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 0.1 mm
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 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
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