

June 23, 2008

Douglas H. Kirkpatrick, MD  
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Dear Sir:

I am a practicing OB/ GYN in southern California and Fellow of ACOG and recently was informed by midwife colleagues of your recommendation and encouragement for the AMA to lobby Congress for a law banning out of hospital birth. It is disturbing to me that I had to hear of this decision from outside sources and was never approached by my college to see how I or my local colleagues felt about it. I have grave concerns regarding my organization taking such a stand. I think we are all agreed that ACOG has a statement regarding patients' rights to informed consent and informed refusal. Yet, it seems with every decision our organization moves further away from that basic tenet. ACOG's little "guideline" paper on VBAC in 2004 where the word readily was changed to immediately has had the chilling effect of doing away with VBAC options at hundreds of hospitals. Not due to patient safety, or the ideal of giving true informed consent but really, let's be honest, due to fear of litigation. I have seen how patients have become counseled by obstetricians at facilities where VBAC has been banned. They are clearly given a skewed view of the risks of VBAC but rarely told of the risks of multiple surgeries. If you think this is untrue you are, sadly, out of touch with real clinical medicine.

As to out of hospital birthing, please give me the courtesy of an explanation as to the evidenced-based data you used and the process by which an organization which is supposed to represent me came to this conclusion. Any statement saying that it is as simple as patient safety and that one-size fits all hospital births under the "obstetric model" of practice should be applied to all patients is, putting it nicely, not really in line with what best serves all our patients. In many instances, hospitals are not safe, certainly not nurturing and have a far worse track record for disasters than home birth. Even when emergency help is nearby this is true. The focus of all of us in medicine should be on reigning in trial lawyers and tort reform and lobbying Congress for that. The best interest of the college members and the patients we serve would be for my organization to spend its time and energy on something that has true benefit. Removing choices from well-informed patients and caring doctors and midwives is wholly un-American.

So please send me detailed information on how ACOG decided outlawing home birth would be a wise thing to do. You must have conclusive scientific data to take such a

drastic stand. Please make it available to me so that I may share it with likeminded colleagues. I would also like to know the process by which this came to pass. Who first raised this issue and why? What committee reviewed all the data and did its due diligence in interviewing those of us with longstanding experience in backing midwives who perform out of hospital births. There must be a clear and concise, non-confidential paper trail you can share with your members. Specific names of committee members who voted for this would be enlightening and I am requesting this information. I would like to know the background and expertise regarding out of hospital birth for each member who had a hand in the decision to go to the AMA.

We live in an odd era where once something is said or recommended by a legitimate organization such as ACOG it has deep ramifications never intended such as becoming fodder for trial lawyers trying to squeeze the lifeblood and dignity out of your members. In this case these ramifications have had the undesirable effect of forcing women to travel hundreds of miles in labor to find a supportive facility. Or even worse, to have them arrive in a VBAC banned hospital and refuse surgery or be coerced into it. Can this be the best we can do for our patients? Remember, your VBAC statement was meant to be only a recommendation but quickly became the rule by which hospital administrators, risk managers and anesthesia departments of smaller hospital banned this option for thousands of women. An option, which in proper hands, was the safe and accepted standard of care for 30 years. In fact, you still have an ACOG VBAC brochure that recommends this option! For those of us working at smaller hospitals where VBAC was banned due to lack of emergency help (anesthesia, OR crews, etc.) there is a big question that has perplexed us that no administrator seems to be willing or able to answer. That question is: "If a hospital cannot handle an emergency c/section for VBACs, and most obstetrical emergencies are for fetal bradycardia, hemorrhage (i.e. abruption) or shoulder dystocia not for ruptured uteri, then how can they do obstetrics at all?" For they seem to still be able to have a maternity ward without in house anesthesia. Will someday ACOG, in their great wisdom but seeming disconnect from reality, make a "recommendation" that little hospitals unable to afford 24-hour coverage stop providing obstetric services all together? Will this better serve women and their communities throughout America?

I am frightened and angered by what you have done in my name. Now I ask you to defend your position in encouraging the AMA to lobby Congress for another restriction on the freedom of choice that belongs to women and their families. Those choices include midwifery and the right to have the most beautiful and life changing event occur wherever best fits their desire. I am baffled that my college thinks this should be a criminal act. Midwives are well trained and required to have obstetrical backup. They have very special relationships with their patients and want the very best outcomes for them. They do not need me or you to police them. We have a habit in our country over the past 40 years of thinking we can legislate out stupidity. All that has done is erode the individual freedoms that belong, by birthright, to each of us. I would hope you trust your Fellows to know their specialty, their colleagues, and what is best for the patient as an

individual. These decisions do not belong to politicians or faceless committees. You should have more faith in your members to give balanced informed consent. Again, my recommendation to you is to put all your considerable energy into changing our legal malpractice system. Those of us actually practicing medicine and caring for patients know this to be the greatest threat to the mission and responsibility we have chosen to undertake.

I look forward to your response and possibly the beginning of a meaningful dialogue.

Sincerely,

Stuart J. Fischbein, MD FACOG  
Medical Advisor, Birth Action Coalition

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