CHILD SAFETY BLOG

PATRICK MALONE & ASSOCIATES, P.C.
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Toll Free: 888.625.6635
(888.MaloneLaw)
Local: 202.742.1500

Protecting Babies from Hospital Malpractice in Labor and Delivery Units

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Who's at fault for the high rate of Cesarean sections in the United States? If you listen to the obstetricians, it's all about lawsuits -- they are at risk of being sued for "anything short of a perfect outcome," as two doctors wrote last week in a letter to the editor in the New York Times.

But maybe the real issue is basic patient safety, and the failure of hospitals and doctors to have the right staffing necessary to make vaginal childbirth safe after a previous C-section.

If you listen to the euphemisms from the medical industry, "less than perfect outcome" sounds like parents suing over a small blemish or other trivial injury. What is really at stake, however, is

Patrick A. Malone
Patrick Malone & Associates, P.C.
1331 H Street N.W.
Suite 902
Washington, DC 20005

pmalone@patrickmalonelaw.com
www.patrickmalonelaw.com
202-742-1500
202-742-1515 (fax)

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permanent devastating brain injury caused by a hospital not having the resources to deliver a baby quickly enough when the vaginal birth attempt has gone south.

Three in ten American women now deliver their babies by Cesarean section, which seems like a lot. And many of those are repeat Cesareans which only happen because of the prior Cesarean, even if it might be safe to at least try normal labor and see if the baby can be delivered safely. Recent headlines suggested that hospitals were refusing to even let women try a course of normal labor after a prior Cesarean. They couldn't afford the lawsuits, it was suggested.

But here's the problem with VBAC -- vaginal birth after Cesarean. In one in 100 to one in 200 VBAC attempts, the uterus ruptures. This cuts off the baby's lifeline. The best studies show that brain damage begins in around 17 to 18 minutes, and worsens dramatically every minute after that the baby remains undelivered. After 30 minutes, most babies in ruptured uteruses are dead if not delivered.

New guidelines from the American College of Obstetricians and Gynecologists (ACOG) for VBAC have stuck to the group's 1999 recommendation that a surgical team has to be "immediately available" to deliver the baby by C-section in the event of a rupture. Immediate means right there in the hospital, ready to operate.

Hospitals don't like the "immediately available" standard, and prefer the old, looser guideline of "readily available," whatever that means. After the 1999 guidance of "immediately available" was issued, a number of hospitals, rather than having the right staffing level to ensure baby safety, simply banned VBAC procedures and said any pregnant woman with a prior C-section had to have another C-section in their hospital. This conjures up an image of tying women to hospital beds and hovering over them with scalpels, so that doesn't sound right either.

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Washington, DC 20005

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In March 2010, the National Institutes of Health convened a panel of experts who took a step backward by asking the obstetricians to consider softening the guidance back to the old "readily available" or some other mushy language.

Thankfully, ACOG didn't do that. But -- and this is a big but -- the obstetricians are now talking about pushing the risk of brain damage back onto the parents -- without giving them the full picture to make an intelligent decision.

As quoted in the New York Times, the new ACOG guideline adds the recommendation that if an immediate Caesarean is not available, it should be explained to the patient, and she should be "allowed to accept increased levels of risk." And Dr. Richard Waldman, president of the obstetricians' group, said: "What I'm hoping is that everybody will get together and do the right thing. That includes patients. If they take the risk, they have a certain responsibility not to sue the physician if there's a bad outcome, knowing that they took the risk."

You can search ACOG's statement about its new guidelines high and low, and you will never find the key facts spelled out about what this risk really means -- a child who can never walk, talk or have normal development.

ACOG and the hospitals seem more focused on the risk of lawsuits than the risk of catastrophically injured babies. It would be like talking about the danger of oil spills from deepwater drilling based on how many lawsuits would happen, not on how much damage to the environment would result.

Let's make sure our communications are very clear. We're talking about delivering babies safely. The lawsuit buzz is just a convenient whipping boy for those who want to avoid tough questions about why they're not investing in safe childbirth facilities for mothers and families.

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