Laboring mother sent home; child suffers hypoxic insult

Undisclosed County (NC) Circuit Court

A woman at term in her second pregnancy presented to a hospital with contractions 3 to 5 minutes apart. Upon examination, her Ob/Gyn established she was 1 cm dilated and 50% effaced, with the fetus at –2 station.

As the night progressed, however, the woman's contractions became further apart. The physician opted to send her home (a drive of more than 30 minutes)—despite the fact that electronic fetal monitoring revealed nonreactive tracings, and over the patient's protests that her last delivery occurred very quickly once active labor began.

The next morning, the patient once again presented with contractions 3 to 5 minutes apart. Twenty minutes later she delivered the infant, who at birth was floppy and cyanotic and exhibited no spontaneous respirations or movements.

The medical record made no note of the care administered until 20 minutes after the child's birth, when he was admitted to the neonatal intensive care unit. The infant was intubated; however, a chest x-ray showed that the tube had been placed down the right mainstem bronchus, and the left lung had collapsed. Still, tube repositioning did not occur until 30 minutes after the initial placement and needle aspiration for the pneumothorax was not done for another 10 minutes.

Subsequent radiologic studies indicated diffuse hypoxic insult. The child at age 5 was cortically blind; had significant hypotonia; and was unable to walk, talk, or engage in any purposeful activities.

■ The case settled for $1.2 million.

Prior tracheotomy delays crash cesarean

Pierce County (Wash) Superior Court

After calling her physician with complaints of decreased fetal movement, a woman at 32 weeks' gestation presented to the hospital. Fetal heart tracings were nonreassuring and an ultrasound biophysical profile was scored at 0/8. An emergency cesarean was ordered.

The patient, as a child, had had a tracheotomy, but the defendant Ob/Gyn never informed the anesthesiologist of this history. This led to complications in the attempts to intubate the mother, and thus delayed the delivery. The child now suffers cerebral palsy.

■ The case settled for $8 million.

Tocolytics not given for preterm labor

New York County (NY) Supreme Court

Nine hours after presenting to an emergency department with labor contractions, a woman at 30 weeks' gestation delivered a son. The child was born paralyzed after suffering an intraventricular hemorrhage.

The woman sued, claiming that she should have received tocolytics to prevent preterm birth, as well as corticosteroids to reduce the risk of birth defects.

The defendant claimed the woman had begun leaking amniotic fluid before she arrived at the hospital. Had she been given tocolytics, it was argued, the risk of infection to both mother and child would have risen dramatically.

Further, it was noted that when the incident took place, in 1990, administration of

corticosteroids was not yet the standard of care in cases such as this.

- The jury returned a defense verdict.

Sponge overlooked, but during which cesarean?

Jefferson County (Ala) Circuit Court

Nine months after her second cesarean, a 44-year-old-woman presented to her Ob/Gyn with persistent cramping and abdominal pain. After a series of tests, the physician diagnosed endometritis.

When the patient reported persistent symptoms a year later, the doctor ordered a computed tomography scan; the study showed a large mass in the woman's uterus. An emergency laparotomy revealed an 18-by-18-inch sponge, which the doctor removed. He also discovered an abscess that required a hysterectomy.

The woman sued, claiming the sponge was left during her second cesarean delivery.

The defendant hospital, however, argued the sponge was actually forgotten during her first cesarean. As proof, the defense presented testimony from the head nurse at the time of second procedure. She claimed to be a meticulous counter, and testified that she specifically recalled that the sponge count on the second cesarean was correct.

Although the first procedure was also conducted at the defendant institution, the defense claimed that the statute of limitations had expired.

- The jury awarded the plaintiff $500,000.

Oophorectomy due to hemorrhage leads to surgical menopause

Los Angeles County (Calif) Superior Court

After 3 years of conservative treatment for recurring intense pain stemming from fibroids, a 41-year-old woman underwent a laparoscopic-assisted vaginal hysterectomy.

Twelve hours after surgery, the woman began to hemorrhage. A laparotomy identified the woman's right ovary as the source of the bleeding. An oophorectomy was performed.

The plaintiff argued that her right ovary was improperly removed, leading to surgical menopause. She also alleged that the hysterectomy itself was not clinically indicated.

The defendant physician not only claimed the hysterectomy was indicated given the woman's history, but also noted that the patient specifically requested the procedure. Further, the Ob/Gyn maintained that the oophorectomy was properly performed, and that the remaining ovary should have supplied adequate hormones.

- The jury returned a defense verdict. ■

The cases in this column are selected by the editors of OBG MANAGEMENT from Medical Malpractice Verdicts, Settlements & Experts, *with permission of the editor, Lewis Laska, of Nashville, Tenn.* (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.*