

ACOG NEWS RELEASE

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Women's Access to Health Care Hurt by Medical Liability Crisis

Washington, DC -- Increasing medical liability insurance premiums and the fear of lawsuits continue to force ob-gyns to change how they practice medicine, according to the latest medical liability survey conducted by The American College of Obstetricians and Gynecologists (ACOG). As a result, many women across the country are going without basic health care and treatment of serious health conditions, as more ob-gyns are providing fewer services, retiring from practice completely, or relocating to areas where there are less liability concerns.

According to the ACOG survey, 70% of ob-gyns have made changes to their practice because of the lack of available or affordable medical liability insurance, and 65% have made changes because of the risk or fear of liability claims or litigation. Between 7-8% have stopped practicing obstetrics altogether because of either insurance affordability or availability issues or the risk or fear of being sued.

"The results of this survey provide a bleak outlook for the future of women's health. Medical lawsuit abuse continues to wreak havoc on physicians across America, and today fewer and fewer ob-gyns are available to provide prenatal and delivery care, routine gynecological care or major gynecologic surgery," said ACOG President Douglas W. Laube, MD, MEd.

The average age at which physicians stopped practicing obstetrics was 48—an age once considered near the midpoint of an ob-gyn's professional career. "Women of all ages—including pregnant women—deserve the best possible medical care from experienced physicians. Yet the current litigious environment seriously hampers our ability to deliver quality health care and threatens women's access to care," added Dr. Laube.

An alarming 89% of ob-gyns reported having had at least one liability claim filed against them during their professional careers, for an average of 2.6 claims per ob-gyn. Of these, 37% had been sued for care provided during their residency. "I can't underscore enough that the high number of liability claims does not indicate a high rate of medical wrong-doing," said Ralph W. Hale, MD, ACOG executive vice president. In fact, of cases that do proceed to court, ob-gyns win about seven out of 10 times. "Ob-gyns are vulnerable because they practice in a high-risk field, and all too often, doctors are held liable for less than perfect outcomes," he added.

Professional liability insurance premiums have seen a meteoric rise in the past 10 years. Across the country, in areas where the liability crisis is most pronounced, there are now populated areas with no ob-gyns actively practicing the specialty. Because of the lack of available ob-gyns, pregnant women must travel long distances—60 miles or more in some instances—to find a physician willing to provide obstetric care. The same goes for women trying to find ob-gyns willing to perform complicated gynecologic surgery. Dr. Hale noted that ACOG has received anecdotal reports of women who have suffered from ruptured tubal pregnancies and obstetric hemorrhage, resulting in severe disabilities and even death, because of physician shortages. "ACOG believes women deserve better," added Dr. Hale.

Highlights from ACOG's Medical Liability Survey* :

Impact of Claims

- Over 8% of ACOG Fellows have stopped practicing obstetrics because of the risk of liability claims.

- Changes made by ACOG Fellows because of the risk of liability claims or fear of being sued:
 - Decreased the number of high-risk obstetric patients—33%
 - Stopped offering/performing VBACs—33%
 - Increased the number of cesarean deliveries—37%
 - Decreased the number of deliveries—15%
 - No longer practicing obstetrics—8%
 - Decreased gynecologic surgical procedures performed—16%
 - No longer doing major gynecologic surgery—5%
 - Stopped performing all surgery—2%
- Over 7% of ACOG Fellows have stopped practicing obstetrics because of the affordability and/or availability of medical liability insurance.
- Changes made by ACOG Fellows because of liability insurance costs and availability:
 - Decreased the number of high-risk obstetric patients—26%
 - Stopped offering/performing VBACs—26%
 - Increased the number of cesarean deliveries—29%
 - Decreased the number of deliveries—12%
 - No longer practicing obstetrics—7%
 - Decreased gynecologic surgical procedures performed—13%
 - No longer doing major gynecologic surgery—4%
 - Stopped performing all surgery—2%

Frequency of Claims

- 89% of ob-gyns reported having had at least one liability claim filed against them during their professional careers.
- Ob-gyns have an average of 2.6 claims filed against them during their careers.
- In the last three years, over half (55%) of ACOG Fellows reported they had been sued at least once; 36% had one claim filed against them; 14% had two claims; 4% had three claims; 1% had four or more claims.
- About 37% ob-gyns have been sued for care provided during their residency.

Type of Claims

- Obstetric claims accounted for 62% of claims against ob-gyns; 38% were gynecologic claims.
- From 2003 to 2005, the top two primary obstetric allegations were: neurologically impaired infant (31%) and stillbirth/neonatal death (16%).
- From 2003 to 2005, the top three primary gynecologic allegations were: delay in or failure to diagnose (29%); patient injury-major (23%); and patient injury-minor (19%).

Resolution of Claims

- Almost 70% (67.4%) of claims against ob-gyns are dropped by plaintiffs' attorneys, dismissed, or settled without payment.
- Closed claim resolution experience:
 - No payout—67%
 - Dropped by plaintiff—37%
 - Dismissed by court—13%
 - Settled without payment—17%
 - Settled with payment—20%
 - Arbitration or other alternative dispute resolution mechanism—3%
 - Jury/court verdict—10%

Over the past several years, both the president and the US House of Representatives have supported measures to address the liability problem, only to have them stalled in the Senate, which has yet to take action. Federal medical liability reform remains ACOG's top legislative

priority. Without meaningful medical liability reform, a woman's ability to find an ob-gyn and receive necessary health care is becoming more difficult by the day.

****Every two to four years since 1983 ACOG has commissioned a national survey on the medical liability experiences of its members. This survey covered the period from January 1, 2003, through December 31, 2005. For the first time, the entire population of ACOG Fellows and Junior Fellows in practice in the 50 states, the District of Columbia, and Puerto Rico was surveyed. The response rate was 37%.***

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The American College of Obstetricians and Gynecologists is the national medical organization representing over 51,000 members who provide health care for women.