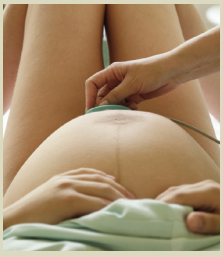

Blue, floppy, apneic baby: $3.25M settlement

WHEN A MOTHER WENT TO THE HOSPITAL IN LABOR, the fetal heart-rate monitor showed a baseline of 140–150 beats per minute (bpm). When the monitor was reapplied 3.5 hours later, the baseline heart rate had risen to 160–165 bpm and demonstrated mild but persistent decelerations. Three hours later, the mother was found to have a fever of 100.5°F; antibiotics were ordered. When persistent fetal tachycardia became evident, the mother's membranes were artificially ruptured. Thick meconium was noted. After a direct fetal lead was applied, moderate fetal distress was apparent. The mother's fever rose and the fetus' late decelerations and tachycardia continued. A cesarean delivery was ordered 12 hours after the mother's arrival.

The baby was born 45 minutes later. She was blue, floppy, and apneic, with a heart rate of 50–60 bpm. Her Apgar scores were 1, 7, and 9, at 1, 5, and 10 minutes, respectively. She was found to have hypoxic ischemic encephalopathy. The child has right-sided weakness and other cognitive impairments including speech and language delays.

PARENTS' CLAIM The attending family physician, a second-year resident, and the attending nurse were negligent in the care of the mother during labor and delivery. Cesarean delivery should have been performed earlier when the mother developed a fever and the fetus' tachycardia was persistent.

DEFENDANTS' DEFENSE The case was settled during trial.

VERDICT A $3.25 million Massachusetts settlement was reached.

MRSA after breast augmentation: $1M verdict

A PLASTIC SURGEON PERFORMED bilateral breast augmentation surgery on a 31-year-old woman with the help of an assistant. The operation was performed at the physician's office. The patient was given lidocaine, diazepam (Valium), and acetaminophen and oxycodone (Percocet) as anesthetics. General anesthesia was not administered. Two 4-inch incisions were created to insert the implants.

A month later, the patient went to the emergency department (ED) reporting chest pain. She was found to have methicillin-resistant *Staphylococcus aureus* (MRSA) infection. She was hospitalized for 6 days.

A month later, she returned to the ED with continuing symptoms. Another surgeon removed the breast implants. A peripherally inserted central catheter (PICC) line was placed for administration of antibiotics to treat the ongoing infection. After several months, she was infection-free.

PATIENT'S CLAIM The initial breast augmentation surgery should have been conducted under sterile conditions in a surgical center under general anesthesia. The assistant was not a licensed nurse or surgical technician.

DEFENDANTS' DEFENSE The infection is a known risk of the procedure. Sulfamethoxazole/trimethoprim (Bactrim) had been prescribed. The plastic surgeon was not given the chance to treat the infection, as the patient went to the ED instead of calling him and changed physicians.

VERDICT A $1 million Georgia verdict was returned.

Respiratory arrest after pain meds administered

A 53-YEAR-OLD WOMAN underwent gynecologic surgery. In the recovery room, a Certified Registered Nurse Anesthetist (CRNA) administered intravenous hydromorphone hydrochloride (Dilaudid HP) 2 mg for pain management. The patient went into respiratory arrest. She was resuscitated, but experienced an hypoxic brain injury. She is now legally blind and has memory deficits and confusion.

PATIENT'S CLAIM The CRNA gave an excessive dose of hydromorphone to the patient.

DEFENDANTS' DEFENSE The dosage was appropriate. Respiratory arrest is a risk of the surgery that can occur without negligence.

VERDICT A Tennessee 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.*

CONTINUED ON PAGE 52

PHOTO: SHUTTERSTOCK

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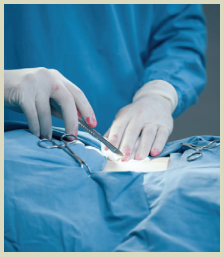

$2.97M verdict after mother and baby die from urosepsis

A 27-YEAR-OLD WOMAN WAS PREGNANT with her second child. The ObGyn had delivered her first child and provided prenatal care once again. Early in the otherwise uncomplicated second pregnancy, the mother developed pyelonephritis.

At 19 weeks' gestation, she went to the ED with abdominal pain. The hospital nurses told her ObGyn they thought she had a urinary tract infection. He concurred without seeing her, ordered antibiotics and pain medication, and she was discharged.

When her condition worsened the next day, she returned to the ED, where she was found to have urosepsis. A urogynecologist took over her care and performed emergency surgery. The fetus died during surgery. The mother went into cardiac arrest as surgery ended. She was resuscitated but suffered significant brain damage; she died 4 days later when life support was removed.

ESTATE'S CLAIM The ObGyn was negligent in not coming to the hospital to examine the patient during her initial ED visit, knowing her history of pyelonephritis. The patient should not have been discharged; intravenous administration of antibiotics would have allowed both mother and fetus to survive.

DEFENDANTS' DEFENSE Admission at the first ED visit was not warranted. A 19-week-old fetus is not viable.

VERDICT Claims against the hospital resulted in a confidential settlement prior to trial. A Kentucky jury found the hospital 60% at fault and the ObGyn 40% at fault. A verdict totaling $7,440,000 was returned, although no damages were awarded for the death of the fetus. The net verdict was $2,976,000.

Endometriosis surgery: oophorectomy planned but hysterectomy done

AFTER SEVERAL WEEKS of abdominal pain, a 44-year-old woman saw her ObGyn, Dr. A. When the pain increased 4 days later, she saw Dr. B, Dr. A's partner. Dr. B determined that the patient had endometriosis and scheduled surgery for 3 days later. The surgical plan was to remove one ovary.

Just before surgery, the patient had an anxiety attack. After she signed the consent form, she was administered midazolam (Versed). During the operation, Dr. B decided to perform a total hysterectomy.

PATIENT'S CLAIM Dr. B was negligent in performing total hysterectomy without proper consent. The patient was incapacitated by the anxiety attack and midazolam and was incapable of giving consent. She had hoped to become pregnant.

PHYSICIAN'S DEFENSE Hysterectomy was reasonable due to severe endometriosis. All options had been discussed during the preoperative visit. The consent form the patient signed provided for performance of other procedures as needed. The patient was fully cognizant for consent purposes after administration of midazolam, based on her history of narcotic use.

VERDICT A Tennessee defense verdict was returned.

Compartment syndrome after childbirth

AT 42 WEEKS' GESTATION, a 45-year-old woman was admitted to the hospital in labor after a failed attempt at home birth. The baby was delivered 4.5 hours after her arrival. The next day, the mother reported right shin and leg pain but was able to ambulate and flex her foot. She was offered the choice of staying in the hospital for a neurologic evaluation or being discharged with outpatient follow-up if her symptoms continued. She chose to be released.

At home, her symptoms worsened: the swelling in her leg and foot increased, she could not walk or flex her foot, and there were color changes in her leg. She returned to the ED, was found to have right leg compartment syndrome, and underwent fasciotomy. She continues to have foot drop, irregular gait, and right hip pain.

PATIENT'S CLAIM The ObGyn was negligent in the care of the patient during labor and delivery.

PHYSICIAN'S DEFENSE The case was settled during trial.

VERDICT A $3,500 Washington settlement was reached.

PHOTO: SHUTTERSTOCK