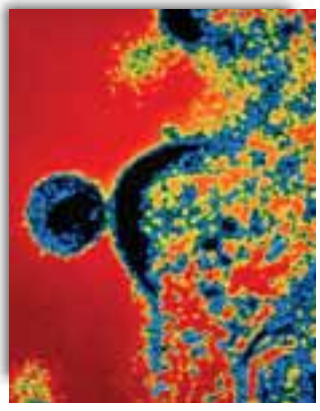
MEDICAL VERDICTS

Failure to test for HIV results in infant transmission

Undisclosed County (Mass) District Court

A woman began prenatal care at a clinic and requested a test for human immunodeficiency virus (HIV) due to a history of swollen glands and prior sexually transmitted diseases. Because she was not told otherwise, she believed she had tested negative for the disease.



AIDS virus budding.

A short while later, the woman began treatment at another prenatal care center. During her initial evaluation at the clinic, the woman was examined for her swollen glands. She told the health-care professional that she had tested negative for HIV. However, no HIV test results were in her records. Despite this finding, no HIV test was conducted. She delivered a seemingly healthy baby in June 1995 and was allowed to freely breastfeed the infant.

In late 1995, both mother and child were diagnosed with HIV. The infant was treated with antiretroviral medications, but was hospitalized several times for complications stemming from the medication. The infant's viral load has varied over his lifetime.

In suing, the mother claimed that the second health-care facility should have followed up care of her swollen glands with an HIV test. If a timely diagnosis had been made, the plaintiff argued, she would not have breastfed her child.

- The case settled for $3 million.

Did HRT treatment lead to stroke?

Plymouth County (Mass) Superior Court

A moderately obese woman began a course of hormone replacement therapy (HRT) at age 48. After 4 years of treatment, the postmenopausal woman suffered a stroke, which resulted in permanent speech and cognitive impairment.

In suing, the patient claimed that the doctor increased the treatment dosage to dangerously high levels, causing the stroke. She further alleged that she never should have been placed on HRT due to the fact that her body was already producing too much estrogen.

- The case settled for $425,000.

Hysterectomy leads to perforated colon

Franklin County (Mo) Circuit Court

A woman presented to her Ob/Gyn with excessive uterine bleeding. The doctor recommended a laparoscopically assisted vaginal hysterectomy. Some 3 to 15 days postoperatively, the woman experienced fever and abdominal pain.

In the same month, the patient underwent a procedure to remove an infected pelvic hematoma that allegedly occurred during the first procedure. Three days after this surgery, the woman was hospitalized with a high fever and abdominal pain. A subsequent procedure revealed a sigmoid colon perforation. Despite 3 additional surgeries to correct the perforation, the woman still complains of chronic abdominal and pelvic pain.

In suing, the woman claimed the that surgeon for the first 2 procedures negligently inserted contrast material into her colon that

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spilled into her abdominal pelvic region, causing permanent pain.

The doctor argued that the colon damage was a result of adhesions in her colon or from placement of the first instrument in the first procedure. He also claimed that the patient delayed having a pelvic scan via computed tomography.

- The jury awarded the plaintiff $1.35 million.

Did delayed follow-up lead to breast cancer?

Ingham County (Mich) Circuit Court

A 28-year-old woman visited her Ob/Gyn for prenatal care. During examination, the physician discovered a 1-cm mass in her breast. The doctor believed the mass to be pregnancy- or hormone-related, but monitored her breast pathology throughout the pregnancy.

Some 16 months after a successful delivery, the woman returned to her doctor for an annual exam. The physician discovered a breast mass. A mammogram and further testing revealed breast cancer. A mastectomy with axillary dissection and reconstruction was performed. Five positive lymph nodes were discovered and staged type II, grade 3.

In suing, the patient argued that the physician failed to order a timely follow-up breast exam that could have resulted in earlier diagnosis and treatment.

The physician countered there was no proof that the masses discovered on separate occasions were the same.

- The case settled for $250,000.

Did kidney failure, death stem from persistent UTI?

Cape Girardeau County (Mo) Circuit Court

In 1995, a woman presented to her Ob/Gyn with a urinary tract infection (UTI). A culture revealed *Proteus* bacteria. Some time later, kidney stones developed, resulting in kidney failure in 1998. The patient was placed on dialysis. After continuing infection and blood clotting, the 47-year-old woman was ineligible for a kidney transplant. She died in July 2000.

In suing, the patient's family argued that the kidney failure could have been surgically reversed in 1998 had the *Proteus* bacteria been properly treated.

The Ob/Gyn claimed that the patient's primary-care physician was responsible for follow-up of her bacterial infection. The primary-care physician, however, claimed it was the Ob/Gyn's responsibility.

- The Ob/Gyn and the kidney specialist settled with the plaintiff for $950,000 under the condition that they are allowed to seek contributions from the primary-care physician.

Emergency surgery leads to compartment syndrome

Undisclosed County (Minn) District Court

After a complicated labor and emergency cesarean, a 25-year-old woman began to bleed and developed uterine atony. As a result, a hysterectomy was performed. After the surgery, the physician diagnosed fluid overload and peripheral edema and ordered treatment with furosemide.

In recovery, the patient complained of severe leg pain. Upon examination, the on-call physician assessed her condition as mild anterior compartment syndrome. He ordered elevation and therapeutic hose, along with a course of morphine. Despite these measures, the woman continued to complain of severe leg pain.

The attending physician called in an orthopedist. On examination, the orthopedist did a pressure check of the patient's right leg and found a compartment pressure of 55 mm Hg. The patient underwent an emergency fasciotomy in which 75% of the muscle of the anterior compartment was removed. She now suffers from decreased strength and control in her right foot.

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In suing, the woman claimed that the physicians did not diagnose compartment syndrome in a timely fashion.

The physician contended that compartment syndrome is very rare following a cesarean and argued that the accepted standard of care did not require an Ob/Gyn to include compartment syndrome in the differential diagnoses. The doctor also noted that the woman had made a good recovery and maintained that delayed diagnosis did not cause her condition.

- The case settled for $142,500.

Could cesarean delivery have prevented shoulder dystocia?

Bronx County (NY) Supreme Court

Several days prior to delivery, a woman presented to her Ob/Gyn for a sonogram. The results indicated an estimated fetal weight of between 4,664 g and 4,770 g.

Despite the fetus's size, the gravida underwent a trial of labor and delivered a 10 lb, 9 oz (4,800 g) baby with brachial plexus injury to her right arm. Presently, the infant suffers from permanent nerve damage with limitation of her right arm.

In suing, the family argued that the delivering obstetrician should have warned the mother of the potential risk of vaginally delivering a macrosomic infant. The plaintiffs also contended that, at the time of delivery, there was a compound presentation of the fetus's face and hand that should have been diagnosed earlier. In addition, they claimed that the physician exerted excessive traction to resolve shoulder dystocia.

The Ob/Gyn maintained that a trial of labor was appropriate because the woman had twice delivered large babies. The physician also claimed that the compound presentation was present only at the time of delivery—not beforehand. The Ob/Gyn further argued that no traction was placed on the fetal head during delivery. The shoulder injury occurred during labor when the infant's shoulder was lodged under the symphysis pubis.

- The jury awarded the family $3.65 million.

Did undiagnosed preeclampsia lead to maternal death?

Cook County (Ill) Circuit Court

A 23-year-old gravida suffered an abruption due to severe preeclampsia and required an emergency cesarean. Although the infant was delivered without complication, the mother developed HELLP (hemolysis, elevated liver proteins, and low platelets) syndrome and disseminated intravascular coagulation. She died 36 hours later from an intracerebral hemorrhage.

In suing, the patient's family claimed that the nurse failed to properly alert the physician to the woman's elevated blood pressure and proteinuria prior to delivery. If she had notified the doctor, the patient's preeclampsia would not have worsened.

The physician contended that no consultation was necessary and that the patient's preeclampsia was sudden and unexpected.

- The jury awarded the plaintiff $9.9 million.

The cases presented here were compiled by Lewis L. Laska, editor of Medical Malpractice Verdicts, Settlements & Experts. *While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.*

In the *works...*

Watch OBG MANAGEMENT for these articles in the coming months.

OBSTETRICS

- Thrombophilia and pregnancy outcomes
- Managing obese gravidas

GYNECOLOGY

- Medical treatment of depression
- Laparoscopic Burch: how, when, and why?