

MD: “She had no complaints because I have no notes”

FOLLOWING HYSTERECTOMY, a 49-year-old woman complained of abdominal pain, fever, chills, and nausea. She continued to complain of the same symptoms on multiple visits to her physician. She also called him to report that her abdomen was painful to the touch. After one such call, the physician prescribed an antibiotic.

A routine x-ray of the patient’s prosthetic hip 5 months after the hysterectomy showed a surgical sponge in her abdomen. She reported this finding to the defendant, who then left a voicemail that (1) he was away, (2) she could live to 100 years old with that sponge inside her, and (3) she should return for a consultation in a few weeks.

Instead she sought the care of another physician.

A month later, she developed a bowel obstruction. In emergency surgery, the sponge was removed as it had created an abscess and bowel obstruction. After the surgery, the patient recovered and had no further abdominal complaints.

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▶ **PATIENT’S CLAIM** The physician was negligent for leaving the sponge in the abdomen and for failing to follow up on her consistent complaints of abdominal pain.

▶ **PHYSICIAN’S DEFENSE** The nurses were responsible for a proper sponge

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count. Also, the patient did not complain of pain after surgery—because he had no notes stating that she did.

▶ **VERDICT** \$4,904,886 Maryland verdict, which was reduced by caps to \$1,329,886.

Incontinence is worse after TVT and takedown

A WOMAN WHO WAS SUFFERING from stress urinary incontinence underwent a tension-free vaginal tape procedure (TVT). Following surgery, she developed urinary retention. To address this, her physician performed a TVT “takedown” procedure—and accidentally injured her bladder and urethra. The injuries were recognized and repaired. Because of worsening incontinence, the patient transferred her care to a urologist. Following a transvaginal sling procedure, her incontinence improved.

Eventually, she underwent a total abdominal hysterectomy as well as a procedure to address a prolapse involving her bladder. At this point, the patient became severely incontinent. A revision of the transvaginal sling repair was then performed.

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▶ **PATIENT’S CLAIM** Despite all the procedures, she remains incontinent. She also developed disabling chronic pelvic pain due to the procedures.

▶ **PHYSICIAN’S DEFENSE** He denied negligence and insisted that the patient’s chronic pelvic pain was due to interstitial cystitis. He admitted causing the bladder and urethra injuries during the TVT takedown, but he recognized and repaired them immediately.

▶ **VERDICT** Colorado defense verdict.

Colon is injured in D & E following fetal death

A 23-YEAR-OLD WOMAN suffered a fetal demise at 15 to 17 weeks’ gestation. Dr. A, an ObGyn, decided to perform a dilation and evacuation (D & E) involving removal of fetal parts in a blind procedure. On the preceding day, he inserted a laminaria to enlarge the cervix for the evacuation.

During the D & E, he inadvertently punctured the uterine wall with ring forceps and then grasped part of the sigmoid colon, believing he was removing a bone embedded in the wall. This caused vascular disruption and ischemia to the colon, but did not lacerate it. Aware that a complication had occurred, Dr. A switched to laparoscopy and consulted Dr. B, a general surgeon. When the scope indicated a 1.5- to 2-cm perforation in the fundus of the uterus, as well as bluish discoloration in the mesentery, Dr. B decided to resect the colon and perform a temporary colostomy.

The colostomy was reversed 3 months later. The patient has since given birth to a child by cesarean delivery.

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▶ **PATIENT’S CLAIM** Dr. A was negligent for pulling the colon into the uterus and clamping it to the uterine wall.

▶ **PHYSICIAN’S DEFENSE** Dr. A claimed the uterus was penetrated accidentally during the blind procedure. When he grasped the colon’s mesentery, he then released it in under 1 minute.

▶ **VERDICT** Illinois defense verdict. ☺

*For more on TVT procedures
Examining the Evidence:
Spotlight on Urinary Incontinence
FIND IT IN THE DECEMBER 2008 ARCHIVES
AT WWW.OBGMANAGEMENT.COM.*