The Medico-legal arena in Ultrasound

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U/S litigation in Obstetrics:
Why the fuss?

- Do we need to be concerned?

  YES!!
The price of Obstetric litigation

- In South Africa
  ZAR 600,000.00 + per annum
United Kingdom

- £825 put aside by NHS for litigation per delivery
- 23% of obstetric budget of NHS put aside for medico-legal cases
- A UK consultant in private practice with a small obstetric practice pays £184000.00 per annum
Obstetric. Litigation: a changing picture

- Litigation against the obstetrician for damage to the newborn resulting from birth asphyxia is rapidly declining in private practice

- Reasons: Less injudicious use of oxytocin during labour and more elective C/S’s

- Better OBS programme
Obstetric 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/sonographer 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 ultrasonographer [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].
- Give information bulletins about ultrasound and prenatal diagnosis to the patient to read
- Get informed consent
Always have good equipment

A good ultrasound machine should have:
1. Good resolution
2. Adequately enlarge the picture
3. Callipers that can measure 0.1mm
4. An appropriate obstetric transducer with multiple frequencies 2—5 MHz
5. Good colour and doppler
U/S Pictures & Videos

- Boutique Scanning >> **NO**
- Your professional opinion and expertise is paramount. **You are not a photographer or an entertainer**
- Pictures given to parents must clearly show normal anatomy
- Should one file and store critical pictures?
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 have seen once you have completed the examination. 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.
Why do expert scanners miss things?
Seeing is believing.

Or is it?
How many protea heads did you see?
What happened at the Oscars?
Lesson

- We cannot possibly see everything on the image in the few seconds that the image is before us.
- We may therefore miss things because our attention is on another part of the image.
- You have a few seconds to assess the image, but experts can play the image over and over again.
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 prenatal diagnosis is possible and with good screening likely.

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
How do we avoid missing a diagnosis

- Always do a protocol driven scan
- Have a report form which covers every detail that should be seen by a level 2 scanner
- Pay attention to detail & minutiae
- Clearly state if you have not clearly seen something, because of adiposity or position of the fetus. Record the patient’s BMI