

Baby harmed when couple, unaware of risk, elects induction

AFTER A NORMAL PREGNANCY, a woman opted for induction of labor because the baby's father was scheduled to leave for a military weekend. When the fetal heart rate showed a concerning pattern, Dr. A, the delivering physician, applied vacuum five times, but failed to achieve delivery. As he lacked privileges to perform a cesarean delivery and a surgical team was unavailable, he sent for Dr. B, a senior partner with such privileges. Dr. B attempted delivery using forceps but failed, and then tried the vacuum extractor twice. The child was delivered—blue and flaccid, with slow irregular respirations. The Apgar score was 3 at 1 minute and 4 at 3 minutes. The infant was resuscitated with bag/mask ventilation for 90 seconds and taken to the nursery of the community hospital, where he was treated as a normal newborn. Although he was brought twice to his mother during the night, he did not feed. The next morning a nurse noticed that he was blue and not breathing. A code was called. The child then suffered seizures with apneic and bradycardic spells. A glucose draw 2.5 hours later showed significant hypoglycemia believed to exacerbate hypoxic injury. After transfer to a specialty-care hospital, a CT scan of the child at 17 hours of age showed brain swelling and subgaleal hemorrhage; the local radiologist, however, read it

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 (www.verdictslaska.com). The available information about the cases presented here is sometimes incomplete; pertinent details of a given situation therefore may be unavailable. 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.

as normal. A diagnosis of significant brain damage has been given. Now 6.5 years old, the child cannot speak, drools constantly, suffers motor impairment on both sides, has difficulty eating, and is incontinent.

.....
▶ **PATIENT'S CLAIM** The parents were never told of the risks of induction and did not give informed consent regarding the use of misoprostol. An excessive dosage of the drug was administered, resulting in an abnormal uterine contraction that was not addressed by the nurses or delivering physician.

▶ **PHYSICIAN'S DEFENSE** The injury was caused by some unknown event 4 to 6 days before delivery. Also, neither the hypoglycemic period nor the trauma contributed to the brain injury.

▶ **VERDICT** \$2 million Minnesota settlement. The case was tried first in the small community (pop. 2,000) where the hospital and clinic are located—despite efforts to have a change of venue—and supporters of the defendants filled the courtroom. A mistrial was declared after the jury deadlocked. Then a change of venue was granted, and the jury in a second trial returned a \$9,566,500 verdict. Dr. A and the clinic had reached a high/low agreement of \$2 million just before the second trial. Posttrial motions were pending.

In bicornuate uterus, abortion fails on two attempts

IN THE SIXTH WEEK OF PREGNANCY, a 33-year-old woman underwent an abortion. The procedure, performed by an ObGyn, was uneventful, but a later test showed that the abortion had failed. During a second attempt 1.5 weeks after that, the same ObGyn

encountered difficulties, suggesting that the uterus had been perforated—and he stopped. Following transfer to a hospital, the patient was confirmed to have suffered perforation of the uterus—and also to have a bicornuate uterus. She was treated with antibiotics and decided to continue her pregnancy. Several weeks later, she miscarried.

.....
▶ **PATIENT'S CLAIM** The ObGyn was negligent for causing the perforation. She had informed him of her bicornuate uterus, and ultrasonography should have been used to allow proper completion of the abortion.

▶ **PHYSICIAN'S DEFENSE** Perforation and retained pregnancy are complications of an abortion procedure. Such complications are more likely when the uterus is bicornuate.

▶ **VERDICT** New York defense verdict.

Hemophilia carrier suffers massive bleed after surgery

A 33-YEAR-OLD WOMAN had a previous tubal ligation reversed by an ObGyn. Following the surgery, she suffered massive bleeding and deep-vein thrombosis, resulting in permanent postphlebotic syndrome in her left leg.

.....
▶ **PATIENT'S CLAIM** She had notified the anesthesiologist that her son had a history of being Factor IX-deficient, and she brought Factor IX with her for urgent matters.

▶ **PHYSICIAN'S DEFENSE** The ObGyn claimed the patient never informed him that she was a hemophilia B carrier and Factor IX-deficient. Although the anesthesiologist recorded the information given to him by the patient, the ObGyn was never told about it.

▶ **VERDICT** Illinois defense verdict. Ⓞ