

Closed claims in OB anesthesia and their relationship with informed consent

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Conflict of interest: expert reports and closed claims commission of SSAPM (KGH)



Medicine

- Experience
- Knowledge
- Pubmed
- Colleagues advices



Law

- Past president of cc commission
- 2 lawyers
- Swisslex
- 1 expertise
- 1 Professor of Law (Digital Law Center)

A Swiss Anaesthesiology Closed Claims Analysis: report of events in the years 1987–2008

Sven Staender, Hansjuerg Schaer, François Clergue, Helmut Gerber, Thomas Pasch, Karl Skarvan and Beat Meister

Table 1 Severity of injury scoring system

Score	Severity scale	Example
0	No obvious injury	
1	Emotional injury only	Fright, awake during anaesthetic, pain during anaesthetic
2	Temporary injury	
3	Insignificant	Lacerations, confusion, no delay in recovery
4	Minor	Fall in hospital, recovery delayed (extra time in recovery room or hospital)
5	Major	Brain damage, nerve damage, unable to work, prolonged hospitalisation
6	Permanent injury	
7	Minor	Damage to organs, non-disabling injuries
8	Significant	Loss of an eye, deafness, loss of one kidney or lung
9	Major	Paraplegia, loss of use of limb, blindness, brain damage
10	Grave	Severe brain damage, quadriplegia, lifelong care or fatal prognosis
11	Death	



Data from Source 11

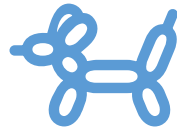
Data collected from the Swiss professional medical liability insurance companies and the Office for Extrajudicial Expert Review of the Swiss Medical Association (FMH)

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Closed claims analysis by
SSAPM: 171 cases
(6 obstetric)



Claim incidence: 1/122'000
anesthetic procedure
(USA 1/133'000)



GA: 28% vs RA 54%



Liability accepted :
GA 35% vs RA 50%



Substandard care: 54%

Closed claims  Recommendations

To define high-risk patients

To improve consent process

To give practical recommendations

To monitor our anesthesia practices

Obstetric Anesthesia Liability Concerns

JOANNA M. DAVIES, MBBS, FRCA, and
LINDA S. STEPHENS, PhD

*Department of Anesthesiology and Pain Medicine, University of
Washington School of Medicine, Seattle, Washington*

Anesthesia CCP: **263 claims** in OB anesthesia (2000-2011)

C-section: 68% vs Vaginal delivery: 32%

↓claims including GA and respiratory events

↑claims for peri-partum hemorrhage

Neonatal death: 1/3 anesthesiological contribution (delay, poor communication, substandard care)

↑maternal mortality: 9,1 → 21/ 100'000 (1991→2013)

CLINICAL OBSTETRICS AND GYNECOLOGY

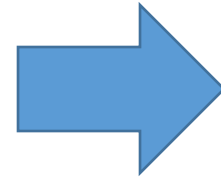
Volume 60, Number 2, 431–446

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Obstetric Anesthesia Liability Concerns

**JOANNA M. DAVIES, MBBS, FRCA, and
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*Department of Anesthesiology and Pain Medicine, University of
Washington School of Medicine, Seattle, Washington*



Hemorrhage

2/3 patients: risk factors (undiagnosed placenta accreta or uterine atony...)

1/5 patients: risk factors for coagulopathy

1/3 cases: blood products not readily available

Delay in hemorrhage diagnosis by the obstetrician and anesthesiologist

40-75% hospitals with no massive transfusion protocols

Anesthesia substandard care: 68%...



«A surgical procedure is an attack of the integrity of the body»

Art. 122, 123-126 CP (swiss criminal code)

Informed consent: *Volenti non fit injuria*

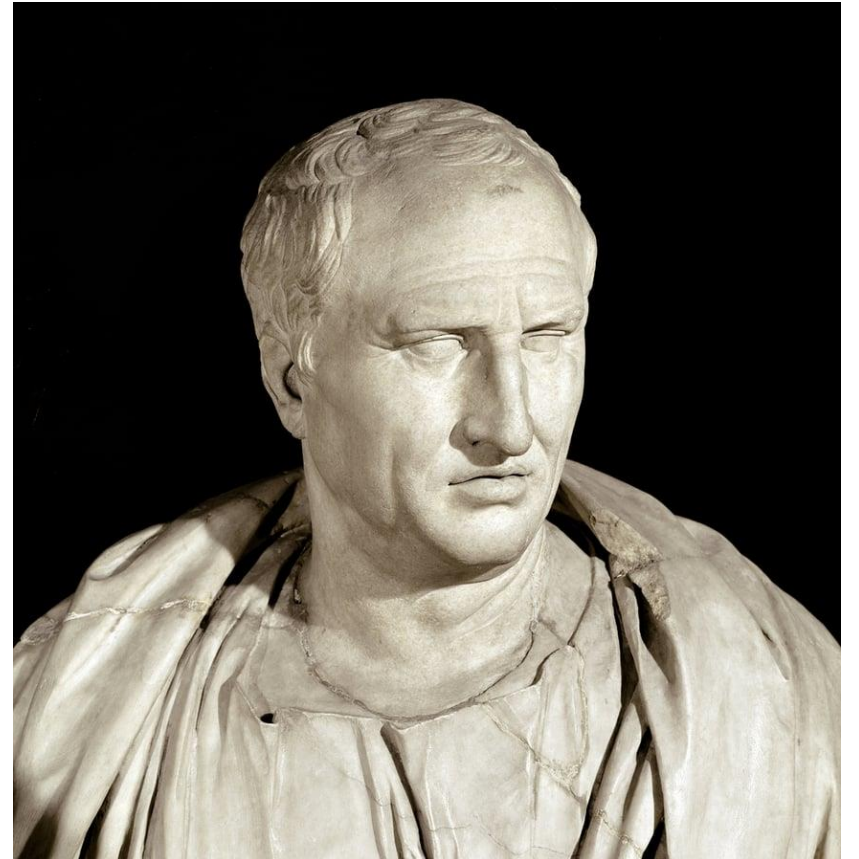
Before the procedure (1-3 d before minor or major procedure)

Free : «outpatient consultation» «no environmental pressure»

Informed: diagnosis, alternatives, history of disease, complications...

Capacity for judgement

Consent form: written or oral (noticeable)



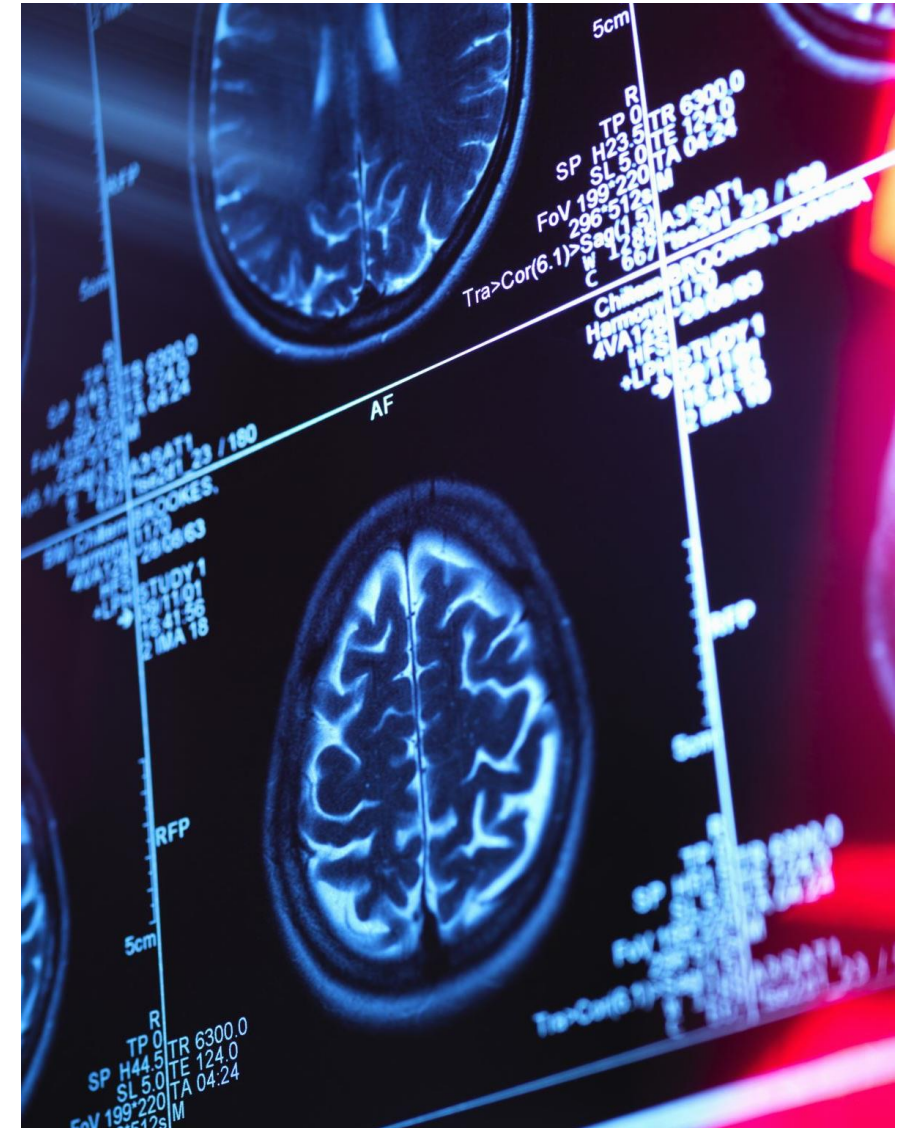
A traditional childbirth story...

- 22 years old patient
- Usual good health, no comorbidity
- Healthy pregnancy
- Childbirth under EA without complications (13.04.2016)
- Discharge from the hospital (17.04.2016)



Low back pain?

- Low back pain since hospital discharge
- Unbearable low back pain with 2 legs irradiation (22.04.2016)
- Consultation with a DO (23.04.2016) → Hospital call
- 18h40: ER admission → suspected spinal cord damage by medical assessment (sphincter hypotonia, ↓limbs force..)
- 23h07: lumbar CT scan → suspicious lesion, need for an MRI
- Transfer in University hospital, MRI and emergency OR for decompression



Present status (10.2020)

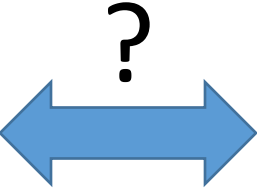
- Sensory hypoesthesia for L5 and S1, sensory ataxia and gait disorders
- Paresia L5 and S1 roots R > L. Significant and incapacitating sphincter urinary and fecal retention and hypoesthesia of the perineum
- Psychological status: anxiety attacks
- Job occupation: on disability insurance (saleswoman)

Expertise findings and patient civil claim

- Anesthetic and obstetrical care in the state of the art.
- **Breach of the duty care** regarding the length before initiation of the epidural abscess treatment
- Moral and physical damage, loss of income

Lessons learned or to be..

- Changing of the consent form: exhaustive listing of complications
- Post childbirth visit and search for symptoms?
- Improve multidisciplinary collaboration?
- Teaching patients about severe symptoms

Informed consent  closed claims

- Relationship **if there is a breach in the duty to inform**
- OB patient high-risk for CC in the USA
- Expertises and CC, a «learning tool» ?
- Recommendations from CC to improve our practice



Thank you for your attention

ASA closed claims



NEWSLETTER

The Official Journal of the Anesthesia Patient Safety Foundation

Volume 19, No. 4, 41-60

Circulation 72,683

Winter 2004-2005

Trends in Complications in OB Claims 1970s vs. 1990s

