

Paps are “normal” despite bleeding and cervical cancer

A ROUTINE PAP SMEAR of a 27-year-old woman showed atypical squamous cells of undetermined significance. Over the next 3 years, the same gynecologist obtained annual Pap smears; pathologists and cytotechnologists interpreted these as being within normal limits. Then the patient reported postcoital bleeding to her gynecologist. Assuming the bleeding to be due to low estrogen associated with her oral contraceptive (OC), he switched her to another OC. Over the next 7 months, the patient reported on six occasions that she was still experiencing significant postcoital bleeding, tenderness during intercourse, and abdominal cramping. A Pap smear on one of those visits indicated no evidence of malignancy. Nine months after the change in OC, cervical cancer was diagnosed. Ten months later, the patient began radiation and chemotherapy because she was found to have metastatic cervical cancer of the rectum, pelvis, and colon. She died 9 months later at age 32.

▶ **PLAINTIFF'S CLAIM** The first Pap smear actually showed evidence of a low-grade squamous intraepithelial lesion, so further testing was needed to rule out cervical cancer. When the patient reported postcoital bleeding, colposcopy and cervical biopsy should have been performed to determine whether she indeed had cervical cancer.

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.

▶ **PHYSICIAN'S DEFENSE** Not reported.
▶ **VERDICT** \$1.3 million Massachusetts settlement.

Ectopic pregnancy with IUD leads to fallopian tube removal

A FEW WEEKS AFTER IUD PLACEMENT, a 26-year-old woman reported to a hospital complaining of abdominal pain and bleeding. An ObGyn diagnosed an ectopic pregnancy, recommended removal of both fallopian tubes, and then proceeded to remove them.

▶ **PATIENT'S CLAIM** It was negligent to perform nonemergent surgery when she was unable to consent to it.

▶ **PHYSICIAN'S DEFENSE** The procedure was proper, as the patient was highly likely to have another ectopic pregnancy. Also, the patient could undergo in vitro fertilization if she wanted to become pregnant.

▶ **VERDICT** Tennessee defense verdict.

Could retractors have caused right-leg femoral nerve neuropathy?

A 66-YEAR-OLD WOMAN with endometrial cancer underwent hysterectomy and surgical staging. Following the procedure, she suffered complete neuropathy of the femoral nerve in her right leg.

▶ **PATIENT'S CLAIM** Retractors were used improperly during surgery, causing the injury.

▶ **PHYSICIAN'S DEFENSE** The neuropathy was not a result of the type of retraction, but was probably due to the patient's modified lithotomy position during surgery. Such an injury is a known risk of the procedure.

▶ **VERDICT** \$750,000 New York verdict. As the verdict was for all past pain and suffering, the court increased the judgment to \$900,000 after the trial to include future pain and suffering.

Was retained clip the reason for kidney failure 12 years later?

BECAUSE OF A TUMOR on her left ovary, a woman's left ovary and fallopian tube were removed. During surgery, Dr. A found and lysed adhesions around her right ovary. Seventeen months later, the patient underwent laparoscopy and lysis of adhesions as well as biopsy of the right ovary. Dr. B, who performed the procedure, did not note any clip on the left ureter. Three months after that, the patient underwent exploratory laparotomy with lysis of adhesions and right ovarian cystectomy and partial omentectomy—performed by Dr. C. Upon visual inspection, the left kidney appeared to be larger than the right kidney. When the patient complained of left-sided abdominal pain 10 years later, she underwent a CT urogram, which showed a chronically obstructed left kidney—probably related to a surgical clip obstructing the distal third of the left ureter. She was diagnosed with hydronephrosis of the left kidney, which was essentially non-functioning. The urologist believed the clip had been left there during the first surgery 12 years earlier.

▶ **PATIENT'S CLAIM** Dr. A was negligent for placing the clip on the ureter, causing kidney damage.

▶ **PHYSICIAN'S DEFENSE** Because of the statute of limitation and state of repose, Dr. A moved for dismissal and summary judgment, but the motions were denied. He also claimed that clipping the ureter during the first surgery would have caused imme-

diate excruciating pain. However, he admitted that partial obstruction could occur without pain and in fact lead to total obstruction and death of the kidney years later.

▶ **VERDICT** \$450,000 Massachusetts arbitration award.

Nurses reassure new mother, who then dies from PE

A 25-YEAR-OLD WOMAN GAVE BIRTH to a healthy boy. She did not feel well during the week after hospital discharge. When she called her ObGyn's office to discuss her complaints, the nurses reassured her. Ten days after delivery, she was taken to the emergency room, where she died from a pulmonary embolism.

▶ **PLAINTIFF'S CLAIM** The physician and nurses failed to respond properly to the patient's complaints, which were consistent with a pulmonary embolism.

▶ **PHYSICIAN'S DEFENSE** The patient was monitored properly. An embolism is a sudden event.

▶ **VERDICT** \$867,273 Tennessee verdict. The physician group was found 70% at fault and the hospital 30% at fault.

Despite US results, birth delayed to 41 weeks

ULTRASONOGRAPHY SHOWED a shortened cervix, a subchorionic hematoma, and a choroid plexus cyst in the fetal brain during a patient's prenatal care. The ObGyns induced labor at 41 weeks' gestation and then performed emergent cesarean delivery. The child suffered birth asphyxia, thrombocytopenia, hypocalcemia, and cerebral palsy.

▶ **PATIENT'S CLAIM** The ObGyns should have induced labor and/or performed cesarean delivery before 39 weeks' gestation, but they failed to recognize the significance of the mother's condition.

▶ **PHYSICIANS' DEFENSE** Not reported.

▶ **VERDICT** \$1.1 million Michigan settlement.

Sponge emerges 7 months after cesarean delivery

A LAPAROTOMY SPONGE was unknowingly left in the abdomen of a 29-year-old woman who underwent cesarean delivery. Seven months later, she was examined for a stitch abscess. Thinking he was removing a retained stitch, the surgeon pulled out a 12-inch sponge. She was awake at the time and experienced severe pain. The next day, she underwent laparotomy and drains were placed. She remained hospitalized for several days and drainage continued for another 6 days. The patient suffered no permanent injury; incisions for both operations were made at the same site, and she later gave birth without complication.

▶ **PATIENT'S CLAIM** Leaving a sponge inside her was negligent.

▶ **PHYSICIAN'S DEFENSE** The nurses who assisted in the surgery were responsible for the retained sponge.

▶ **VERDICT** \$110,410 Illinois verdict against the surgeon. Confidential settlement with the hospital prior to trial.

Would an earlier birth have saved this stillborn child?

WHEN 32 WEEKS' PREGNANT, a 16-year-old patient repeatedly told her

ObGyn she was experiencing bleeding. Later, she reported decreased fetal movement, but a sonogram indicated nothing abnormal. Twenty-three days later, her infant was delivered stillborn.

▶ **PATIENT'S CLAIM** Placental abruption, which occurred 24 to 96 hours before delivery, caused the stillbirth. Because of her risk factors—bleeding, age, smoking, decreased fetal movement—labor should have been induced or a cesarean delivery performed earlier.

▶ **PHYSICIAN'S DEFENSE** Ultrasonography did not indicate placental abruption, so delivery at that time was not warranted. An umbilical cord accident—which was unforeseeable and unpreventable—caused the stillbirth.

▶ **VERDICT** Kentucky defense verdict.

Mother claims she wasn't told test results for Down syndrome

A TRIPLE SCREEN BLOOD TEST ordered for a patient under prenatal care indicated that she had a 1:37 chance of giving birth to a child with Down syndrome. Six months later, her infant was born with Down syndrome.

▶ **PATIENT'S CLAIM** The obstetrician failed to inform her that the triple screen test indicated a risk of having a child with Down syndrome. If she had known, she would have undergone an abortion.

▶ **PHYSICIAN'S DEFENSE** The patient was informed three times of the test results. She was advised to undergo amniocentesis to obtain a definitive diagnosis, but she refused.

▶ **VERDICT** Maryland defense verdict. ☉