

10. Maternity Care and Liability: Gaps in Knowledge

Fact Sheet for Stakeholders from *Maternity Care and Liability Report* *

Problem: Despite a growing body of empirical legal studies and health services research illuminating the impact of the liability environment in maternity care, many key liability-related questions have not been studied adequately or at all in this clinical context.

Report findings: A lengthy appendix in the *Maternity Care and Liability* report identifies key knowledge gaps and describes any preliminary evidence in the context of the current or previous liability cycle. Major gaps in knowledge about the impact of liability issues within maternity care include the following:

- Many basic questions are poorly understood with respect to maternal-fetal medicine specialists, family physicians, midwives, and birth centers, relative to general obstetrician-gynecologists and hospitals.
- There is virtually no research to characterize the functioning of the liability system in disparity populations and among safety net providers and settings.
- There is no research to clarify the extent to which corporate entities are responsible for paying for liability insurance of maternity care providers, and implications of this individual-to-corporate transition for all stakeholders.
- There is no national research to clarify the extent to which liability insurance policies interfere with clinical decision making, and implications of those strictures.
- Updates are needed to clarify the extent to which childbearing women and newborns experience negligent injury, and initial research is needed to understand the experience of that group with respect to subsequent care and compensation.
- Research is needed to understand the distribution of damages payments among maternal or newborn plaintiffs, attorneys, legal experts, and other administrative costs, and to understand whether plaintiffs receive adequate compensation.
- Research is needed to compare maternity care professionals' understanding of their likelihood of causing injury due to error and of experiencing various types of legal action relative to the actual likelihood of these occurrences.
- Apart from the well-studied matter of mode of birth, research is needed to understand the extent to which maternity tests, treatments, and referrals involve defensive "assurance" behavior and may be used primarily to demonstrate caution.
- Research is needed to clarify relationships, if any, among liability-associated stress of maternity care providers and their professional satisfaction, behavior, and care quality.
- Research is needed to understand the relationship between the liability system and health outcomes of childbearing women and newborns.

Takeaways: Despite a growing body of informative research about the impact of the liability system within maternity care, many gaps in knowledge remain. Policy makers and other stakeholders would benefit from clearer answers to many basic questions. Promising interventions for improvement should include evaluation components.

* **Learn more:** Sakala C, Yang YT, Corry MP. *Maternity Care and Liability: Pressing Problems, Substantive Solutions*. New York: Childbirth Connection, January 2013. Available at <http://transform.childbirthconnection.org/reports/liability/>. See also open access "Maternity Care and Liability" articles in *Women's Health Issues* 2013;23(1) at <http://www.whijournal.com/issues>.

