

## Uterine rupture follows failed VBAC attempt

Alameda County (Calif) Superior Court

A 39-year-old gravida with a previous cesarean delivery (due to twins) opted for a vaginal birth after cesarean (VBAC). She presented for induction of labor due to fetal macrosomia.

When the infant's head was between -2 and -3 station, the fetal heart rate was noted to be nonreassuring. Medical staff initially believed this was due to normal changes within the second stage of labor, but when labor failed to progress over the next 25 minutes, the defendant physician was called.

The doctor ordered a cesarean delivery 20 minutes after his arrival; however, the procedure did not start until 20 minutes after that. In the interim, evidence of uterine rupture was noted, and the child's heart rate fell into the 60s. The child suffered severe brain damage and cerebral palsy.

The plaintiffs claimed that had cesarean delivery been initiated at least 15 minutes earlier, neurologic injury might have been avoided.

The defendants denied the delay was unreasonable. Further, they maintained uterine rupture was a known complication of VBAC, and argued that the consent form signed by the mother explained the chance of uterine rupture and the risks associated with it.

■ The jury awarded the plaintiffs \$14.9 million.

## Was patient not told of leiomyosarcoma tumor?

Anderson County (SC) Circuit Court

During a hysterectomy, a physician excised a tumor that a pathology report revealed to be a leiomyosarcoma confined to the uterus.

The physician testified that he visualized the field but did not note any additional growths.

Six months later, the patient presented to her internist complaining of abdominal pain. A computed tomography scan demonstrated a large mass; exploratory surgery revealed leiomyosarcoma tumors. Despite chemotherapy and several surgical interventions, the patient died 21 months after the hysterectomy.

In suing, the woman's family claimed the Ob/Gyn never informed the patient of the cancer's presence—neither during her hospital stay nor at her 2-week or 6-week postsurgical examination. Further, it was noted that diagnostic studies that are appropriate following cancer resection were not ordered.

The defendant maintained he informed the patient and her husband that an aggressive cancer was removed; however, no notes indicated this conversation took place. The defendant further claimed that a gynecologic oncologist was consulted, but no notation of this was recorded, and the oncologist in question did not recall the alleged conversation.

■ The plaintiff was awarded \$1.7 million at mediation.

## Were chart entries fabricated after woman bled to death?

Bronx County (NY) Supreme Court

Following a cesarean delivery and bilateral tubal ligation, a 43-year-old woman died due to hemorrhage.

Her husband, in suing, claimed his wife was left unattended for nearly 2 hours after surgery, during which time she bled to death. He questioned the validity of entries documenting 2 visits in that period, noting that the writing was unusually small and cramped, as if to fit under a later entry.

CONTINUED

The defense claimed the chart was accurate and appropriate care administered.

- The case settled for \$2.3 million.

## Bowel perforation follows fetal demise, D&E

Nassau County (NY) Supreme Court

After contracting *Parvovirus*, a 36-year-old woman suffered fetal demise at 23 weeks' gestation. Cervical ripening was begun in preparation for a dilation and evacuation (D&E) of the fetal remains. The physician intended to continue this ripening the following morning, but the woman developed a fever and returned to the hospital later that evening.

The physician opted to conduct the D&E that night, but in the course of surgery perforated the woman's uterus and delivered the bowel vaginally. As a result, the patient underwent a 5-hour procedure consisting of a hysterectomy with unilateral salpingo-oophorectomy, bowel resection, and colostomy.

The woman sued, claiming the surgeon was negligent in injuring her bowel. She further alleged lack of informed consent and improper preparation of the cervix. She argued that in addition to sterility and vaginal scarring, she suffers urinary and bowel incontinence. She maintained that resultant psychological injuries, psychosexual dysfunction, and physiological difficulties have led to problems in her sexual relationship with her husband.

The defense noted that the injuries were known complications of the D&E procedure—a medically necessary intervention. They maintained that sound clinical judgment was exercised at all times.

- 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.*

## ADVERTISERS' INDEX

<b>Adeza Biomedical</b> Fetal Fibronectin Test.....41	<b>Ethicon Endo-Surgery</b> Harmonic Scalpel.....23
<b>Aventis Pharmaceuticals</b> Actonel (www.actonel.com).....59-60	<b>King Pharmaceuticals</b> Sonata.....44-46
<b>BD Diagnostics (www.bd.com/clinical)</b> Affirm VP III.....11	<b>Medison America</b> Ultrasound.....14
<b>Berlex Laboratories</b> Climara Pro (www.climara.pro.com)..... 67-68 Yasmin (www.yasmin.com)....C2, 1-2	<b>Norvartis</b> Enablex.....3
<b>Cervical Cap (www.cervcap.com)</b> Pentif Cavity Rim.....76	<b>Novavax</b> Estrasorb.....17-20
<b>CooperSurgical</b> (www.coopersurgical.com) Mystic.....13	<b>Ortho McNeil</b> Ortho Tri-Cyclen Lo.....C3, C4
<b>Cytoc Corporation (www.cytoc.com)</b> ThinPrep (www.thinprep.com)....75	<b>Pfizer</b> Cleocin.....33-34 Estring.....27-28
<b>Cytoc Surgical Products, a division of Cytoc Corporation</b> NovaSure.....31,73	<b>Quidel</b> QuickVue Advance pH and Amines Test.....49
<b>Duramed Pharmaceuticals, subsidiary of Barr Laboratories Inc.</b> Seasonale (www.seasonale.com).....63-64	<b>Sanofi-Synthelabo</b> Ambien.....5-6
<b>Ethicon</b> Dermabond (www.dermabondtraining.com).....9-10	<b>Siemens Medical</b> Ultrasound.....71
	<b>Wyeth Pharmaceuticals</b> Premarin..... 51-54 Prempro (www.prempro.com).... 37-39