MEDICOLEGAL ASPECTS OF OBSTETRICS

DR. SHEEBA. S

ASSISTANT PROFESSOR

DEPT OF OBG.

INTRODUCTION:

Gynaecology and obstetrics have huge importance in the medical field. Since it deals with maternal and child health. Obstetricians, like other practitioners of different specialities, have a legal accountability to provide a good standard of

health care. However they have to provide health care to both mother and newborn. This may result in failure to provide adequate care.

A discontinuity of this care, due to wrong diagnosis, poor decision making, negligence, malpractice or intraoperative complications, unnecessary surgery, consent issues, poor supervision and due to human error such as retention of foreign bodies are common causes which could leadto

litigation. So, it becomes essential that the obstetricians and gynaecologist must have adequate knowledge about the medico-legal aspects pertaining to their speciality.

PRINCIPLES OF ETHICS

- *BENEFICIENCE*
- *AUTONOMY*
- *NON MALEFICENCE*

- *JUSTICE*
- *CONFIDENTIALITY*

BENEFICIENCE

Beneficience is to act in the best interests of the patient,and to balance benefits against risks.The benefits that medicine is competent to seek for

patients are the prevention and management of disease

AUTONOMY

Autonomy means to respect the right of the individual.Respect for autonomy enters the clinical practice by the informed consent.This process usually understood to have 3 elements,disclosure by the physician to the patients condition and its management,understanding of that information by the patient and a voluntary decision by the patient to authorize or refuse treatment

NON MALEFICIENCE

It means that a health personnel should prevent causing harm and is best understood as expressing the limits of beneficience.This is commonly known as primum non nocere or to do no

in harm .

JUSTICE

Justice signifies to treat patient fairly and without unfair discrimination,there should be fairness in the ditribution of benefits and risks.Medical needs and medical benefits should be properly weighed.

CONFIDENTIALITY

Confidentiality is the basis of trust between health personnel and patient.

By acting against this principle one destroy the patient trust.

MEDICAL NEGLIGENCE

Medical negligence was previously called as malpractice. It is defined as absence of reasonable degree of care and skill or wilful negligence on the part of medical practitioner while treating a patient resulting in a bodily injury,ill health or death.

The question of civil negligence arises,when a patientor in the event of his death his/her relatives, sue doctor in civil court for compensation for the injury due to negligence of a doctor.

Similarly the doctor can bring a civil suit for realization of his fees from the patient or his relatives who refused to pay the same on the ground of professional negligence.

The consequences of negligence are covered in India under the consumer protection act.

In case of serious injury to patient due to negligence, the doctor may be charged under sections 336,337 or 338 IPC, in case of death of a patient he may be charged under section 304 A IPC10

EXAMPLES OF MEDICAL NEGLIGENCE

1. Brain damage in the newborn due to hypoxia from prolonged labour.
2. Failed sterilization by unsuccessful tubal ligation resulting in unwanted pregnancies.
3. Complications of hysterectomy such as ureteric ligation and vesicovaginal fistula.
4. Wrong blood transfusion.

5. Leaving instrument, tube, sponges, mops, swabs in abdomen.
6. Gross mismanagement of delivery of woman especially by a doctor under the influence of drinks or drugs.
7. Performing abortion without indication.
8. Foetal and maternal deaths by certain drugs.

ETHICS IN OBSTETRIC PRACTICE

There are obvious beneficience based and autonomy based obligation to the pregnant patient. While the health professinal□s perspective on the pregnant woman□s interest provides the basis of beneficience based obligations, her own perspective on those interests provides the basis for autonomy based obligations. Because of insufficiency developed central nervous system, the foetus cannot meaningfully be said to possess values and on its interest. Therefore, there is no autonomy based obligation to the foetus.

ETHICS AND ASSISTED REPRODUCTION

It involves many issues like donor insemination, IVF, egg sharing, freezing and storing of embryos, embryo research and surrogancy. Still many ethical issues are involved in IVF. It is appropriate to think that it is a previable foetus and only the woman can give it the status of a patient. Hence preimplantation diagnostic counselling is non directive and counselling is non directive and counselling about how many embryos to be transfered should be evidence based.

Donor insemination raises the issue whether the child should be told about his genetic father or not. Egg sharing is also surrounded by many ethical issues. Ethics changes from time to time keeping pace with changing social values, the surrogancy issue being example. It was considered unethical few years back, now in recent issue of india today, a lengthy article has appeared supporting surrogacy with the name of the center, the photos of the physician and number of happy surrogate mothers.

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REASONS FOR OBSTETRIC LITIGATION

- Displeasure against medical proffesional due to.....
- Lack of communication
- Poor attitude or more so because of a poor outcome are causative factors for litigation.

POTENTIAL AREAS OF LITIGATION IN OBSTETRICS

ANTEPARTUM CARE :

HISTORY COLLECTION :

Recently, pre conceptional care is stressed more than only antenatal care,specially when viewed in the contact of its effect on pregnancy.History taking right from the age of the patient with relevant complaints and relevant past and family history with special reference to the obstetrical history is very important.only history can be a due for further diagnosis and management of many cases. Avoidance of any relevant factors cause maternal and foetal hazards.

DIAGNOSIS

Clinical diagnosis of early pregnancy must be confirmed by biochemical and its necessary by USG.

INVESTIGATIONS

One must not forget to do routine check up like Hb, Rh grouping, bloodsugar, HbsAg, VDRL and HIV. HIV testing must be done only after informed consent, otherwise the patient may sue the doctor. High risk pregnancies are only picked up by through history taking, routine examinations and investigations. High risk patients and failure of timely referral creates medicolegal problems.

SUBSEQUENT VISITS

ANTENATAL SCREENING FOR CONGENITAL ABNORMALITIES

In patients having history of congenital abnormal babies atleast basic screenings are very necessary to avoid litigations. The basic screening is mostly done by USG. Other examinations like CVS, amniocentesis or some biochemical investigations may be necessary depending on the individual case. Patients counselling is very necessary regarding false positive and negative test thereby avoiding legal problems.

INTRAUTERINE GROWTH RETARDATION

Apart from clinical suspicion of IUGR modern gadgets like ultrasonography, CTG and ultrasonic Doppler study to detect the end diastolic flow volume are important. Failure of timely detection of IUGR may cause intrauterine fetal death and the doctor may have to the court for this reason.

MULTIPLE PREGNANCY

It is a high risk pregnancy involving two fetal lives. Management problem is such a case may cause fetal complication which will invite legal problems.

INTRAUTERINE FETAL DEATH

Cause of IUFD must be explored.As routine autopsy in india is not performed and unexplained fetal death;may impose problems of medical litigation.

SEX SELECTION AND PDNT ACT

In view of the falling sex ratio the Indian Govt. promulgated Prenatal Diagnostic Technique Act in 1994.This test by this act was evolved to identify genetic and congenital abnormalities in relation t sex. Unfortunately this test was misused. Prenatal sex determination and selective female feticide becamme widespraed all over in India inspite of the amendment of PDNT Act in 2002,the amended act prohibits unnecessary sex determination without any disease problem and aims at preventing selective abortions of female foetuses. However still unethical practice of selective abortions is going all over india.

INTRAPARTUM CARE

Proper Intrapartum management during labor is essential for a healthy mother and a healthy child.In majority of the mothers there is spontaneus onset of labor.Injudicious administration of oxytocics was the primary reason disciplinary action in 33 percent of cases.Randomised controlled trial of EFM and ausultation of foetal heart rate found that an increased incidence of caesarian delivery and decreased neontal seizures in the EFM group but no effect on cerebral palsy or perinatal death.Newer methods like pulse oximeter

or fetal electrocardiogram analysis can prevent birth asphyxia and thereby minimize litigations.

CAESARIAN SECTION

- With the advent of CPA; there is an increased incidence of caesarian section.The WHO global study 2005 revealed that high rate of caesarian section does not contribute to an improved pregnancy outcome,rather is associated with increased maternal morbidity and mortality with higher incidence of newborn illness due to low birth weight.
- Decreased decision of CS must be avoid as this may lead to undesirable situations like obstructed labor causing

maternal and fetal morbidity and mortality

DIFFICULT VAGINAL DELIVERY

SHOULDER DYSTOCIA

Various clinical risk factors like diabetes leading to big baby etc;must be identified to predict and prevent this condition and associated injuries like erb□s palsy.But if we afce such situations in emegency obstetric care it must be tackled by experienced obstetrician otherwise litigation problem are there.

BREECH

Timely decision to be taken whether to deliver the breech by vaginal route or CS so as to avoid legal problems.

MULTIPLE PREGNANCY

Involves enormous risk and modern concept is to be delivered by CS.

INSTRUMENTAL DELIVERY FORCEPS / VACCUM

High forceps must be avoided,only low forceps can be indicated in special circumstances to expedite the labor process.Ventouse must be avoided in premature baby and fetal distress.concerned personnel may be sued due to untoward effects like facial palsy or vesceral injuiry of mother and baby.

EMERGENCY OBSTETRIC CARE

Every year more than 500000 women die during child birth in the world;out of which 1/5th ie,100000 women die in india alone.With present situation when there is no improvement of infrastructure yet docters have the risk of facing medicolegal problems regarding Emoc.

POSTPARTUM CARE

POSTNATAL **COMPLETE PERINEAL**

TEAR,

OBSTETRIC AND SPHINTER INJURIES [OASIS]

Significant perineal pain,dyspareunia.maternal morbidity and mortality and anal incontinence are problem areas.Foreps delivery is associated with increased perineal injury.Patients must be counselled about the risk of anal sphincter injury when operative delivery is contemplated th~~u~~s avoiding litigations.

PERINATAL MORBIDITY

BRAIN DAMAGE

Any neurological and physiological deficiencies is the major litigation issue where compensations are claimed.A heath professional will be sued if it can be proved in the court that brain damage has occured during intrapartum period due to negligence of the health professional.

DAMAGE TO BONES AND VISCERAS

This may occur specially during breech delivery.Health professional must be very conscious during face,legs and arm delivery breech.

ANALGESIA AND ANAESTHESIA

Expert anaesthetist is reguired;to prevent medical litigations.

DRUGS IN PREGNANCY AND LACTATION

Through only a small group of drugs are known to be harmful to the fetus;but it is a wise precaution to avoid vast majority of drugs;if not genuinely indicated,ie if there is less evidence of fetal safety.FDA recommendation of drug should be followed.The health professional must not use off license drugs If damage occurs;he will be balmed of negligence when a licensed alternative drug is used.

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ETHICAL ISSUES IN SURROGACY

Surrogacy is possibly by AID and IVF, where a child is born in another mother's womb.A lady without uterus but functioning ovaries can have a child with the help of a surrogate mother.According to fertilization act 1990,the carrying mother is the mother in law.Genetic mother can get legal parenthood by legal procedures only.Surrogacy for convenience only;when the women is physically capabe of bearing a child is thically unaccepatable.

HIV POSITIVE WOMEN AND PREGNANCY

In an overwhelming number of cases,children of HIV Positive women acquire the infection before or around the time of birth or through breat milk.The risk of vertical transmission can be potentially reduced to less than 2% by the judious use of combination anti retro viral py during pregnancy and labour,delivery by caesarian and avoidance of breastfeeding. The legal standard of care in prenatal care and child birth is entitled to an HIV positive women if she decides to continue the pregnancy.Neither the woman nor her child should suffer any discrimination on their HIV status.

CONCLUSION

Most of the medico-legal issues in obstetric practice are concerned with consent issues, emergency services, medical records, Res Ipsa Loquitar,misconduct and negligence. These can be easily avoided by taking written informed consent, effective verbal communication with patient and his family, proper data recording, appropriate risk management. Also, one should always keep in mind that all the laws of procedure are suspended when a doctor attends a patient in an emergency so one should not be hesitate to attend and treat emergency and at risk patient.

Obstetrics is a risky business and many obstetricians and midwives dread the day they have to face litigation.Identifying and avoiding the underlying factors that may contribute to litigation and maintaining a very high standard of clinicaal care may help avoid obstetric tragedies and hence ,litigation.

THANK YOU