

# Law Claims in the Field of Obstetrics and Gynecology: How to Prevent and Overcome Them

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**Abstract:** *Lawsuits related to health services are increasingly common, especially in the field of obstetrics and gynecology. Maternal mortality and morbidity are often thought to be the result of medical negligence. Therefore, it is important for clinicians to know the potential lawsuits that may occur in the field of obstetrics and gynecology. Lawsuits in the field of obstetrics and gynecology are often caused by misunderstandings due to unclear and incomplete informed consent. Therefore, to prevent such lawsuits, clinicians must develop clear, directed, effective, flexible, and empathetic communication, especially in conveying medical information to patients and families. Documentation of consent for action and patient progress during treatment is also required to prove medical negligence in the event of a lawsuit.*

**Keywords:** obstetrics and gynecology; lawsuits; medical negligence; malpractice

## 1. Introduction

The incidence of lawsuits related to medical practice is increasing and is one of the common problems encountered in the world. Health care management is increasingly facing complaints related to facilities, service standards of medical personnel, and the accuracy of therapy and diagnostics made by medical personnel. The cost of medical care continues to increase, the patient's demand for perfect and complete health care facilities with quality care, makes the medical profession often vulnerable to lawsuits. Moreover, the therapeutic outcome which is not always favorable and can be influenced by many factors sometimes does not meet the patient's expectations. Unfortunately, poor outcomes for mother and child are almost always associated with medical negligence.<sup>1,2</sup>

Obstetrics and gynecology is one of the medical field with the highest incidence rates lawsuits. This is because the field of obstetrics and gynecology is closely related to maternal and child health where medical personnel in this field are responsible for ensuring health and preventing maternal and child morbidity and mortality.<sup>3</sup> The American College of Obstetricians and Gynecologists (ACOG) states that nearly 80 % of obstetrics and gynecology specialists will be prosecuted for their medical services at least once or more during their career. It is estimated that an obstetrics and gynecology specialist gets an average of 2.5 lawsuits related to the medical services he provides during his career. As a result, as many as 25.6% of the surveyed obstetrics and gynecology specialists no longer practice high-risk obstetrics and even 7.2% of doctors stop performing obstetric services. The increase in lawsuits in obstetrics and gynecology has resulted in high compensation costs for doctors which can cause frustration and danger to the future of midwifery practice.<sup>4</sup> Therefore, it is important for medical personnel involved in obstetrics and gynecology services to have relevant knowledge prevention and handling of lawsuits in the field of obstetrics and gynecology.

## 2. Reasons for Lawsuits in Obstetrics and Gynecology

There are various reasons for lawsuits in obstetrics and gynecology. Some of the most common reasons that lead to lawsuits in obstetrics and gynecology are: (a) failure/misdiagnosis; (b) the patient suffers an unexplained injury as a result of a medical procedure; (c) therapy failure; (d) lack of documentation regarding treatment instructions and patient and family education; (e) errors in the administration of therapy; (f) failure to carry out safe and protocol-compliant procedures; (g) do not provide informed consent for high-risk obstetric and gynecological procedures.<sup>4,5</sup>

A study in India involving 347 lawsuits in the field of obstetrics and gynecology showed that the majority of these cases were cases related to failed tubectomy, maternal deaths, neonatal deaths due to labor injuries and asphyxia, and complications related to obstetric surgery. The study also proved that most of these claims occurred because of incomplete informed consent. Many patients or their families file lawsuits related to obstetric cases on the grounds that they do not understand the nature of the medical procedure for which they are giving consent, where the concept of "medical consent" means that all information must be comprehensively explained.<sup>2,4,5</sup>

## 3. Prevention of Lawsuits in Obstetrics and Gynecology

A doctor, especially a specialist in obstetrics and gynecology, is responsible for three main phases, namely the antenatal phase, the labor phase, and the postpartum phase. Various areas in obstetric services can be the reason for a lawsuit, starting from the selection of supporting examinations, determining the diagnosis, screening for congenital defects, abortion for medical indications, complications and injuries due to vaginal delivery and cesarean section, to complications that occur during the puerperium. Some possible preventative steps are:<sup>4</sup>

- a) Maintain a doctor-patient relationship through clear and concise communication regarding injuries that occur related to treatment through the 3Rs, namely “Recognize, Respond, Resolve” – where in the case of an undesirable event, the doctor must immediately discuss with the patient and his family to address his concerns and questions honestly and openly. A complete and honest acknowledgment of fault will lead to mutual respect and trust from the patient.<sup>4,5</sup>
- b) Providing comprehensive information and education related to diagnosis, possible causes, treatment, other treatment options, and patient prognosis. This information and education should be conveyed to the patient and the patient's family who is responsible for the patient. The provision of information should take into account the educational level and culture of the recipient of the information and use common language that is easy to understand.<sup>4</sup>
- c) System documentation of conditions, therapy instructions, actions/procedures, and informed consent that are arranged completely and neatly in the medical record. Documentation has legal credibility because it is accurate. This documentation will help answer questions that were asked months or years after the event occurred. One cannot rely on the memory of facts. It is also advisable to keep medical records for an appropriate period of time – in the case of childbirth, it may even be necessary to keep records until the child grows up.<sup>3-5</sup>
- d) In complicated obstetric cases, ensure that the patient's case is managed with a multi-specialty approach or in surgical cases where two or more physicians may be present such as a surgeon and an anesthesiologist, there should be no contradictions in the documentation by different individuals that could complicate matters in court.<sup>4</sup>
- e) Regular checks of drug expiration dates and some health care facilities choose to preserve drug labels or even empty vials, ampoules, injectable drugs in the event of an accident to avoid accusations of malpractice or wrong treatment.<sup>4</sup>
- f) Provide Standard Operating Procedures (SOP) or Medical Service Standards (MSS). In medical negligence claims, courts consider whether treatment is provided in accordance with guidelines that have been designed at health care facilities, such as SOPs or MSSs.<sup>3-5</sup>
- g) Make timely referrals if further examination or treatment cannot be carried out. Failure to identify and fail to timely refer high-risk patients can lead to medico-legal problems.<sup>4,5</sup>
- h) Routinely update knowledge related to medical and legal issues.<sup>4</sup>
- i) Carry out risk management strategies. A risk management strategy is a prospective process that identifies the factors that drive legal action and efforts to improve the medical system to prevent future losses. Risk management involves a variety of health care workers, lawyers, technicians, health insurance providers, hospital administrators and many others. When these risks are identified, then a resolution can be made immediately before a lawsuit occurs.<sup>4,5</sup>

#### 4. Handling Lawsuits in Obstetrics and Gynecology

Medical malpractice is said to occur when a doctor practices medicine that is not in accordance with professionally accepted standards, methods, or ethics as regulated in the provisions of the medical code of ethics. Medical malpractice is a medical negligence that can be prosecuted legally. Medical negligence is said to occur when a medical worker performs his duties at a health service facility in such a way and causes harm to patients that should be avoided. When a doctor fails to carry out the required standard of care and skills that are expected of him to the extent that injury or harm occurs to the patient, a breach of duty of care is said to have occurred.<sup>1</sup>

There are three conditions that are expected to exist before a health professional can be said to be medically negligent: (a) there is an obligation for medical personnel to treat a patient who is a plaintiff; (b) there is a breach of duty of care by the doctor; (c) damage or injury to the patient that can be traced to a breach of such care. The damage in question can be in the form of physical or emotional damage, pain, loss of income, reduced life expectancy or decreased quality of life.<sup>1</sup>

The evidentiary responsibility for medical negligence usually rests on proving the patient's doubts. When every reasonable precaution has been taken in medical practice to prevent injury to the patient, then when such injury occurs it is not considered medical negligence as there was no breach of duty. Therefore, complete documentation related to the situation, therapeutic instructions, actions/procedures, and informed consent and storage of medical records is an important key for proving the actions that have been carried out during treatment. In addition, establishing an SOP or MSS is also important for proving the existence of medical negligence because it is useful as a standard reference for actions taken by a practitioner.<sup>1,6</sup> World Health Organization (WHO) states that there are several initiatives that can be a solution to handling a malpractice lawsuit, namely:<sup>7</sup>

- 1) Take a no fault approach. This includes strategies where medical injury is compensated without evidence of medical negligence.<sup>7,8</sup>
- 2) Design safety programs and practice guidelines, including strategies for reducing and reducing the risk of unsafe medical procedures in the health care system that are proven to provide optimal patient outcomes.<sup>7,8</sup>
- 3) To resolve problems through special courts (ie special health courts or administrative models) and alternative claims settlements involving the provision of compensation.<sup>7,8</sup>
- 4) Conducting communication and resolution. This is a strategy that involves communication between doctors and patients outside the courtroom to reach mutual agreement on disputes and fair compensation. In this strategy, doctors are expected to be able to explain, empathize, and apologize if medical negligence has occurred.<sup>7,8</sup>
- 5) Limit compensation. This includes strategies that limit the amount of non-economic damages or penalties that can be awarded for a case.<sup>7,8</sup>

- 6) A multi-component model, for example, includes some of the resolution components described above.<sup>7,8</sup>

## 5. Conclusion

A medical practitioner will definitely experience the threat of a lawsuit related to his medical actions. The most important aspect of preventing medical lawsuits from occurring is practicing evidence-based medicine, with empathy and good communication and adopting every possible precaution and constantly updating professional knowledge and skills. If a lawsuit occurs, the best defense is to provide comprehensive documentation of medical care. Therefore, an obstetrician must be aware of potential lawsuits that may occur in the obstetrics field so that lawsuits can be prevented and if they occur they can be handled properly.

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