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Two young women have a hysterectomy, then sue—what do the juries say? Read more “Medical Verdicts” at www.obgmanagement.com

Erb’s palsy occurs after “turtle sign”

During delivery, the infant plaintiff crowned at one point and then withdrew back into the birth canal in a “turtle sign.” The physician performed a McRoberts maneuver, one nurse allegedly applied fundal pressure, and a second nurse applied suprapubic pressure. At birth, the child had an Apgar of 2 and was soon diagnosed with Erb’s palsy because of right brachial plexus injury.

Patient’s claim The physician pulled too long on the fetus before suprapubic pressure was applied; excessive fundal pressure was used; an episiotomy should have been done; and the physician should have rotated the fetus.

Doctor’s defense He responded properly to the turtle sign. Also, the injury can occur in the absence of negligence.

Verdict Tennessee defense verdict. Post-trial motions were pending.

Was anesthesiologist late for emergency?

A pregnant 34-year-old woman presented with ruptured membranes at the hospital 5 days before her due date. She had felt good fetal movement earlier that morning, but could not detect movement by the afternoon. An electronic fetal monitor was connected and oxytocin ordered. When the nurse noted decreased long-term variability, the attending physician responded and evaluated the fetus and tracings. At about midnight of the following day, the resident physician was called, and oxytocin was increased. When the mother began pushing, the fetal heart rate dropped and

remained below baseline. It was decided to do an emergency cesarean section, which was performed without the anesthesiologist when he failed to respond to a page within 20 minutes. The anesthesiologist—who was asleep in the call room and unable to hear the pages with the air conditioner on—responded immediately when he awoke, and topped off the epidural. The child was born limp, apneic, and cyanotic and was diagnosed with hypoxic-ischemic encephalopathy, severe metabolic acidosis, and respiratory depression. She cannot walk, talk, or hold her head upright, is fed through a G tube, and takes medication for a seizure disorder.

Patient’s claim Delivery should have been expedited when the resident physician was called on the second day because of signs of fetal hypoxia, and oxytocin should not have been increased.

Doctor’s defense According to the nurse, attending physician, and resident, fetal hypoxia was not evident, and the problems were caused by the anesthesiologist. The latter said there was no delay and disputed the claims of when he was paged and when he arrived.

Verdict \$4 million Massachusetts settlement.

Woman refuses C-section—repeatedly

A 37-year-old pregnant woman who had previously delivered a healthy boy by cesarean section was advised to have a vaginal delivery for this pregnancy. When she was 2 weeks past her due date, she was admitted to the hospital for induction of labor and vaginal birth. The baby was at +2 to +3 station after 4 hours in the second stage of labor. The physician recom-

mended a cesarean section, and the woman declined. A vacuum-assisted delivery with fundal pressure was unsuccessful. Again the physician recommended a cesarean section, and the woman declined. The physician then tried using forceps, but gave up when he couldn't position the forceps properly. For a third time, he recommended a cesarean section, and she declined. When the physician ordered fundal pressure—and the nurses refused—the husband applied it. Within minutes the woman agreed to a cesarean section. The child was born with cerebral palsy, right-sided paralysis, cognitive deficits, and learning disabilities, as well as facial bruises, a large cephalohematoma, and swelling of the scalp. Three hours later the child began to have seizure motions.

Patient's claim The physician was negligent for failing to provide enough information about cesarean sections during labor. He was also negligent for using vacuum, forceps, and fundal pressure.

Doctor's defense The mother was sufficiently informed about cesarean sections, and he handled the attempted vaginal delivery appropriately. Also, the infarction was due to placental thrombophilia that occurred before labor.

Verdict California defense verdict.

Did she agree to the tubal ligation?

A 35-year-old woman who had previously delivered 2 children by cesarean section wanted to attempt a vaginal delivery with her third child. When labor progressed slowly, the ObGyn decided to perform a cesarean section and recommended also a tubal ligation.

Patient's claim The tubal ligation was done without her consent and against her wishes. She refused the procedure initially and again after the cesarean section.

Doctor's defense The patient did refuse the tubal ligation initially, but gave verbal consent in the operating room.

Verdict \$435,00 North Carolina settle-

ment, including \$100,000 from the hospital and \$335,000 from the physician.

Despite report, ovary was not removed

A 38-year-old woman, who had a history of sarcoidosis and hysterectomy with removal of the right ovary, presented at the hospital with lower-left-quadrant pain. A mass on the left ovary was discovered, and she underwent laparoscopic surgery 5 days later to remove the mass, and also the ovary and fallopian tube. In the operative report, the physician noted he had removed the ovary. The patient complained of post-operative pain. Several months later, a CT scan showed the presence of the left ovary and fallopian tube. Eleven months following the initial procedure, further surgery indicated extensive intra-abdominal adhesions and an ovarian mass that required laparoscopic lysis of adhesions, as well as removal of the ovary and fallopian tube. The pathology report mentioned the presence of the tube and the ovary, which had multiple cystic follicles and a focal area of fibrosis, and a hemorrhagic area. After the surgery, the patient suffered from back pain, and 5 months later was diagnosed with hydronephrosis due to a stricture of the left distal ureter.

Patient's claim The initial surgery was not done properly, so further procedures were required. Surgical clips used in the second surgery caused the stricture of the ureter, which required more surgery to insert a stent. However, because the stricture could not be opened, ureteral reimplantation was necessary.

Doctor's defense Not reported.

Verdict \$925,000 New York settlement after opening statements. ■

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, Nashville, Tenn (www.verdictslaska.com). The available information about the cases is sometimes incomplete; pertinent details may be unavailable. Moreover, the cases may or may not have merit. Still, these cases represent types of clinical situations that may result in litigation and are meant to illustrate variation in verdicts and awards. Any illustrations are generic and do not represent a specific legal case.