Plaintiffs claimed hospital policy on oxytocin and VBAC was insufficient.

Ovarian mass: Was follow-up insufficient?

Essex County (NJ) Superior Court

During an ultrasound examination, a perinatologist discovered a large mass on the left ovary of a 37-year-old gravida.

This physician consulted with the woman's Ob/Gyn, but neither suggested the patient have the mass removed or informed her that it might be cancerous. The postpartum Ob/Gyn, meanwhile, failed to monitor the growth following the birth of the woman's child.

When the woman was diagnosed with ovarian cancer the next year, advanced stage disease was present. She died the following year.

Ovarian carcinoma

- The perinatologist and postpartum Ob/Gyn settled for an undisclosed sum. The jury awarded the plaintiff $1.2 million, and the original Ob/Gyn was found 45% at fault.

Hospital unprepared for uterine rupture?

Nueces County (Texas) District Court

Having delivered her first child by cesarean and her second by vaginal birth after cesarean (VBAC), a 29-year-old woman entered a hospital for a trial of labor for her third child, at which time she received oxytocin.

The woman suffered a uterine rupture during labor. Her child, delivered by emergency cesarean, showed no signs of life at birth, with an Apgar score of 0 and a pH of 6.7. The child was revived, but suffers from cerebral palsy, mental retardation, and neurologic impairment.

The plaintiffs argued that the Ob/Gyn and nursing staff were negligent in not noting the signs of uterine rupture in a timely manner. They claimed that oxytocin was used improperly and that the hospital's policies on how a VBAC patient on oxytocin should be monitored were insufficient.

They also alleged the nurses failed to notify the physician of changes in fetal monitoring strips and to make timely preparations for an emergency cesarean. Further, they claimed inadequate equipment and personnel were available to respond to the emergency.

- The jury awarded the plaintiffs $9.7 million.

Bladder injury leads to fasciitis, death

Undisclosed County (Mass)

After unsuccessfully attempting to conceive, a 40-year-old woman consulted an infertility specialist. Suspecting adhesions, the physician performed a laparoscopy—without catheterization of the bladder, as he expected a quick procedure.

Due to the discovery of a large uterine fibroid, however, the surgery ultimately extended to more than 2 hours. While attempting to remove the fibroid, the surgeon dropped it deep into the peritoneal cavity, but retrieved it after several attempts.

The woman was sent home the same day, despite considerable pain, difficulty voiding, and significant drainage from the incision site. The following morning, however, her symptoms had intensified. The

Ob/Gyn's office thus instructed her to go to the emergency room.

Soon after presenting, she was admitted into surgery, where 2 bladder perforations were discovered. Physicians determined that, at the time of laparoscopy, the woman had a bladder infection. Thus, the perforations were leaking infected urine into the abdominal and peritoneal cavities. This caused peritonitis, sepsis, and wound infection that proved resistant to antibiotic therapy.

The woman ultimately developed necrotizing fasciitis and, despite several attempts at debridement, died 2 months after the initial laparoscopy.

In suing, the woman's husband argued the physician was negligent for not catheterizing the patient prior to surgery. He claimed that the doctor did not notice the bladder was filling with urine during the extended surgery, thus changing the bladder's position. Finally, he argued, the Ob/Gyn failed to notice the signs of bladder perforation and the leaking of infected urine in the recovery room.

The defendant maintained he was within the standard of care by not catheterizing the patient, and argued that necrotizing fasciitis is a rare condition that cannot be predicted.

- The case settled for $1.9 million.

The Ob/Gyn argued fasciitis cannot be predicted, and maintained he met standard of care.

Injury at cyst removal insufficiently repaired

Passaic County (NJ)

A woman presented to her Ob/Gyn with complaints of vaginal pain and bleeding. Examination revealed a Bartholin's gland cyst. Her Ob/Gyn recommended removal to alleviate her symptoms.

During the procedure, the physician perforated the woman's vaginal-rectal wall. The attempt to repair the injury was not successful. As a result, the woman experienced fecal discharge through her vagina, requiring 3 subsequent surgeries.

The woman claimed the doctor did not fully discuss all treatment options, such as marsupialization, and thus did not obtain informed consent. She also argued that the defendant should have used a multilayer closure to repair the original injury.

The defendant maintained the woman was properly counseled, and noted that this injury is a known complication of the procedure.

- The case settled for $500,000.

Inability to void follows laparoscopy

Suffolk County (NY) Supreme Court

Following laparoscopy to treat endometriosis, a 32-year-old woman was unable to void spontaneously. Nevertheless, her gynecologists approved her discharge and the patient returned home.

The following day, the woman presented to the emergency room, noting a continued inability to void. Hospital staff removed 1,000 mL of urine via catheterization, but her retention was never resolved. She remains unable to void and thus requires catheterization.

In suing, the woman claimed bladder distention caused muscle damage leading to urinary retention. She also noted that the physician ordered her hospital discharge without providing clear instructions regarding her voiding difficulties.

The defendant argued the woman's problem was likely neurologic and unrelated to his care.

- The jury returned a defense verdict.

Abnormal fundal height: Mishandled?

Undisclosed County (Calif)

A woman at 36.5 weeks' gestation presented to a clinic for prenatal care. At that time, her fundal height was noted as 31 cm—a 4-cm decline from her previous measurement.

Over the remainder of her pregnancy, her fundal heights were as follows:

- 31 cm at 37.5 weeks' gestation—how-

ever, a different clinician measured 38 cm at that same visit
- 32 cm at 39 weeks, 2 days
- 32 cm at 40 weeks, 2 days (good fetal heart tones and fetal movement were noted)

At 41 weeks, 1 day, the woman presented to the hospital with labor pains. The fetal monitoring strips showed severe variable decelerations and fetal tachycardia with a baseline of 170. A vaginal exam showed 3-cm dilation, 90% effacement, and the fetal vertex at 0 station. The physician ordered internal monitors, amnioinfusion, and terbutaline administration.

Roughly 30 minutes after the drug was given, the child was delivered by cesarean section. He weighed approximately 5 lb and had Apgar scores of 3 and 6. Thick meconium was noted. Two months later, the child was diagnosed with cerebral palsy consistent with hypoxic or ischemic insult.

The plaintiff claimed the defense was negligent in failing to diagnose intrauterine growth retardation.

The defense maintained the standard of care was met at all times.

- The case settled for $4.1 million at mediation.

At ER discharge, the patient was not given instructions on monitoring fetal movement.

Was resident qualified for dystocia delivery?

Kings County (NY) Supreme Court

Following oxytocin administration for induction of labor, a 21-year-old woman at 43 weeks of gestation was brought to the delivery room. The attending physician and a first-year resident were present.

The delivery was complicated by shoulder dystocia. Thus the resident, under supervision of the attending doctor, attempted to dislodge the shoulder using the McRoberts maneuver, suprapubic pressure, and the Woods corkscrew maneuver—none of which she had performed previously for dystocia.

At birth the child had an Apgar score of 9; no fetal injury was noted. Once in the pediatrics unit, however, the infant received a diagnosis of Erb's palsy. The child now has limited range of motion and contracture of the elbow in the affected arm.

In suing, the plaintiff claimed the attending physician, not the resident, should have delivered the child.

The attending physician maintained the resident was qualified to perform the delivery; she argued that the child's injuries occurred in utero.

- The jury awarded the plaintiff $2.2 million, and found the attending physician 95% responsible. The resident physician settled for $250,000.

Was fetal distress diagnosed too late?

San Diego County (Calif)

With complaints of mild vaginal bleeding, a 29-year-old woman at 40 weeks' gestation presented to a medical center, where she underwent 2 nonreactive nonstress tests and an ultrasound examination. The ultrasound examination demonstrated reassuring fetal status and the woman was sent home.

She returned to the medical center in active labor 11 days later, but reported decreased fetal movement.

Fetal monitoring demonstrated late decelerations with absent long-term variability and no accelerations. A scalp-stimulation test, however, indicated adequate fetal response.

Ninety minutes later, profound terminal bradycardia was detected on fetal monitoring, prompting the staff to initiate an emergency cesarean delivery. The child required resuscitation on delivery and demonstrated signs of a seizure disorder. She now suffers from mental retardation and profound physical disability requiring constant care.

In suing, the woman noted that she did not receive instructions on monitoring fetal movement when discharged from her first emergency room visit. Further, she claimed, the diagnosis of fetal distress

should have been made earlier, and cesarean delivery initiated sooner.

- The parties settled for $2.6 million.

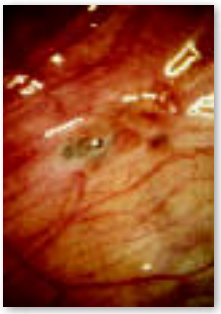
Fistula follows vaginal hysterectomy

Maricopa County (Ariz) Superior Court

After undergoing a vaginal hysterectomy, a 52-year-old woman suffered a rectovaginal fistula. She claimed the physician was negligent for not converting to an abdominal procedure.

The defense argued the fistula stemmed from endometriosis found during surgery, and added that this complication is a known risk of vaginal hysterectomy.

- The jury returned a defense verdict.



Endometriosis

Missed bowel injury follows laparoscopy

Nevada County (Calif) Superior Court

A 40-year-old woman with focal endometriosis underwent laparoscopy with biopsy of the cul de sac and left ovary, laser endometrial ablation, and left paratubal cyst resection.

Several hours after being discharged that same day, the woman presented to the emergency room with severe abdominal pain, nausea, and vomiting. She displayed no respiratory problems and her abdomen was soft. She was admitted for intravenous pain control and released the following day.

The woman returned the next day, noting a worsening of her pain, nausea, and vomiting. Her abdomen was now significantly distended, which led to reduced respiratory effort. Suspecting mild postoperative ileus and possible early pancreatitis and hyponatremia, the attending Ob/Gyn called in a general surgeon.

Upon opening the abdominal cavity at laparotomy, the surgeon observed an outpouring of gas and noted a few thousand milliliters of brown, foul-smelling liquid. He discovered a perforation of the ileum. An ileostomy was placed during the procedure.

Following initiation of intravenous feeding, the woman suffered sepsis and acute respiratory distress syndrome. She became desaturated and was intubated for the next 2 days. She suffered wound infection at the ileostomy site, acquired nosocomial pneumonia following extubation, and developed multicentric hernias requiring surgical mesh implantation. She was hospitalized for 1 month.

The woman claimed her Ob/Gyn was negligent in perforating the ileum, as well as in failing to recognize the injury and treat the bacterial peritonitis in a timely manner.

The defense argued no indications of bowel perforation and peritonitis were present, and noted that postoperative x-rays were consistent with ileus, a more common complication.

- The jury returned a defense verdict.

Defense: No signs of bowel perforation or peritonitis were present.

Was fundal pressure ordered for dystocia?

New York County (NY) Supreme Court

During vaginal delivery on a 32-year-old woman, shoulder dystocia was encountered. The child was born with Erb's palsy.

The mother claimed the Ob/Gyn ordered a nurse to apply fundal pressure, which is contraindicated with dystocia.

The physician argued that she twice applied necessary and appropriate gentle downward pressure to dislodge the shoulder.

- The jury awarded the plaintiff $3.2 million. ■

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.