

The American College of Obstetricians And Gynecologists

Women's Health Care Physicians

DISTRICT II • NYS

Donna M. Williams
Executive Director

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Contact: Donna M. Williams

Obstetricians Shocked by 14% Premium Rate Increase: ACOG Calls on Legislature to Return to Albany to Solve the Crisis

Obstetricians in New York State were shocked at the news today that the Superintendent of Insurance granted a sharp increase in medical liability premiums—14%. This increase marks an end to an era when the administration suppressed rates in an attempt to avoid an access to care crisis. Such an increase is unsustainable for obstetricians in New York State. Since 2002, ob-gyns in some areas of the state have seen a 79% increase in their liability premiums. Now, an ob-gyn in the Bronx will pay \$180,490 and an ob-gyn in Suffolk County will pay \$196,642.

“The crisis is real, the crisis is now,” said Richard N. Waldman, MD, FACOG, chair of ACOG District II/NY. “I am encouraged, however, that for the first time in over a decade we finally have an administration that is ready to address the dysfunctional tort system to preserve patients’ access to care.” ACOG District II/NY recently met with staff from the state Insurance Department who made a genuine commitment to solve the medical liability crisis in New York State.

ACOG District II/NY calls on Governor Spitzer to bring the Legislature back to Albany to confront this crisis before patient care is irreparably harmed. “If the Legislature does not return to address this crisis, women’s access to care will continue to erode,” said Dr. Waldman.

Go to the ACOG District II/NY website at www.acogny.org to read anecdotal stories about how the medical liability crisis is affecting the practice of obstetrics in New York State.

Obstetric Liability Facts

I. There is inadequate access to maternity care in New York State.

- Between 2000 and 2004, there was a 4% decline in the number of ob-gyns practicing obstetrics.ⁱ
- The Mohawk Valley region in upstate New York saw a 43% decline.ⁱⁱ
- Since 2003, 8.7% of ob-gyns in New York have stopped practicing obstetrics and 12.6% have decreased the number of deliveries they perform as a result of high medical liability premiums.ⁱⁱⁱ

- Since 2003, 66.3% of ob-gyns in New York have made one or more changes to their practice due to the affordability and/or availability of professional liability coverage.^{iv}

II. Ob-gyns have extraordinary exposure to lawsuits. The tort system cannot accurately distinguish bad outcomes from genuine negligence.

- Ninety-two percent (92%) of New York ob-gyns report that they have been sued at least once. Nationally, ob-gyns have an average of three claims against them during their career.^v
- In New York, 44% of ob-gyns have experienced four or more claims against them during their career as compared to only 29.5% of ob-gyns nationwide.^{vi}
- Nationally, 37% of ob-gyns report having been sued at least once during their residency, while in New York, 51% of ob-gyns were sued during residency.^{vii}

III. Ob-gyns are sued for bad outcomes over which science says they have no control.

- Most lawsuits against ob-gyns are for neurologically impaired infants (NII), i.e., cerebral palsy.
- Greater than 90% of cerebral palsy cases are not influenced by obstetrical interventions.^{viii}
- The causes of cerebral palsy are multiple and diverse and many start before birth.^{ix}

IV. NII cases against ob-gyns result in huge jury awards and payments.

- Sixty percent (60%) of all obstetric premiums cover lawsuits for birth related cerebral palsy.^x
- In 2002, six of the 10 highest malpractice verdicts in the U.S. were neurologically impaired infant cases from New York State.^{xi}

V. The impact of huge jury awards and increasing payments is putting extraordinary upward pressure on liability insurance rates.

- The 2006 New York Jury Verdict Survey showed the median medical liability jury award went up 31% from 1999-2005. The mean award went up 35% during that same period.
- From 1999 to 2004, hospitals in downstate New York saw a 147% cumulative increase in the cost of liability premiums.^{xii}
- Ob-gyns insured by the Medical Liability Mutual Insurance Company (MLMIC) received a 12.5% increase in liability premiums for the 2006-07 policy year. Physicians incurred another 8% increase if they retained a separate policy for their professional practice.
- Since 2002, ob-gyns in Bronx, Kings, Queens and Rockland counties have seen their premiums rise by approximately 57%.
- In 2006 nurse midwives employed by physicians in upstate New York received a 75% increase.
- Downstate midwives received a 21% increase in 2006.

VI. As liability premiums continue to soar, ob-gyn salaries are virtually stagnant,^{xiii} and reimbursement rates continue to be inadequate.

- An ob-gyn is “reimbursed” \$2,800 in Suffolk County for each delivery. An ob-gyn pays \$172,493 for his/her liability insurance. Therefore, ob-gyns in Suffolk County need to deliver 62 babies this year to cover their liability premiums. Now with the 14% increase, that number will be 70 babies.
- Obstetrical care is a seriously and dangerously undervalued service that is poorly reimbursed.
- Physicians also face pervasive efforts by health insurance companies to reduce, deny, withhold or take back reimbursement for care rendered.
- Unfortunately, due to the enormous market power of these companies, physicians are virtually powerless to negotiate appropriate and fair reimbursement terms with insurers.

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ⁱ Center for Health Workforce Studies. Changing Practice Patterns of Obstetricians/Gynecologists in New York. 2006.

ⁱⁱ Center for Health Workforce Studies. Changing Practice Patterns of Obstetricians/Gynecologists in New York. 2006.

ⁱⁱⁱ The American College of Obstetricians and Gynecologists. Survey on Professional Liability. 2006

^{iv} The American College of Obstetricians and Gynecologists. Survey on Professional Liability. 2006

^v The American College of Obstetricians and Gynecologists. Survey on Professional Liability. 2006

^{vi} The American College of Obstetricians and Gynecologists. Survey on Professional Liability. 2006

^{vii} The American College of Obstetricians and Gynecologists. Survey on Professional Liability. 2006

^{viii} American College of Obstetricians and Gynecologists and American Academy of Pediatrics. *Neonatal Encephalopathy and Cerebral Palsy, Defining the Pathogenesis and Pathophysiology*. January 2003.

^{ix} American College of Obstetricians and Gynecologists and American Academy of Pediatrics. *Neonatal Encephalopathy and Cerebral Palsy, Defining the Pathogenesis and Pathophysiology*. January 2003.

^x Hankins, G. et al. “Obstetric Litigation is Asphyxiating Our Maternity Services. *Obstetrics & Gynecology*, vol 107, no 6. 2006, June.

^{xi} *National Law Journal*, Top 10 Malpractice Verdicts 2002. 2003.

^{xii} Greater New York Hospital Association. *Medical Malpractice Insurance Costs and Coverage*. January 2005.

^{xiii} Center for Health Workforce Studies. Residency Training Outcomes by Specialty in 2005 for New York, 2005.