

Bathroom visit linked to infant's brain damage

Du Page County (Ill) Circuit Court

While in labor at a hospital, a pregnant woman got out of bed to go to the bathroom. The patient was not attached to a monitor at this time. While she was up, the unborn baby developed sudden bradycardia.

When the mother returned, nurses were unable to locate the infant's heart tones. The woman was given an IV and oxygen, and turned from side to side in an effort to locate the baby's heartbeat. An internal scalp electrode was started and the doctor was paged.

When the physician arrived, he reportedly performed a vaginal examination, administered terbutaline and informed the patient the delivery would require forceps. Upon delivery, the newborn had Apgar scores of 2 at 1 minute, 6 at 5 minutes, and 7 at 10 minutes. In follow-up, the infant was diagnosed with cerebral palsy.

In suing, the family contended that the infant's injury was due to the doctor's failure to attend to the mother during labor. In addition, they claimed that nursing staff failed to inform the physician of ominous fetal monitoring strips in a timely fashion. Further, the family alleged that the mother should not have left the bed and that continuous fetal monitoring should have been used.

The doctor and hospital staff countered that the infant suffered an occult cord prolapse, and that the infant's injuries would have occurred regardless of whether the mother left the bed or a monitor was attached.

■ The jury awarded the plaintiff \$6.5 million against the hospital. A defense verdict for the doctor was returned.

Was patient told of abnormal Pap result?

Greene County (Mo) Circuit Court

APap smear conducted at a routine gynecologic exam revealed abnormal findings; the woman claimed she never received the results.

At her next annual exam, 15 months later, Pap smear testing showed stage III cervical cancer. She died 4 years later at age 34.

In suing, her family maintained that not only did the physician fail to notify the woman of her abnormal findings, but that when she specifically asked office staff about the test results several months later, she was told "not to worry about it." The plaintiffs maintained the delayed diagnosis led to the woman's death.

The physician, however, argued that he did in fact speak to the woman about her results, and also notified her via mail of the need for follow-up.

■ The jury returned a defense verdict.

Colon, ileum damage follow hysterectomy

Los Angeles County (Calif) Superior Court

A 41-year-old woman presented to her gynecologist with a large cyst encapsulating one of her ovaries. A hysterectomy was performed. Three days later, the patient developed sepsis, with green matter leaking from her vagina. An examination revealed a vaginal fistula.

During an exploratory laparotomy, a general surgeon discovered 1 hole in the ileum and 2 holes in the transverse colon. The patient underwent a colon resection and a colostomy. She subsequently had a colostomy reversal. She claimed that she still experiences diarrhea, cramps, and dehydration, and that

she can no longer work standing up, which her job as a surgical technician requires. In addition, she was diagnosed with posttraumatic stress disorder following the experience.

In suing, the patient claimed the surgeon was negligent for failing to check the integrity of the colon and ileum before closing the operative site. She noted that she had extensive adhesions due to previous surgery, and that she had made the physician aware of their presence. This knowledge, she claimed, should have prompted him to run a thorough check. Had the damage been discovered during the hysterectomy, she maintained, the consequences would have been less severe.

The doctor maintained that he inspected the bowel where he lysed adhesions, and found no leaks. He noted that injury may have occurred independent of negligence.

- The jury returned a defense verdict.

Was additional testing for rectal cancer required?

Middlesex County (Mass) Superior Court

In a 65-year-old woman undergoing a routine gynecologic examination, a stool guaiac test was positive for blood. (A stool guaiac

shows blood somewhere in the gastrointestinal track—be it in the esophagus, stomach, small or large bowel, or rectum.) Her physician attributed this to hemorrhoids and ordered no further tests.

Nine months later, the patient was diagnosed with stage III rectal cancer that required chemotherapy, radiation, and surgery.

In suing, the woman claimed that the standard of care mandated the performance of further studies to evaluate a positive stool guaiac. She alleged that because this was not performed, her diagnosis was delayed and her chance of survival impaired.

The Ob/Gyn argued that a follow-up study

was not required in patients undergoing regular stool guaiac exams, and maintained that an earlier diagnosis would not have altered her chance for survival. In addition, she noted that at the time of trial the plaintiff had been cancer-free for more than 4 years.

- The jury returned a defense verdict.

Appendectomy leads to preterm birth

Undisclosed County (Calif)

On 5 separate occasions over 2 weeks, a woman at 23 weeks' gestation reported abdominal pain, which her clinicians attributed to round ligament pain. A complete blood count performed just prior to those 2 weeks revealed a white blood count of 18,800. However, the patient's health-care providers never reviewed the results.

The following week, the woman presented to the hospital's emergency department, where she was diagnosed with appendicitis.

An appendectomy was performed, after which the patient—then at 26 weeks' gestation—went into labor. Her infant has since been diagnosed as mildly mentally retarded.

The mother contended that her white blood cell count should have prompted a consultation with a general surgeon, which would have led to an appropriate workup for appendicitis.

The defendant claimed that even if the appendicitis had been recognized, the fetus would not have survived surgery performed during the mother's 23rd week.

- The plaintiff was awarded \$1.3 million at arbitration.

Was cesarean indicated for dystocia?

San Bernardino County (Calif) Superior Court

When an obese woman with gestational diabetes presented to a hospital, fetal heart-rate tracings for her unborn child were nonreassuring.



Colored x-ray showing rectal cancer

CONTINUED

The resident physician ruptured the membranes in an effort to hasten delivery, at which time the woman's cord prolapsed outside her uterus. The resident opted to replace the cord rather than attempt cesarean delivery.

Two hours later, fetal monitoring indicated the infant was in distress; still, the labor was allowed to continue. The attending physician was called in to perform a vaginal delivery 3 hours later, at which time shoulder dystocia with cord compression was encountered.

The child was born with hypoxic ischemic injury. Six years old at the time of trial, she suffers from mental retardation and will require custodial care for life.

In suing, the mother claimed her risk factors for dystocia—obesity, gestational diabetes, and a 60-pound weight gain during pregnancy—should have prompted doctors to perform an ultrasound and fetal size assessment upon admission. This, she claimed, would have pointed to the need for cesarean. She further maintained that both the cord prolapse and the signs of fetal distress were indications for immediate cesarean delivery.

The defense noted that the pH levels taken shortly after birth were not consistent with severe hypoxia in the perinatal period; further, magnetic resonance imaging did not show any evidence of significant brain injury. They also argued that any neurologic injury that did exist may have occurred prior to the mother's admission.

■ The plaintiffs settled for \$2 million against the defendant medical center, provided both defendant physicians were dismissed.

Necrotizing fasciitis, death follow tubal ligation

Cook County (Ill) Circuit Court

The day after a tubal ligation procedure, doctors discovered an infection in the 49-year-old woman's abdomen, which they diagnosed as peritonitis. The infection, they determined, stemmed from an undetected

puncture in the woman's bladder that occurred at the time of surgery.

The woman was prescribed antibiotics, and surgery was initiated to close the hole and cleanse the abdomen. During this procedure, however, the patient went into shock and had to be placed on a ventilator.

In the following days, the woman experienced severe bruising of her abdomen and genitals. Antibiotic therapy was continued. An infectious disease specialist was not consulted.

Ultimately, a surgeon recognized the patient's findings as those of necrotizing fasciitis. Despite attempts to remove the infected tissue, the woman died 9 days after the tubal ligation.

In suing, the woman's family claimed that had the doctors recognized and treated the fasciitis in a timely manner, the patient would have survived. Further, they argued, tubal ligation should never have been performed on a 49-year-old woman in stable health.

The defense argued that not only was the patient's infection exceedingly rare, but it manifested in an unusual manner, complicating the diagnosis.

- The jury awarded the plaintiff \$6.5 million.

Was fistula repair performed too soon?

Los Angeles County (Calif) Superior Court

During delivery of a macrosomic full-term infant, a woman suffered a fourth-degree laceration that tore her vagina and anal sphincter. The physician repaired the tear, but 6 days postpartum the woman returned complaining of gas and stool escaping through her vagina. The Ob/Gyn diagnosed a rectovaginal fistula and prescribed antibiotics. A surgical repair was performed 7 weeks later.

Following the repair, however, the woman's symptoms continued. She sought the advice of several other doctors, who suggested that 4 or 5 new fistulas had developed.

The woman sued, claiming that the defendant conducted the repair too soon, when the site was still inflamed, swollen, and infected.

The defendant maintained that the site was neither inflamed nor infected at the time of repair, and that the woman did not suffer any additional fistulas as a result of surgery.

- The jury returned a defense verdict.

Missed oligohydramnios blamed for cerebral palsy

Undisclosed County (Mich) Circuit Court

Following a failed induction of labor, a woman at 41 3/7 weeks' gestation was discharged home and told to return in 4 days. Two days later, however, she returned to the hospital in spontaneous labor.

Fetal heart tracings at that time indicated a sinusoidal pattern, as well as significant bradycardia and decelerations. Monitoring continued to indicate fetal compromise throughout labor and delivery, which occurred 2 hours after admission. The child now suffers from cerebral palsy and retardation.

In suing, the parents noted that the amniotic fluid level was not assessed at the time of the woman's induction. They claimed that test would have revealed oligohydramnios, which would have prompted physicians to keep her in the hospital. Had a biophysical profile been performed before the discharge, they alleged, the patient would have delivered without incident later that day.

The defendants argued that the fetal heart tracings never indicated fetal distress. Further, they claimed the infant's injuries stemmed not from the events surrounding her birth, but rather from Cocksackievirus infection prior to labor and delivery.

- The jury awarded the plaintiff \$3.2 million. ■

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