

How to Avoid Litigations in Medical Practice

MEDICO-LEGAL ISSUES IN OBS. AND GYNAE - Part-1



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Practice of Obs and Gyne is the most vulnerable to medical litigations. They constitute highest number of cases in various councils and forums.

However practicing contemporary, evidence-based medicine, with compassion and excellent communication is the best way to avoid alleged negligence. If a suit occurs, the best defense entails comprehensive documentation, particularly in recognized areas of risk.

Will try to understand pits and falls in practice through few example cases presented in various Courts and Councils.

1. Antenatally booked patient. Fixed for elective LSCS on first January. Obstetrician goes on winter holidays leaving patient to MBBS RMO to manage. Patient gets admitted on 1st January. Was operated by a general surgeon. Patient goes into PPH and later DIC. In this case the General Surgeon said he had done only a couple of LSCS before and was not very confident in the procedure. Court asked when it was an elective procedure, and there was no emergency, why other obstetrician was not called or why patient was not shifted to some other hospital. RMO could not answer it satisfactorily. Patient awarded compensation.

Here there are two issues. One is of duty to care, secondly issue of competency. Once a patient is in your regular follow up, please make sure she is well taken care of, when you go on leave. Explain in writing that you will be on leave on this period, and give all options to the patient. If you are making an

alternate arrangement make sure the doctor is equally qualified. The operating surgeon must be qualified and competent enough to do the procedure.

2. Obstetrician refused to see a previously booked antenatal patient at night who was complaining of abdominal pain. She went to another nursing home in the middle of the night and delivered premature baby. Patient went to court for deficiency in service. Doctor was ordered to pay compensation.

Once you owe a duty of care, you should not neglect the patient. Must explain to the patient and write clearly, where to go or whom to contact if you are not available.

3. Obstetrician prescribed ultrasound with Color Doppler examination at term due to a free floating head. Patient did not get the investigation done, went into spontaneous labor and progressed normally till second stage followed by failure of descent of fetal head for which operative vaginal delivery by vacuum was conducted after taking informed, documented consent. Two loops of cord were found around neck of the baby at the time of delivery and baby had moderate birth asphyxia, was sent to NICU. Patient demanded compensation. However, due to documentation of advice regarding Color Doppler and documented management during labor, court found no negligence.

Documentation can be the best friend as well as worst enemy. A proper documentation can always

save you in case of litigation. Never forget to document refusal for a treatment or an investigation. Explain consequences of doing so, document it and get it signed by the patient.

4. Patient comes with 6 weeks amenorrhea with a positive pregnancy test. Obstetrician performs antenatal USG. No intrauterine pregnancy was visualized. Same doctor performed D and E diagnosing early intrauterine pregnancy, however pregnancy continued. Patient presented after one and a half months with a ruptured communicating rudimentary horn. It was a case of bicornute uterus. Court verdict went against the doctor.

Many cases are reported of antenatal USG by obstetrician, where major findings are missed, which are revealed after birth or diagnosed by a qualified ultrasonologist at a later stage. Please do not exceed scope of your expertise and always refer to a specialist in case of doubt. Always give follow-up instruction for clinical examination or follow up USG as per requirement. In above cited case no follow up instruction was given to report in case of continuation of pregnancy. This fact also went against the doctor.

5. A young woman underwent MTP at a private hospital. After 15 days she went to court against her husband and also accused the doctor saying that the termination was forcibly performed against her wish. Doctor produced the signed, consent form in court. Doctor was found not guilty and the case was dismissed and patient was reprimanded.
6. Thirty-Five years patient came with complaint of DUB, hysterectomy was advised and consent was taken for hysterectomy only but ovaries were also removed. Patient came with menopausal symptoms after 6 months and was told that her ovaries have been removed and medications were needed for hormonal replacement. She had not

been informed about the possibility of oophorectomy and its consequences, prior to and following surgery as well as no separate consent for the removal of ovaries was taken. Legal problem arose. Doctor was asked for an explanation why ovaries needed to be removed and were the patient and her relatives informed about the same soon after surgery, while in hospital. Doctor was unable to give a satisfactory reason and had not informed them while in hospital so compensation was granted.

This brings in light the famous Samira Kohli Vs Prbha Manchanda case, where Supreme Court laid the detailed guideline about taking valid informed consent. Consent is always procedure specific. If you anticipate any possibility of extension of surgery, always tell patient and take written consent for that anticipated surgery as well. If additional surgery can be performed at a later stage than avoid it. If requirement of additional procedure arise during surgery than take consent from the patient if she is conscious or husband if she is not conscious. In case of life threatening situation of emergency you can go ahead with additional procedure without consent but since onus will be on you clearly document the emergency and take written opinion from one of your professional colleague. Please refer to DMA bulletin volume 50 issue 02 dated 25th April 2018 for details of a valid informed consent.

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Ps. soon will start articles on medico-legal cases pertaining to various specialties. If you have any query related to your specialty please mail it to dr.arun.medicolegal@gmail.com or WhatsApp 9811106056