



## Filing A Hospital Complaint

Published: January 2014

### What to Do if You are Unhappy with Your Hospital Experience

It is a sad fact that many women have experiences in maternity care that range from neglectful to outright abusive. When faced with such an experience, many mothers feel that the best remedy is to file a lawsuit. However, this is often not an option that is readily realized for many reasons.

Most women believe that their only chance for satisfaction lies within the legal system, and they quickly learn our society does not provide for effective legal action against a perceived abusive provider or hospital unless there was serious long-term physical harm done to the woman and/or her child during the course of the medical care.

A woman can file a lawsuit, but the problem is an issue of economics. Someone must pay for the litigation whether the suit is a loss or a win, but the victory generates less money than the actual costs. Mark Bower, attorney and ICAN lifetime professional subscriber, estimates that such a lawsuit might have a \$200-250K total cost.

“Medical malpractice” is measured by the community standard of care. This is defined as the actions any reasonable practitioner in that community would be reasonably expected to do. Because non-evidence based and physician-centered care are standard of care in the U.S. Maternity Care System, most of what women experience during childbirth is NOT legally defined as malpractice.

Even though the scientific literature increasingly identifies serious and definable emotional and mental damage caused by traumatic birth (e.g. PTSD), there has yet to be any significant number of judgments won for damages of this sort and most women do not seek care that would diagnose these types of injury. If the woman and baby are healthy in an ordinary and conventional sense, then other less easily documented emotional, mental, and longer term physical damages are simply not recognized by society as worthy of compensation.

However, all is not lost as there are other actions that can be taken. Ultimately, because we live in a free market economy, the bottom line will determine how hospitals (and physicians) choose to

*This material may be copied and distributed with retained copyright. © International Cesarean Awareness Network, Inc. All rights reserved.*



practice. Lawsuits with large monetary rewards are one way of impacting that bottom line but there are other means to this end.

Susan Hodges, President of Citizens for Midwifery has written an excellent primer on what to do if you are unhappy with the care you received. [Unhappy With Your Maternity Care? File a Complaint!](#) will walk you through the process of filing a variety of complaints. Even though it is typical for hospitals and Medical Boards to do very little in the way of real consequence in response to complaints, an increasing volume of complaints will be noticed. Ultimately, this is the sort of information that might interest a local reporter or legislator, which leads to bad publicity for the hospital which leads to change (impacting the bottom line).

The internet has made possible a network of information sources about physicians and hospitals that was impossible just a few years ago. As women are more able to research their options, they will choose to “vote with their feet”, refusing to give their business to hospitals with poor reputations and reviews.

The Hospital [VBAC Policy Database](#) has the mechanism for any user to submit comments about their experience with any hospital. You do not have to be a cesarean or VBAC mom to participate and your comments will be available for other database users.

[The Birth Survey](#) is an on-going, online consumer survey that asks women to provide feedback about their birth experience with a particular doctor or midwife and within a specific birth environment. Responses will be made available online to other women in their community who are deciding where and with whom to birth. Take the time to fill out the survey about your experience.

In addition to these resources, copies of letters can be sent to the ICAN Advocacy Director at [advocacy@ican-online.org](mailto:advocacy@ican-online.org) with an added indication of whether or not you would be willing to speak with the media. We are often contacted by members of the media looking for women with a story to tell.

Ultimately, each of us will need to do our part to be part of a bigger change. Filing complaints is a simple yet important part of making that change happen.

*This material may be copied and distributed with retained copyright. © International Cesarean Awareness Network, Inc. All rights reserved.*