

## **Ohio and District of Columbia Obstetric Malpractice**

### **Plaintiff Trial Lawyer, Licensed in the District of Columbia and Ohio**

I am a child and family advocate for those clients that have been injured as a direct result of obstetrical malpractice. The attorney's role at the outset is that of a forensic investigator. What is the nature of the injury that the baby has suffered? What happened? Where did it happen? How could the injury have been prevented through the exercise of reasonable medical care?

The goal of an obstetrician is to provide prenatal care which will assure that the pregnancy culminates in the birth of a healthy baby to a healthy mother. An obstetrician that is well-versed in the normal physiological and emotional changes that accompany pregnancy, as well as the signs and symptoms of serious disorders, and schedules timely examinations adhering to recommended antepartum and intrapartum protocols, can detect and treat potentially deleterious outcomes of pregnancy.

### **NO RECOVERY, NO ATTORNEY FEE**

#### **SOME REASONS FOR FILING A LAW SUIT**

##### **1. Failure to perform timely C-section**

- Failure of nurses to recognize ominous fetal strips
- Non-reassuring fetal tones
- Anesthesia delay (not-in-house, spinal performed when general was indicated)
- Lack of resources/obstetrician in another C-section
- NSVD with history of placenta abruption
- Inadequate postdate monitoring

##### **2. Complication with delivery**

- Prolapsed cord
- Maternal fever
- VBA uterine rupture
- Failed vacuum extraction
- Nuchal cord/forceps delivery
- Shoulder dystocia
- Double footing breech NSVD
- Maternal hemorrhage/not anticipating needing O-blood ready in OR
- Water birth hard to obtain FHT

##### **3. Failure to triage mother appropriately**

- Inaccurate nursing exam, patient sent home
- Failure of ER to properly triage mother/obtain OB consult
- Failure to give antenatal steroids 24 and 34 weeks
- Failure to diagnose pre-eclampsia HELLP syndrome/eclampsia
- Failure to diagnose +GBS status
- SROM sent home
- Failure to give tocolytic agents
- Abruption was not detected

**4. Failure to diagnose maternal infection**

- Chorioamnionitis
- Failure to diagnose acute fatty liver of pregnancy with multiple presentations to ER with s/o sore throat

**5. Inappropriate use of labor induction**

- Convenience
- Maternal request

**6. Pharmacologic error**

- Failure to follow Pitocin protocol
- Given Pitocin instead
- Given incorrect dose

**7. Failure to transport mother to appropriate timing**

- Delivering neonate with known congenital anomalies
- Pre-term labor

**8. Failure to educate patient**

- Obstetrician did not instruct mother to go to hospital in a timely manner

**In the health care debate, the medical and insurance industries have touted tort reform as the answer to the nation's health care problems. The list of proposed changes includes the following:**

- Alternative Dispute Resolution (ADR).  
Court-controlled mediation or voluntary arbitration are programs that should be increased in availability of use. However, in today's society, all should be accountable for their actions, and the right to trial by jury guarantees that they can be.
- Abolishing the Collateral Source Rule.  
To suggest that a health care consumer receives double recoveries is not accurate.
- Mandatory Periodic Payments.  
A periodic payment plan gives a windfall to the negligent health care provider and the insurance company and unfairly disadvantages the injured person.
- Caps on Damages.  
Arbitrarily capping damages is unjust and unfair and further punishes those who have had the misfortune of being severely injured.

### REAL SOLUTIONS

- Improve Access to Justice.  
Streamlining litigation will allow more injured persons access to courts.
- Strengthen Physician Discipline.  
Initiate tougher license requirements and increase funding to police physician discipline and malpractice.
- Consider Experience Rating.  
Many medical malpractice insurers do not look at experience.
- Create Unified Pools and Collapse Insurance Rate Categories.  
Many insurers divide doctors into too many risk categories not spreading risk.
- Watch for Over-Reserving Practices.
- Hospital Providers Policies Should Institute More Team Practice Experiences on the Hospital Floor.

### DETERMINING THE TIMING/MECHANISM OF CP (CEREBRAL PAISY)

- History and physical examination IUGR, Birth defects, et. al
- Fetal Heart Rate/Labor/Contraction patterns
- Placenta pathology
- Neuro-imaging
  - Neonatal and Pediatric
- Laboratory
  - Blood gases
  - Metabolic Testing
  - Chromosomal analysis
  - Bacterial Niral studies

### MECHANISMS OF BIRTH INJURY

Late 1700's

The dangers of trauma and excessive molding and compression of fetal brain.

*"In lingering labor, when the head of the child has been in the pelvis so that the bones ride over one another and the shape is prematurely lengthened, the brain is frequently so much compressed that violent convulsions ensue before, or soon after, delivery to the danger and oft times the destruction of the child"*

-Smellie "Midwifery" 1777, vol 1, p. 230

## **MRI IN CAUSATION IN NEONATAL AND INFANT BRAIN INJURY**

Injuries caused by infection, trauma, strokes, toxic substances, metabolic disorders, kernicterus and hypoxia may be seen on MRIs and CT scans. Asphyxia events occurring at different gestational stages may cause damages to different anatomic area in the brain of a fetus or newborn. The leading neurobiologist to present and address the area of the relationship of imaging studies and timing of hypoxic-ischemic encephalopathy is James Barkovich from the University of California at San Francisco.