

Labor & Delivery: Nurse Did Not Determine Presentation Before Cervidil, Pitocin.

The mother's water broke while she was attending a breastfeeding class at the hospital about two and one-half weeks before her expected due date.

She called her nurse midwife who told her to go home, wait until midnight and then go to the hospital's labor and delivery unit. Her contractions started as soon as she got home. As instructed, she waited until midnight and went to the hospital.

Labor & Delivery Nurse

Did Not Determine Baby's Presentation

A labor and delivery nurse performed a vaginal exam but entered no documentation as to the baby's presentation.

The fetal monitor began showing fetal heart rate decelerations. The nurse paged the patient's nurse midwife, who told the nurse to give Cervidil to facilitate dilation of the cervix and Pitocin to induce labor.

The nurse midwife assumed the baby was in a normal vertex (head down) position because the labor and delivery nurse would have told her otherwise if the baby was in breech presentation.

Cervidil and Pitocin were started. The fetus began having heart rate decelerations which the nurse reported to the nurse midwife. A few hours later the nurse midwife decided to go to the hospital to do an ultrasound, which confirmed the breech presentation. The nurse midwife ordered a non-emergency cesarean.

During the next hour, thirty-three minutes went by with no detectable fetal heart rate. As the mother was on her way to the O.R. for the cesarean the nurse midwife reportedly rode with her on the gurney with her hand inside her vagina holding up the prolapsed umbilical cord.

The baby was born clinically dead but was resuscitated. Throughout her childhood she has shown profound developmental delays related to oxygen deprivation at birth.

The Court of Appeals of Georgia ruled there were grounds to extend the statute of limitations so that a lawsuit could go forward on behalf of the child. Wilson v. Ob/Gyn of Atlanta, __ S.E. 2d __, 2010 WL 2029014 (Ga. App., May 21, 2010).

This lawsuit alleging medical and nursing malpractice was filed almost seven years after the events in question.

The statute of limitations is two years for malpractice in Georgia. Because the case involves a minor, it comes under the statute of repose which extends the filing deadline to five years.

However, fraudulent concealment extends the time limit even further for filing a malpractice lawsuit.

There is evidence the hospital actively tried to conceal the facts from the parents at the time and then later from their attorney.

The parents were never told at the time that no one, not the labor and delivery nurse or the obstetrician, ever determined that the fetus was in breech position before starting the Cervidil and the Pitocin.

When their attorney requested the medical records, the umbilical blood gases, showing acidosis at the time of birth, were deleted from the copy of the chart that was provided.

The blood gas log from the lab eventually revealed that umbilical gases were done.

COURT OF APPEALS OF GEORGIA
May 21, 2010