

Prenatal Anatomy Lesson May Avert Dystocia Suit

BY SHERRY BOSCHERT
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KAILUA KONA, HAWAII — Many people—and many jurors—assume that a large pregnant woman has a large birth canal. If shoulder dystocia during delivery leads to neurologic injury of the baby, they reason that the physician must have done something wrong.

Educate patients early on in pregnancy that the way they are built on the outside doesn't necessarily reflect the way they are built on the inside, Kimberly D. Baker, J.D., said at a conference on obstetrics, gynecology, perinatal medicine, neonatology, and the law. "That may sound really simplistic, but I can't tell you the number of times I've taken the testimony of the

"These are the cases that we see an awful lot of in my office. We must have six or eight currently pending," he said.

In close to a third of the cases, shoulder dystocia is not documented in the patient's chart. That's no defense for the physician, however. "All we have to do is talk to the family members or look at the videotapes to see what really happened," he said.

Ms. Baker advised physicians to think long and hard before allowing people to take photos or videos in the delivery

room. She also urged them to be candid in their account of events in notes. If shoulder dystocia leads to an injured baby, be compassionate and sympathetic and engaged, she suggested. "It's a very big deal for the mother and the father or partner."

Get a pediatric neurologist involved in the case. Place a tickler in your file system so that when the mother comes in for postpartum care, you ask about the child. Ask the mother's permission to speak with the neurologist to see how the child is doing.

If you end up in court, remember that jurors respond to visual evidence. Show them your chart notes or photos of the mother's weight gain if you have them.

Ms. Baker defended one case in which a woman ballooned up to 300 pounds during pregnancy but slimmed down to 122 pounds by the time of the trial. The jurors could not believe the argument that her weight gain increased the risk for macrosomia until the defense produced a photo taken 2 weeks before delivery. ■



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mother, who had shoulders like a football player and said, 'I don't understand. It never occurred to me that my pelvis wouldn't be as big as the rest of me,'" said Ms. Baker, a defense attorney in Seattle who also holds a BS degree in nursing.

In addition, follow the patient's weight, assess her for diabetes, estimate fetal weight, and discuss the potential for a macrosomic infant with the patient and her partner. Talk about the risk for shoulder dystocia and injury and the risks and benefits of choosing a vaginal birth or an elective C-section in the case of a small maternal pelvis or an estimated large baby.

If you get sued for not predicting shoulder dystocia, data in the literature provide a very good defense, she said. Studies show that fetal size, shoulder dystocia, and brachial plexus injury don't necessarily go hand in hand, Ms. Baker said.

That doesn't mean you won't be sued anyway, plaintiffs' attorney Michael F. Becker, J.D., commented during the same session at the meeting sponsored by Boston University. If you can reasonably anticipate that shoulder dystocia might become a problem during vaginal delivery, you may have a duty to discuss the option of a C-section, to allow the mother an informed choice of delivery mode.

Ultrasounds or maternal weight gain suggesting cephalopelvic disproportion or macrosomia may make it reasonable to anticipate shoulder dystocia, he suggested. "We know that women under 5 feet tall have a tendency to have a smaller pelvis," and physicians should be discussing shoulder dystocia as a possibility with these patients, said Mr. Becker, who practices law in Cleveland.

Other reasons for malpractice suits include improper management of shoulder dystocia, such as applying fundal pressure, or failing to apply suprapubic pressure or the McRoberts maneuver. Shoulder dystocia brings Mr. Becker many clients.

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