge. When fetal monitoring was performed, the results were normal. When the mother left the ENT clinic after the third visit, she was told to go to the ED or call 911 if she had another nosebleed, which she did not do. When she went to the ED with contractions, staff reacted to fetal distress and performed emergency cesarean delivery.

VERDICT A Texas defense verdict was returned.

Difficult neonatal resuscitation: $8.4M

A NUCHAL CORD WAS DISCOVERED at delivery. The child has cerebral palsy, a seizure disorder, and developmental delays. He cannot walk or talk, uses a feeding tube, and requires 24-hour care.

PARENTS' CLAIM Monitoring showed fetal distress for 5 hours, but the staff failed to perform a cesarean delivery or have a neonatal resuscitation team ready at delivery. After delivery, the baby was deprived of oxygen for 8 minutes before intubation. A backup team should have been available.

MEDICAL CENTER'S DEFENSE Proper care was given. The resuscitation team was in a surgical suite.

VERDICT An $8.4 million Georgia verdict was returned.