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IT'S YOUR BIRTHRIGHT!

Understanding your rights during labor and delivery

BY BRETTE MCWHORTER SEMBER

It's easy to feel as if you are on an assembly line during pregnancy: You go for the requisite number of office visits, have the prescribed tests and listen to your healthcare provider explain birth procedures. When you get to the hospital or birth center, you're on another assembly line. *Wear this, we're putting in an IV, your partner needs to go here, get into this position* and so on. Sometimes, an expectant mom can feel like a specimen and not like a person with legal rights and individual preferences. But remember: You do have the right to control your medical care, to make choices based on information, and to refuse care. Learning what your legal rights are will help you feel more in charge of your birth, and help you make sure you get the information you need to make important decisions.

Informed Consent

The most basic of rules about medical care is that you, as a patient, have the absolute right to be informed about proposed treatment before agreeing to it; this is known as “informed consent.” Your healthcare provider should explain the planned care in words a layperson can understand, giving you details about the risks involved as well as any alternatives. She should discuss medication with you and tell you about its risks and benefits, and she must also share information about the effect of drugs or treatment on your baby. Care providers cannot hold back information because they believe it will scare you or make you uncomfortable. Once your provider has related all of this information, you have the right to choose whether or not to accept the treatment.

“Personally, if a patient is not interested in informed consent, I will not provide her with care,” says Faris Ahmad, M.D., a physician with Wilshire Ob/Gyn Associates in Troy, Michigan. “She runs the risk of not fully understanding the procedure or care involved, any possible side effects, or any risks with the procedure. She will probably end up being dissatisfied with her care.”

Emergency Situations

If you or your baby is in danger, however, your care provider is authorized to provide care without getting informed consent. For example, if you need an emergency cesarean section, your doctor is going to go ahead without spending the time to explain all of the risks to you. Understanding the risks and benefits are more good reasons to do research on your own in advance — just in case.

Consent Forms

If you give birth at a hospital or birthing facility, you will be asked to sign a consent form. Read the form carefully. You can usually cross things off or add things to it. Generally, these forms give permission for your healthcare provider and anyone under her supervision or direction to provide care for you. They may also release your caregiver or hospital from liability in certain instances.

Refusing Treatment

You have the right to refuse any treatment. Period. You can get up and walk out of a hospital or birth center at any time. Doing so, however, may seriously impact your health or that of your baby. In addition, it could cause insurance problems, since your carrier may not cover complications or care that results from your leaving against medical advice (“AMA”). Your physician may also decide not to keep you on as a patient.

Ob/Gyn Ralph Dauterive, M.D. of the Ochsner Clinic Foundation in New Orleans, Louisiana, discusses any decision to refuse treatment with his patient, and advises her of the known risks. “Most OB patients really have little time and few options when it comes to therapy for an obstetrical problem. If a patient decides against a treatment option that I think is necessary, I document the chart with my recommendation and inform the patient of my action,” he says. “Ultimately, I would advise the patient to seek a second opinion or find another provider for her care.” He adds that such refusal is rare, so long

as “the doctor is competent and the relationship is based on trust and good judgment.”

You have the right to know when you are being treated by a trainee (such as an intern in a hospital), and you can refuse treatment by healthcare providers who are not fully trained and accredited. In most teaching hospitals, students routinely monitor procedures. You may choose not to be observed.

Policies and Procedures

Hospitals and birth centers have any number of set policies — such as requiring you to wear a hospital gown or not permitting your partner to be with you during administration of spinal anesthesia. You can decline to agree, but the hospital or provider may refuse to treat you if you do not comply with their procedures.

...you can change your mind and agree to receive care that you originally declined. You also may also choose to switch providers at any time — even during labor.

Learn in advance what your care provider's and hospital's standard procedures are. Should you not concur with some of them, discuss this with your provider in advance, as most concerns can be worked around.

Listen to what treatment your care provider suggests, ask as many questions as possible, and understand the procedure, risks and benefits before reaching a decision about whether or not to agree. Your care provider is often required to inform you of options even though she may not recommend them. Always ask your care provider what she is recommending in your situation.

Don't be afraid to ask for a second opinion — even if you are in the middle of labor. You have the absolute right to request one at any time, and often your insurance will foot the bill. “If any patient asks me if she can obtain a second opinion, I encourage it. It will help her feel more comfortable about the plan of care I am prescribing,” says Dr. Ahmad. Dr. Dauterive agrees: “If the patient has a difficult time making decisions, a second opinion can alleviate fear and direct the patient in the proper direction.”

Changing Your Mind

You can always change your mind about what treatment you agree to receive. You can withdraw your consent to a treatment at any time, except when it is medically necessary to continue (for example, in the middle of a c-section, you cannot withdraw your consent, since it would endanger your life and that of your child).

Additionally, you can change your mind and agree to receive care that you originally declined. You also may also choose to switch providers at any time — even during labor. ➔

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Birth Plans

Many women choose to create a birth plan. Such a plan is useful, but it is not a legally binding contract, and your care provider is not required to follow it. It's best to think of your birth plan as a summation of goals or as a guideline. "I am happy to discuss birth plans with my patients; it can help alleviate any concerns or apprehension they have about labor," says Dr. Ahmad. "However, I caution them that, during labor and delivery, we cannot predict what the initial presentation or ensuing course will be like, and therefore, I let them know that there is nothing in a birth plan that cannot be changed, based on fetal and maternal status."

Dr. Dauterive says, "Our labor and delivery unit is geared strongly to natural labor and breastfeeding. The routine orders are already flexible, and the nursing staff supports patient requests that do not place the mother or baby in a harmful situation," he notes. "If a patient goes through one of our education groups and tours the unit to discuss options and desires with the staff, [the patient] seldom requires a written plan. Patients who choose to write the plan down are encouraged to discuss the plan with the provider to map out any conflicts on the front end."

Can you transfer to a new Ob/Gyn — even late in pregnancy?

HERE'S WHAT TWO MOMS SAID:



"I switched OBs at my 35-week appointment. I liked my other doctor; however, he always seem so rushed and like [he thought] all my questions were stupid...Some of the nurses there were asking me why I was switching, but I just told them it was nothing personal against the other doctor. So, if there's anyone having second thoughts, it still isn't too late to switch!" — *Cara*

"If I hadn't switched at 32 weeks, my preterm labor and dilation would have continued to be ignored. It is so important to be with a doctor you trust. This is my third doctor this pregnancy, but I am so happy with my current doctor." — *Crystal*

Choosing a Facility

You can decide to give birth at any facility you like, but be aware that your care provider will have a limited list of places in which she's able to practice. You also have the right to deliver your child at home, but, again, your care provider has the right not to attend. (Also, your insurance may cover only certain facilities and healthcare providers.) Discuss these options with your doctor or midwife in advance, and find a provider who will be where you need her.

Your Rights After Birth

You have the right to insist that your baby remain in your hospital room with you ("rooming in"), but you might have to release the hospital from liability. You may also choose to ignore the hospital's feeding schedule for infants in order to feed your newborn "on demand" or on any schedule you prefer.

You may also refuse to allow some vaccinations and tests on your infant, but be aware that some are mandated by state law and cannot be refused. (Many states commonly require screening tests for PKU, blindness and hearing problems. Check with your pediatrician for more information.) You have the right to leave the hospital with your baby as early as you desire.

What Makes a Difference

Now that you know some of your legal rights, how can you put this understanding into practice? *Respectfully*. If your requests and concerns are initially stated in a non-threatening way, most caregivers will respond appropriately.

You are truly in control of the medical care you receive, so don't be afraid to get the information to which you are entitled. Educating yourself and finding a caregiver you really trust are the two most important things you can do to ensure the best quality care for you and your baby. ■

About the author: Brette McWhorter Sember is a former attorney and the author of The Visitation Handbook: Your Complete Guide to Parenting Apart and Repair Your Own Credit and Deal With Debt. She is the mother of two children.

NOTICE: This article is intended as general information only, and is not intended to serve as legal advice or as a substitute for legal counsel.

FOR MORE
INFORMATION

For more information about your pregnancy and birth rights, check out these eye-opening resources:

Maternity Center Association: (212) 777-5000 or [go] 3045

Alliance for the Improvement of Maternity Services: [go] 3046

Your state bar association (since laws vary in each state): Check your local phone book or [go] 3047

The Thinking Woman's Guide to a Better Birth by Henci Goer: [go] 3044

Birth As an American Rite of Passage by Robbie E. Davis-Floyd: [go] 3043

Want to go there online? Visit ePregnancy.com/go and enter the [go] code listed above.

