Ob-Gyn Risk Alliance insights
2013 NUMBER 2

Documentation Assists Defense of

Shoulder Dystocia Cases

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Claims involving shoulder dystocia are one of the two most common types of claims brought against Ob-Gyns. When a child suffers a permanent brachial plexus injury, the Ob-Gyn is exposed to a potential malpractice claim. These cases are very attractive to plaintiff attorneys because they involve a very young child who has an obvious and permanent injury. The plaintiff attorney will likely secure an expert witness to testify that shoulder dystocia should never have occurred, arguing a C-section should have been performed. The expert may also testify the Ob-Gyn used excessive force or traction during delivery.

Myriad literature has been published on this topic during the past 20 years. The vast majority agree "shoulder dystocia is most often unpredictable and unpreventable." A recent survey reflects there is still no clear consensus on how to prevent shoulder dystocia or whether management decisions may prevent injury.[1]

Some experts claim shoulder dystocia is predictable and preventable—asserting injuries are avoidable. However, obstetrical studies have repeatedly shown this is not an accurate claim. Due to the unpredictability of shoulder dystocia, there is nothing you can do to *prevent* it from occurring. We can, however, provide suggestions that may reduce the likelihood of a malpractice claim when this complication does occur.

Plaintiff attorneys often cross-examine defendant Ob-Gyns on issues involving the patient's obesity, weight gain, diabetes, and slow progress of labor, arguing shoulder dystocia could have been predicted and prevented by C-section. ACOG states, "Prophylactic Cesarean delivery may be considered for suspected fetal macrosomia with estimated fetal weights greater than 5000 grams in women without diabetes and greater than 4500 grams in women with diabetes."[2]

Your prenatal record does well to reflect you are aware of the patient's obstetrical history, documenting discussions of risk factors (e.g., estimated fetal weight, diabetes, any history of shoulder dystocia, or any other recognized risk factors). When you document discussions, reflect your discussion of items such as: risks of vaginal delivery, confirmation that the patient understood these risks, and the patient's decision to have a vaginal delivery.

In litigating a brachial plexus injury, plaintiff's experts likely will claim excessive traction must have been used during the delivery. Obstetrical literature clearly establishes this is an inaccurate statement. Therefore, with every such delivery, it is critical to document exactly what occurred and what was done. Literature over the past two decades consistently states acceptable emergency procedures include: the McRoberts maneuver, suprapubic pressure, the Woods or Corkscrew maneuver, or delivery of the posterior arm.

Keep in mind plaintiff's experts will be attempting to describe a delivery they did not witness that occurred several years ago. A detailed, informative delivery note will aid your defense team in refuting plaintiff experts' testimony. A strong delivery note, when shoulder dystocia is involved, includes the following:

- a list of healthcare providers present during the delivery (plaintiff experts may claim there weren't sufficient personnel present);
- when shoulder dystocia was diagnosed;
- a description of obstetric maneuver(s), in order, that were used to relieve the shoulder dystocia;
- the length of time it took to perform each maneuver;
- a notation of which arm was anterior and which arm was posterior; and
- documentation of any pulling or use of traction.

[1] *Gherman, RB, et al. A survey of Central Association members about the definition, management and complications of shoulder dystocia. Obstetrics Gynecology 2012; 119: 830-837*

[2] *Shoulder dystocia. ACOG Practice Bulletin No. 40. ACOG. November 2002*

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Plaintiff attorneys are focusing more and more on birth trauma cases, especially cases involving shoulder dystocia; it is important you are proactive and do whatever possible to minimize risk and ensure patient safety. It is also important you thoroughly document—during prenatal care—that you are aware of potential complications. If shoulder dystocia occurs during delivery, *document the truth*—including detail such as you refrained from panicking, responded appropriately, and performed the appropriate maneuver(s).

Remember, you are the expert who was actually present at the delivery. You used the maneuvers and traction you deemed necessary. It is imperative you provide accurate documentation reflecting exactly what happened during delivery.

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