

March 2013 Legal Case Study

Failure to Admit Mother and Deliver Child at Two Hospital Presentations - After Admission

Physician Doesn't Come to Examine Woman Timely- Delay in Delivery Blamed for Brain Damage With Spastic Quadriplegia - \$10 Million Settlement With Some Defendants After Confidential Settlement With Others.

The plaintiff mother went to a hospital during her thirty-eighth week of gestation in May 2001. The mother believed she was in labor, but after the physician examined her and placed her on a fetal monitor for about twenty minutes, she was discharged. The mother returned to the hospital three days later, again believing that she was in labor. She was discharged after about two and one-half hours. That evening the mother returned to the hospital with ruptured membranes and meconium-stained amniotic fluid. She was admitted and put on an external fetal monitor.

The physician was called by nurses at admission and twice after that within the next eight and one-half hours. The nurses did not ask the physician to come to the hospital to examine the patient. When fetal monitor tracings showed signs of decreased beat-to-beat variability, resuscitation techniques were instituted which included changing the mother's position and administering oxygen and fluids.

The physician examined the mother about ten hours after her arrival. The physician's partner, soon took over her care and he immediately ordered an emergency cesarean section. The infant was delivered in poor condition. She was determined to have suffered brain damage. The child suffers from spastic quadriplegia, inability to speak or eat and impaired vision. She required a tracheostomy.

The plaintiff alleged negligence in the failure to properly monitor the pregnancy, failure to timely deliver the baby and failure by the nurses to properly monitor her after she was admitted to the hospital. The plaintiff filed a separate suit against two other doctors alleging failure to timely resuscitate the infant.

The mother claimed that at her first presentation to the hospital the fetal monitor showed beat-to-beat variability and delivery should have occurred then. The plaintiff claimed that beat-to-beat variability was again shown at her second appearance and she should not have been discharged. The plaintiff additionally maintained that the physician should have examined her earlier after she was admitted.

As to the nurses, the plaintiff contended that they should have demanded that the physician come to the hospital and/or gone up the chain of command to have the mother examined by a physician. The plaintiff also claimed that after the birth the newborn was given inappropriate doses of epinephrine and that it was about ten minutes before they were able to secure an airway.

The physician claimed that fetal monitoring at the first two hospital presentations revealed only temporary fluctuations and that delivery was not necessary at those times. The physician also contended that the information provided by the nurses after admission did not reveal anything which required him to go to the hospital.

The nurses claimed that the physician was given adequate information and that there was no reason to override the physician's medical judgment.

Both physicians claimed that the newborn was properly cared for during resuscitation and that the infant had already suffered neurological damage by the time they were called in for treatment.

According to a published account the physicians agreed to an undisclosed pretrial settlement. A \$10 million settlement was then reached with the remaining defendants.

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February 2013 Legal Case Study

Failure to Properly Control Woman's Post-Cesarean Section Bleeding - Death - \$1.35 Million Settlement.

The plaintiff underwent a non-emergency cesarean section delivery. Soon after birth she began to bleed excessively. Her blood pressure decreased, her heart rate increased and her blood oxygen level dropped. She also passed large clots.

The nursing staff in the recovery room notified the defendant obstetrician of the changes. He examined the woman and gave medication to constrict the uterus and diminish flow. This treatment was unsuccessful and the woman was returned to the operating room for surgery. A low segment uterine laceration was discovered and repaired. Blood and other medications to tone the uterus were administered. Blood tests indicated that the hematocrit and hemoglobin had diminished and she had signs of clotting difficulty. After this surgery the woman was returned to the labor and delivery recovery room.

The defendant claimed that her vital signs in the recovery room were not abnormal. Additional blood products and fundal massage were ordered. The woman's blood pressure remained low or was fluctuating and her heart rate was high and the blood oxygen content remained low. The obstetrician claimed that he was not notified of these vital sign changes and did not read the monitor which indicated abnormal vital signs. Nurses claimed that they did not tell the doctor of these changes because they expected him to look at, review and interpret the monitor each time he came to the room.

Two hours after being returned to the recovery room, the mother arrested. A code was called and she was eventually revived, but with significant brain damage. Six months later, mechanical ventilation was withdrawn and she died.

The plaintiffs claimed that the obstetrician and anesthesiologist were negligent in failing to stabilize the decedent and that a hysterectomy should have been performed.

The plaintiffs claimed that the nurses failed to notify the anesthesiologist and obstetrician of unstable vital signs which indicated blood loss.

The defendants claimed that the arrest and death were due to an amniotic fluid embolism or amniotic fluid syndrome, a rare condition which is sudden, unpredictable, difficult to treat and is usually fatal.

According to a published account a \$1,350,000 settlement was reached.

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October 2012 Legal Case Study

Premature Baby Given Massive Overdose of Pavulon - Baby Develops Kernicterus - \$3 Million Settlement After Child's Death.

The plaintiff child was born at twenty-four weeks and was cared for in the defendant hospital's neonatal intensive care unit. A NICU nurse administered a massive overdose of pancuronium bromide, Pavulon, a neuromuscular blocking agent.

The plaintiff claimed that there was no order for the infant to receive the drug on the morning in question. The drug was stored in the NICU in an unlocked refrigerator without any security and the amount of the drug which was accessed was untraceable. The drug caused the infant to be paralyzed for about twenty-four hours.

The hospital conducted an investigation and determined that the nurse was unauthorized to administer the drug. The nurse was terminated and referred to the Board of Registration in nursing.

The hospital wrote a letter to the infant's parents assuring them that the boy would suffer no adverse consequences due to the overdose. The infant was in the NICU for four months.

At age two it was apparent that the child had symptoms of kernicterus, which prevented physical development and caused cerebral palsy, hearing loss and decreased oral motor function. He was fed through a G-tube and required continuous oxygen therapy through a tracheotomy.

The plaintiff claimed that the overdose of the drug caused the patient to develop kernicterus and claimed that the package insert stated that excessive exposure can cause kernicterus, especially in pre-term infants.

The plaintiff also claimed that the drug should have been secured and that the nurse who administered the overdose was impaired and should not have been entrusted with patient care. The plaintiff maintained that the nurse had previously demonstrated severe behavioral issues and was widely known in the NICU as a thief.

The boy died on the day after mediation began and the case settled shortly after that for \$3 million.

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References

- Brous, E. Documentation and litigation: Best practices for nurses. *Modern Medicine*. February 2009.
- Clark SL, Belfort MA, Dildy GA, Meyers JA. Reducing Obstetric Litigation through Alteration in Practice Patterns. *Obstet Gynecol* 2008; 112:1279-1283.
- Dougherty, M. Maintaining a Legally Sound Health Record (AHIMA Practice Brief). *Journal of American Health Information Management Association (AHIMA)* 73, no. 8 (2002): 64 A-G.
- Hauth, J. *Global Library of Women's Medicine, (ISSN: 1756-2228)* 2008; DOI 10.3843/GLOWM.10106
- Karp D, Huerta, JM, Dobbs CA, et al. *Medical Record Documentation for Patient Safety and Physician Defensibility*. (2008). Medical Insurance Exchange of California (MIEC).
- Macones GA, Hankins GD, Spong CY, et al. The 2008 National Institute of Child Health and Human Development workshop report on electronic fetal monitoring: update on definitions, interpretation, and research guidelines. *Obstet Gynecol* 2008; 112:661.
- Simpson, K.R. & Creehan, P.A. (2014). *Perinatal Nursing*. 4th Ed. Lippincott: New York, NY.