How to Avoid Litigations in Medical Practice

MEDICO-LEGAL ISSUES WITH OBS AND GYNE PART 2 -LSCS

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LSCS is one of the most common operations in Obstetric and Gynecological practice. There is a growing rate at which this mode of delivery is resorted to due to several reasons.

- Women becoming mothers at late age are more likely to undergo LSCS.
- Better monitoring leads to pick up fetal distress earlier.
- Fear of litigation prompts Obstetricians to take less risk and resort to LSCS earlier in high risk situations.

MEDICO-LEGAL ISSUES WITH LSCS

Who can perform LSCS?

Ideally LSCS is expected to be performed by a Gynecologist. If a MBBS doctor or a surgeon with MS degree does it, he/she has to produce in the court proof about training in LSCS. Further, there is a need to prove that Gynecologist was not available for the particular surgery and that the situation was life saving and there was no time to wait for the Gynecologist.

What are the places where LSCS can be performed?

Can be performed at any registered establishment with OT and indoor facility and where Infrastructure is reasonably well equipped with essential equipments like oxygen cylinders, Boyle's apparatus and defibrillator. Standards should be followed while deciding the list of drugs, disposables and equipments to be available in the OT.

What are essential Preoperative precautions?

Proper history of previous surgeries and medical problems should be taken and documented. Pre anesthetic notes should be complete with instructions like medications to be administered; preoperative starvation etc. Must enquire history of any problem, which can affect the anesthesia like history of asthma or drug allergy.

Document the proper indication.

Documentation of *proper indication for LSCS* is important, because common allegation related to LSCS are that doctor did unnecessary LSCS or did it too late and hence baby suffered. Courts do not usually question the indication, but it is important that documents corroborate with indications. For example, FHR record should prove that there were problems noted in FHR if indication for LSCS is fetal distress.

How to take a valid informed consent for LSCS?

Usual allegations in the litigation are:

- Consent was not taken.
- Consent was taken under pressure.

In the **Simeera Kohlivs Dr Prabha**

Manchanda, SC Jan 2008 case, the three bench judgment has dealt with the question of consent.

1. Consent of the patient herself is most important. Others are signing as witness (unless patient is insane/minor). Consent of husband or mother in law is not valid in a conscious patient of sound mind.
2. It should be an informed consent with detailed explanation of:
   - Nature of treatment.
   - Benefits.
   - Possible side effects (balanced information, not to frighten her).
   - Available alternatives.
   - Consequences of refusal of treatment.
   - All this can be accomplished during the antenatal classes if taken.
3. Consent for LSCS does not imply consent for other associated procedures like appendectomy or hysterectomy unless it was life, saving step.
4. With proper mention in the consent, associated procedure can be done, e.g. tubectomy or appendectomy.

What to do if Patient refuses to give consent or they are asking to wait for some relative to arrive?

- Document informed refusal signed by the patient.
- If patient refuses to sign, get an undertaking about the incident signed by neutral bystander.
- **In MrSakilvsDr P Irani 1992,** doctor documented refusal of consent to LSCS as patient insisted on waiting for her father-in-law and hence negligence could not be proved in spite of hypoxic damage to the newborn.
- Once consent is given one should not delay in doing LSCS. In **K MurugesanvsDrSarladevi 1 (1999) CPJ 542;** doctor waited for anesthetist husband for 4 hours and did not call any other local anesthetist till then. There was IUD and intraoperative bleeding and patient had to be shifted. Patient died on the way and doctor was held liable.

Who should resuscitate the Baby?

Legally, any doctor or nurse "trained" in resuscitation can resuscitate the baby. Only issue is that person should be trained. The challenge, however, is to prove in the court of law the extent and authenticity of training. Professional bodies like Indian Academy of Pediatrics and National Neonatology Forum regularly conduct comprehensive neonatal resuscitation program for doctor and nurses called Neonatal Advanced Life Support Program (NALS). Get all your staff specially nurses trained in NALS. But in cases of emergency LSCS with fetal indications its a prudent to call a pediatrician.

Common problems leading to litigation in LSCS

- Most common problem, which leads to litigation in case of LSCS, is bleeding. One has to be vigilant about possibility of bleeding in all case of LSCS and hence it is prudent to send blood for cross matching for all cases of LSCS. If blood bank is situated at far away distance, at least efforts should be made to ring up the blood bank and ask for availability of blood incase of emergency.
- Another situation, which is prone to litigation, is a case of Vaginal Birth after

Cesarean (VBAC). Documents should be able to prove that labor was meticulously monitored and OT was kept ready for emergency LSCS. 2.35 lacs compensation was awarded in **DK Nayak vs Dr Kalyani case (1997) CPJ 103** because blood was not arranged in spite of the fact that blood group was a rate (A negative) for a case of LSCS.

- If you are performing LSCS in nursing home without ICU facility, make sure you have a tie up with near by hospital with ICU facility. Make sure you have facility for transport too in case it is required.

Other common reasons for litigations are

PPH, DIC, Embolism, Hysterectomy following uncontrolled PPH, Birth Asphyxia and birth Injuries like Erb's palsy and post operative sepsis etc.

Remember there is no need to get worried by complications. Complications are known to occur during surgeries. You have to show that professed the required degree, knowledge and skills for the surgery. Your degree of care was reasonable and was not less than expected from an average doctor of doing such surgeries. Consent and documentation must be complete. Do not overlook nurses' notes. There should periodic recording of signs and parameters like pulse, blood pressure, bleeding, urine out put etc.

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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

OBITUARY

DMA regrets to inform the sudden & untimely demise of **Dr. A. K. Navani** (SDB-450) S/o Late Ramchand Navani on 27th September, 2018.
We pray to God to rest his soul in peace and give strength to the family to bear this irreparable loss.

OBITUARY

DMA regrets to inform untimely demise of

Smt. Shobha Rani

M/o Dr. Arvind Khurana

(IMA-DNZ) wife of Sh. Gopal Krishan Khurana

on 26th September, 2018.

We pray to God to rest her soul in peace and give strength to the family to bear this irreparable loss.

Dr. Ashwani Goyal
President, DMA

Dr. G.S. Grewal
Hony. State Secretary, DMA

Dr. M.K. Singhal
Hony. Finance Secretary, DMA