Case Study: Failure to properly recognize fetal compromise; failure to recognize hyperstimulation; failure to discontinue oxytocin; failure to notify the physician of the baby’s condition; failure to contact a physician or charge nurse at an earlier time and go up the chain of command

Indemnity Payment: Greater than $870,000
Legal Expenses: Less than $75,000

Summary

Note: There were multiple co-defendants in this claim who are not discussed in this scenario. Monetary amounts represent only the payments made on behalf of the nurse. Any amounts paid on behalf of the co-defendants are not available. While there may have been errors/negligent acts on the part of other defendants, the case, comments, and recommendations are limited to the actions of the defendant; the nurse.

A 25 year-old female patient (plaintiff) at 40.3 weeks gestational age was scheduled for an induction due to oligohydramnios. On admission to the labor and delivery department, the mother had a Bishop score of two and was placed on Cervidil® for cervical ripening and later intravenous (IV) oxytocin. During the labor process, the mother developed a fever during labor and was placed on IV antibiotics.

The mother had been on IV oxytocin for 11 hours when the defendant nurse began her care of the patient. One hour into her shift, the defendant nurse documented that the patient was dilated eight centimeters, 90 percent effaced and the baby’s head was at the -1 position. The defendant nurse also noted in the record variable decelerations of the fetal heart rate (FHR). Approximately one hour later, the defendant nurse made the decision to stop the IV oxytocin, which seemed to improve the FHR pattern. After the FHR patterned improved, the defendant nurse restarted the IV oxytocin administration. Two hours later, the defendant nurse again decided to stopped the administration of the IV oxytocin and paged the patient’s obstetrician due to concerns about the continued decelerations noted on the FHR strips and the impending delivery. When physician called back, she was unavailable due to assisting another physician with a patient admitted with a ruptured uterus and instructed the defendant nurse to contact the on-call obstetrician. The defendant nurse paged the on-call physician who was also unavailable because he was with a patient having complications after an elective procedure. Because neither obstetricians were available for the delivery, the defendant nurse called a code notifying the hospital of a obstetrical emergency and eminent delivery. The chief obstetrics resident arrived to perform the delivery. He noted that the patient’s head was delivered and suctioned, nuchal cord times two released and baby delivered. A neonatal code was called due to the patient’s low APGAR scores (3,3,7) and subsequently the patient required intubation/mechanical ventilation as a result of insufficient spontaneous respirations.
Resolution
The patient's mother instituted a claim, alleging that the defendant nurse:
- failed to properly recognize fetal compromise;
- failed to recognize hyperstimulation;
- failed to discontinue oxytocin;
- failed to notify the physician of the baby's condition;
- failed to contact a physician or charge nurse at an earlier time and go up the chain of command.

Risk Management Comments
The patient suffered profound hypoxic ischemic encephalopathy. She is severely disabled requiring 24/7 nursing care, blind, has seizures on a daily basis (up to 20 per day), is fed through a gastrostomy tube, has a tracheostomy to facilitate respiratory function and is unable to move or communicate.

The defendant nurse also made accusatory and derogatory statements in the medical record regarding the mother's constant need to go smoke and the unavailability of physicians.

Initial expert reviews deemed the defendant nurse had met the standard of care. As the investigation ensued, however, additional factors were identified:
- The defendant nurse did not have an order to stop and restart the IV oxytocin.
- Despite defense expert opinions that the nurse met the prevailing standard of care, it was determined that the hospital had a policy on chain of command in the event of a patient emergency. She was unaware of the policy although at the time of her employment she had signed a certificate stating that she had read, understood and would comply with facility policies and procedures.
- Given these factors, the decision was made to attempt a reasonable settlement on behalf of the nurse.

Risk Management Recommendations
- Know and comply with the employer's policies and procedures as well as the state-defined scope of practice and prevailing standard of care. The nurse is responsible for following the most stringent of these requirements in caring for patients.
- Read and comply with facility policies and procedures, including routine review of updates and/or revisions, to ensure a clear understanding of required clinical actions.
- Refrain from documenting subjective opinions and from placing or making any accusatory or derogatory statements. Document concise, clear notes, reflecting facts.
- Timely report all significant findings to the patient's physician.
- Adhere to physician medication orders including the correct drug, dosage, route and administration times.
- Contact the physician with questions, concerns or to obtain clarification regarding the medication(s) ordered for the patient. If the physician does not respond in a timely manner, follow the chain of command to the point of resolution.
- Manage any deviation from the physician's order regarding administration of a medication as a medication error including reporting, investigating and developing a plan of correction to prevent subsequent recurrences.

Guide to Sample Risk Management Plan
Risk Management is an integral part of a healthcare professional's standard business practice. Risk Management activities include identifying and evaluating risks, followed by implementing the most advantageous methods of reducing or eliminating these risks — a good Risk Management Plan will help you perform these steps quickly and easily!

Visit www.nso.com/riskplan to access the Risk Management Plan created by NSO and CNA. We encourage you to use this as a guide to develop your own Risk Management Plan to meet the specific needs of your healthcare practice.