



Litigation in Obstetric Ultrasound

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Prof Edward Coetzee, Fetal Medicine Unit, UCT/GSH



OB. U/S litigation: Why the fuss?

- Do we need to be prepared [?anxious]

■ **YES!!**



OB. Litigation: The changing picture

- Litigation against the obstetrician for damage to the newborn resulting from birth asphyxia is rapidly declining
- Reasons: Less injudicious use of oxytocin during labour and more elective C/S's



OB. Litigation: The changing picture

- Our Legal Colleagues are scanning the medical horizon to fill the vacuum
- Everyone knows that U/S imaging should detect most fetal structural abnormalities.
- So when a baby is born with a structural abnormality [about 1 in 200] then the question is asked:
“ Should this have been detected prenatally?”



WAS SOMEONE TO BLAME?

- Everyone can search the internet for information
- This will almost always reveal that someone has published on how U/S can detect that abnormality
- The next Question:
“Why did my doctor not detect it?”



NO ONE is free of blame

- If you do not do your own ultrasound then you can refer to an appropriate doctor and you can do biochemical screening
- If you do your own scanning, are you appropriately trained for the service that you are claiming to deliver?
- **Can you prove that?**



The Degree of Negligence will depend on:

- How robust is the evidence that the routine well trained ultrasonologist [?level 2] should be expected to detect that lesion
- At what level are you scanning and have you received the necessary training
- Did you inform the patient at what level you are scanning and the scope & **limitations** of your scan
- Did you inform her that she has the right to elect to go to a more skilled scanner [?level 3]



Appropriate Equipment

A good ultrasound machine should have:

1. Good resolution
2. Adequately enlarge the picture
3. Callipers that can measure 0.1mm
4. An appropriate obstetric transducer with multiple frequencies 2—5 MHz
5. Good colour and doppler



Screening

- Understand the basic principles of screening including DR, sensitivity, specificity, FPR, FNR, predictive value of a +ve or -ve test and ROC curves
- Be up to date about screening protocols
- If you are doing NTT you **MUST** be accredited with FMF



THE U/S REPORT

- A detailed report on your U/S scan must be written at the time of your scan and the patient is entitled to have a copy of your report



U/S Negligence

Prophylaxis

- Speak to your patient empathetically and carefully explain what you are seeing
- Explain to her that you and U/S imaging are not infallible and some lesions can be missed, but you will assure her that you will offer her the best opinion possible



U/S Litigation: TOP of the POPS

- Downs Syndrome
- Spina Bifida
- Hydrocephaly

These conditions are relatively common and there is a huge body of evidence that they are diagnosable prenatally

The newborn has a reasonable chance of survival and will require expensive medical treatment



Missed abnormalities that would be difficult to justify in court

- Anencephaly
- Holoprosencephaly
- CCAM
- Chylothorax
- Duodenal atresia
- Intestinal atresia
- Omphalocele
- Renal abnormalities
- Limb defects
- Dwarfism
- Certain Heart defects
- Hydrops fetalis



If you are a level 2 scanner your U/S report **MUST INCLUDE**

- Placenta & AF
- BPD, HC, AC & FL
- Intracranial:
TCD, CM & LVA
- Face: Coronal & sagittal
- Chest: size of heart, orientation, 4 chamber view, echo-dense or -lucent structures
- Spine: sagittal, coronal & axial till sacral tip
- Abdomen: diaphragm, ant. abdominal wall, stomach bubble[orientation], other sonolucent areas, kidneys and bladder
- Check appropriate length and presence of humerus, radius, ulna, femur, tibia & fibula[L&R]
- Hands & feet
- 3 vessel cord
- **Sexing is not important**



Have you missed a Fetal Anomaly

- Discuss it with a caring manner with your patient
- Try and explain what you think could have happened to explain the missed diagnosis
- Do not avoid the patient or her family
- Give maximum support



A Medico-legal case report 1

- A mother aged 37 years consults with her obstetrician @ 15 weeks. The obstetrician does not do U/S, but refers to an excellent local ultrasonologist. The patient however prefers to go to a GP closer to her who does U/S. The obstetrician does not enquire about the skills of this scanner and does not get a full U/S report from the scanner.



A Medico-legal case report 1

- The obstetrician does not do a midtrimester triple test
- The baby is born with a large spina bifida and hydrocephaly that requires drainage and a shunt
- The obstetrician is insured, but the scanner is not



A Medico-legal case report 1

- Who is to blame that the condition was missed [if anyone] and how would blame be apportioned?



Medico-legal Case 2

- A young mother is referred to an academic centre with a Fetal Medicine unit because of a high Maternal serum AFP
- She is seen by a specialist who has had 2 years training in U/S at a highly reputable Fetal Medicine Centre overseas
- The “skilled” specialist does not detect a Banana or Lemon sign



Medico-legal Case 2

- There was apparently no hydrocephaly at the time of the scan
- The Spina Bifida lesion was not detected
- No follow-up appointment as given
- The mother was returned to her local clinic where she delivered a child with moderate hydrocephaly and a large lumbosacral Spina Bifida
- All records from that period of the Fetal Medicine clinic were lost



**Thanks to the
organisers of this
congress**