Wrongful birth claim: Child has a chromosomal disorder

A WOMAN'S HUSBAND AND AN INTERPRETER came to her first prenatal appointment at 10 weeks' gestation, as she spoke only Mandarin and the father's English was limited. The ObGyn offered maternal serum sequential screening. At subsequent visits, with the husband and interpreter present, the mother saw a geneticist, genetic counselor, and nurse practitioner. At no time was additional genetic testing offered. At the 23-week visit, the husband was present, but the interpreter had not yet arrived; the ObGyn attempted to communicate through the husband.

The baby was born at term with cri-du-chat syndrome. The child is severely physically and mentally handicapped, and will require constant medical and attendant care for life.

PATIENT'S CLAIM The ObGyn did not offer amniocentesis or chorionic villus sampling (CVS), and failed to inform the parents that the chance of a 37-year-old woman having a child with a chromosomal aberration was 1.5%. The ObGyn did not obtain the woman's signature waiving the presence of an interpreter at the 23-week visit. If the physician offered amniocentesis then, the parents did not understand. She would have terminated the pregnancy if she had been told the fetus had a severe chromosomal defect.

PHYSICIAN'S DEFENSE The ObGyn claimed to have offered amniocentesis at the 23-week visit, but it was declined. Proper care and treatment was provided.

VERDICT A $7 million Massachusetts settlement was reached.

Hematoma after biopsy; death

A 77-YEAR-OLD WOMAN underwent percutaneous biopsy of three right axillary lymph nodes. She developed a hematoma. She was sent to the hospital from the physician's office because of the increasing size of the hematoma, low blood pressure, and pain, then admitted to the ICU for monitoring. She declined exploratory surgery to discover and repair the bleeding source. When her blood pressure and hemoglobin level dropped overnight, the physician again tried to persuade the woman to have surgery; she refused. The physician then undertook surgery on another patient.

An ICU resident and nurse subsequently obtained consent from the woman's family. The surgeon was not told this for 4 hours, at which time the woman was taken immediately to the operating room. The surgeon repaired a severed axillary vein and punctured axillary artery.

The woman suffered two episodes of asystole during surgery. She later died of multiple organ failure.

ESTATE'S CLAIM The surgeon failed to take adequate measures to obtain surgical consent to repair the hematoma, and failed to perform surgery in a timely manner once consent was given.

PHYSICIAN'S DEFENSE The woman was awake, alert, and oriented both times she refused consent; her family could not be contacted without her authorization. Proper actions were taken when consent was obtained.

VERDICT An Illinois defense verdict was returned.

Epidural pump stolen—while in use

A WOMAN WAS GIVEN AN EPIDURAL during labor. While she slept, a newly hired physician assistant (PA) entered her room, disconnected the epidural pump, and stole it. The woman awoke but the PA assured her that everything was fine. Soon, she experienced significant labor pains and called the nurses, who paged an anesthesiologist to administer another epidural. Security personnel questioned the woman.

She gave birth to a healthy child.

PATIENT'S CLAIM The hospital failed to provide adequate security. Security personnel unduly questioned the woman before the second epidural was administered, delaying the procedure and increasing the length of time she was in pain.

DEFENDANTS' DEFENSE The hospital claimed no responsibility for the theft; the PA's actions were outside the scope of his employment, and his criminal behavior was unforeseeable.

VERDICT A Connecticut defense verdict was returned for the hospital. (The PA pleaded guilty to stealing the epidural pump, received 3 years' probation, and lost his license.)

These cases were selected by the editors of OBG Management *from* Medical Malpractice Verdicts, Settlements & Experts, *with permission of the editor, Lewis Laska (www.verdictslaska.com). The information available to the editors about the cases presented here is sometimes incomplete. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation and are meant to illustrate nationwide variation in jury verdicts and awards.*

PHOTO: SHUTTERSTOCK

Ectopic pregnancy didn't miscarry despite methotrexate

THINKING SHE WAS PREGNANT, a woman saw her ObGyn, Dr. A, who found no evidence of pregnancy, and suspected that she had miscarried. The next day, Dr. A's office called the woman to return because of an elevated hCG level. A sonogram performed at the second visit did not reveal any signs of pregnancy.

Eleven days later, she went to the emergency department (ED) in excruciating pain. A sonogram revealed an ectopic pregnancy. Methotrexate was administered to terminate the pregnancy. The woman was advised to follow up with her ObGyn. Ten days later, blood tests continued to show an elevated hCG level, but Dr. A did not order further testing or follow up.

Two weeks later, the woman went to Dr. B, a different ObGyn, who ordered blood work to monitor her hCG. The next day, she went to the ED in great pain. The ED physician contacted Dr. B, who advised that the woman should be discharged with instructions to follow up with him. Nine days later, the woman saw Dr. B, who diagnosed and surgically removed a ruptured fallopian tube.

PATIENT'S CLAIM Neither physician properly monitored the patient after administration of methotrexate. The ectopic pregnancy continued, and caused rupture of the fallopian tube. Dr. B failed to respond properly to the call from the ED physician.

PHYSICIANS' DEFENSE Dr. A admitted that the patient had not been properly monitored, but claimed that the lack of monitoring caused no harm. Dr. B denied any negligence.

VERDICT A Georgia defense verdict was returned for both physicians.

Uterine laceration during cesarean

A WOMAN BEGAN TO BLEED excessively in the recovery room after a nonemergent cesarean delivery. Blood pressure and blood oxygen saturation decreased, heart rate increased, and she passed large clots. The recovery room nurse notified the woman's ObGyn, who ordered medication to constrict the uterus and diminish blood flow, but treatment was unsuccessful.

She was returned to the operating room, where the ObGyn repaired a low-segment uterine laceration. Blood was administered with additional uterotonics. After surgery, the woman was sent to the labor and delivery recovery room. When tests indicated that her hematocrit and hemoglobin level had decreased and she showed signs of a clotting difficulty, the ObGyn ordered additional blood products and fundal massage. Two hours later, the woman suffered cardiac arrest and was revived, but suffered significant brain damage. After six months, mechanical ventilation was withdrawn and she died.

ESTATE'S CLAIM The patient's vital signs never returned to normal after uterine repair surgery. The ObGyn and anesthesiologist did not stabilize the patient, and failed to perform a hysterectomy to save her life. The nurses did not notify the ObGyn and anesthesiologist of unstable vital signs that signaled blood loss.

DEFENDANTS' DEFENSE The anesthesiologist found the patient's vital signs normal after repair of the laceration and left the woman in the care of the nursing staff and ObGyn. The ObGyn was not notified of unstable vital signs. The nurses asserted that they did not tell the ObGyn of the changes because they expected him to look at, review, and interpret the monitor. The physicians claimed that the arrest and death were due to an amniotic fluid embolism or amniotic fluid syndrome that was sudden, unpredictable, and difficult to treat.

VERDICT A $1,350,000 Virginia settlement was reached.

Was she discharged too early?

AN OBGYN PERFORMED total transvaginal hysterectomy on a 54-year-old patient, and discharged her the next day. Several hours later, she began to have severe abdominal pain, and was readmitted. The ObGyn prescribed IV antibiotics and ordered fluid management. When she continued to deteriorate, she was transferred to the ICU.

The next day, the ICU physician ordered diagnostic laparoscopy. A perforation of the sigmoid colon was found and repaired, but the woman continued to deteriorate. Nine days later, she was transferred to another hospital, where she died.

ESTATE'S CLAIM The ObGyn failed to find the perforation during hysterectomy. He did not properly follow-up with the patient after surgery, and improperly discharged her despite abnormal blood work and vital signs; elevated temperature and pulse rate; and an increase in her white blood cell count. Both physicians failed to diagnose and treat the perforation in a timely manner. Delay in diagnosis and treatment led to the woman's death.

PHYSICIANS' DEFENSE The physicians denied negligence.

VERDICT A $7 million North Carolina verdict was returned against the ObGyn. A defense verdict was returned for the ICU physician.