



IMPROVING BIRTH
Safer birth for all

Accountability Toolkit

**A GUIDE TO FILING A FORMAL GRIEVANCE
AFTER A DIFFICULT CHILDBIRTH**

You have the right to complain about your treatment at the hands of healthcare providers and/or in healthcare facilities. As difficult as it is to remember and revisit past trauma, our collective silence is what allows that trauma to happen again to someone else.

WHY COMPLAIN?

Simply put, there is no reason for anything to change unless women are putting pressure on the system to change. For many years now, women have not been complaining about what happened to them and their babies in childbirth. We believe it's time to break the silence and break the cycle.

For some women, pursuing complaints and receiving an apology or helping to implement a hospital policy change is part of their own healing processes. Women have reported relief and a feeling of empowerment in speaking out about their treatment. Along those lines, we would love to track your complaint along with you. We are learning right along with all of you what works and what doesn't in this process. That helps us to help other women.

DO I HAVE A RIGHT TO COMPLAIN?

If you have a complaint, you have a right to complain. You are a consumer and healthcare is a service. You are also a human being with certain universal rights, as outlined in the White Ribbon Alliance's Respectful Maternity Care Charter (PDF).

Mistreatment in childbirth can take many forms, from rude staff to full-blown physical assault, but they all have one thing in common: a lack of respect for the person giving birth.

Some of these forms of mistreatment fall under violations of legal rights (like, being touched without your permission; having a procedure done without your knowledge or consent; being forced to do anything) and some fall under violations of ethical, professional, or human rights standards (being told you must use a bedpan or may not have food and drink; being spoken down to or ignored; being separated from your support team against your wishes).

You don't need to understand the details about all of these things in order to make a complaint, but it's helpful to include language from any of these resources when you are writing your complaint:



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American Congress of Obstetricians and Gynecologists (ACOG): Committee Opinion on Informed Consent (Aug 2009); Committee Opinion on Surgery and Patient Choice (Jan 2008)

White Ribbon Alliance Respectful Maternity Care Charter: The Universal Rights of Pregnant Women (PDF)

State law on unprofessional conduct: every state has laws about "unprofessional conduct" for medical providers. Google your state with terms like "unprofessional conduct medical law."

You may also want to read "Informed Consent in Childbirth," by human rights lawyer Hermine Hayes-Klein.

IS IT TOO LATE TO COMPLAIN?

It is never too late to complain. Complaining may serve several purposes, not the least of which is to further the healing process for yourself. Complaints also act to raise awareness among caregivers, policy makers, and those who serve the public about how birthing women are sometimes treated.

It is not unusual for a woman to take months or even years to process her birth and get to a point where she is able to begin to speak up about it.

If you choose to post any statements online, they will be visible indefinitely to anyone who searches for that provider or facility name, so your review may help inform other consumers when they are making decisions about their care.

WHAT IS THE DIFFERENCE BETWEEN A COMPLAINT AND A LAWSUIT?

A lawsuit is taking your issue to a court of law and asking them to make a judgment and to determine what financial compensation is deserved, if any. You would need to hire a lawyer to represent you (although we have heard of women representing themselves). It is a longer, more expensive, and more formal process.

A complaint, on the other hand, is asking a facility or state board to take your issue directly to the parties involved or responsible to address what happened. The value of a complaint is that it allows you to bring your story to the attention of those who can make change, and, hopefully, help to prevent what happened to you from happening to others. The downside is that there is little or no way to compel someone to resolve or respond to a complaint. Many of the women we have spoken with have, unfortunately, found that their initial complaints to hospitals were ignored.



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If you are also considering filing a lawsuit, please be aware that either side in those proceedings may use your complaint in court. So, if you are thinking about taking someone to court, it might be a good idea to consult with your lawyer before filing complaint documents.

WRITE YOUR STORY

First, write out your story, just for yourself, with as much detail as you feel safe remembering. This will be the most complete version, and can include details like dates, times, names, what was said and done, how you felt, and what you were thinking.

It is very helpful to have others do the same – husbands, partners, family members, or other support who witnessed the birth or a part of the birth, or in whom you confided after the fact. Or, if you are willing to share what you have written, they may write a simple statement that they agree with and remember what you have written as a true account.

Be sure to request your medical records as soon as possible. Please be prepared for the possibility that reading your records may be difficult or even re-traumatizing, especially if what is documented is different from what you remember. It is, unfortunately, not uncommon for moms to report discrepancies between what is written and what they actually experienced.

WRITE YOUR COMPLAINT

The complaint is a factual statement written by you that will serve as your "official" account, and can be sent to numerous recipients with different cover letters. For the most part, we recommend that you stick to facts and leave out emotional appeals. The complaint is not a place for you to vent; it's a place to list out exactly what happened, who did what, and what was or was not said.

For example: "My doctor made the decision to cut an episiotomy without asking for my permission or giving me any notice. Neither she nor anyone else indicated to me at any time that there was any need for an episiotomy or that she planned to do one."

See above "**Do I Have a Right to Complain?**" for additional language to include in your complaint. It is helpful to cite the standards to which providers are held, to show how you believe the provider did not meet those standards.



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WRITE YOUR COVER LETTER

The cover letter is personalized for the recipient of the complaint. It is a good place to state why that recipient should care about your complaint. If the letter is to a state medical board that oversees the licensing of doctors, for example, you would want to focus on the conduct of the doctor and the effects on you and your concerns that s/he will act this way in the future with other patients. If the letter is to a hospital, you might want to focus on the level of customer service that you received, and how this treatment colors the hospital's reputation in the community and the likelihood that you'd recommend the facility to someone else. Here is a good place to talk about the action you want to be taken. Really think about what you want out of this: do you want an acknowledgment and apology, or do you want to see something change? If you want reassurance that such a thing will never happen again to another person, what does that look like to you?

One of the most important features of the cover letter is the “carbon copy” or “cc:” area. Why? Because the more people who hear about your treatment, the higher the odds are that you will reach someone who is interested in following up, and the more recipients are listed on your letter, the more likely you are to be taken seriously by those who are in a position to make change. Some of the suggested recipients have an electronic portal for complaints to be submitted. In that case, you may not need a cover letter.

CONNECT!

We encourage you to connect with ImprovingBirth.org if you choose to pursue a complaint. Not only are we available for information, support, and local networking, we are interested in seeing how complaints and women who complain are treated in different parts of the country. We want to see what works best so that we can pass that information along to other women. If and when you reach a point of closure and want to share your story, we do publish them from time to time. Contact us [here](#) if you are interested.

For information and resources on childbirth-related trauma, please [click here](#). Know that you are not alone. It is not unusual for women to report feeling traumatized by events in childbirth, and some report symptoms of Post Traumatic Stress Disorder. We encourage anyone who has been traumatized in birth to explore these resources for healing, and to consider finding a therapist to facilitate that journey.

Please note: this information is not guaranteed to be 100% accurate or current, nor can we guarantee results.



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WHERE TO SEND YOUR COMPLAINT

It is very important for women to understand that complaining to a hospital is almost never enough.

Complaints made to the hospital stay with the hospital – these are consumer complaints, just like if you were to write your cable company to say that you were unhappy with their service. And, just like the cable company, it is at the discretion of the hospital whether or not and how to respond to you.

To increase the likelihood and quality of a response from the hospital, we encourage you to send your complaint to multiple recipients within and outside of the hospital, as detailed below.

If your concern is with a care provider (in- or out-of-hospital) or specific facility, you must also make a complaint to the state board or federal agency that oversees the licensing of that provider or facility, as detailed below. Physicians, nurses, and nurse midwives are licensed in all 50 states and have boards overseeing them.

Other types of midwives who work outside of hospitals (certified midwives, licensed midwives, certified professional midwives) are licensed in about half of the states and are overseen by boards (a map of these states is here). These midwives may also fall under the state's board of medicine, board of nursing, or department of health.

Detailed instructions on making a complaint about an accredited birth center is here at the website for the Commission for Accreditation of Birth Centers.

Alerting your insurance company to how their money is being spent or misspent can be helpful – financial penalties often get the quickest results. If, for example, you received an unnecessary and/or unwanted procedure, the insurance company has a vested interest in analyzing your medical bill and preventing these incidents from happening in the future.

FIRST CONTACTS:

- **Your Insurance Company**, if you would like them to dispute a bill for unwanted, unnecessary, or forced procedures or medication
- **Local Police Dept.** to file a police report, if you want to make a report for documentation purposes



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Below is a list of suggested recipients and/or carbon copy (cc) recipients of your complaint. You may contact as many or as few as is appropriate and comfortable for you. Again, we have found that the more people are involved, the higher the likelihood is of someone responding.

Hospital or Birth Center

- President/CEO or Director
- Each member of the Board of Directors
- Head of Labor & Delivery
- Head of the Obstetrics Department
- Legal or "Risk Management" Dept.
- Patient Advocate, Liaison, and/or Social Worker
- Public Relations Dept.
- Hospital Insurer (if you can obtain this information)

State

- ACOG Section – Find your state chairperson here
- Medical or Midwifery Board that licenses doctors/midwives (this varies by state); if midwives are unlicensed or illegal, this may fall under the state's board of medicine, board of nursing, or department of health
- Licensing Board for Nurses
- Licensing Board for Hospitals
- Medicaid (even if you do not receive Medicaid, Medicaid looks at the performance of hospitals that receive Medicaid funding)
- Attorney General
- Insurance Commission, if applicable (in the case of unnecessary/unwanted procedures or falsification of records, for example)

National

- Joint Commission (accredits hospitals): link to Online Complaint Form and Complaint Flier
- Consumer protection agency:
<http://www.usa.gov/state-consumer/>

Other

- Your Local and/or State Elected Officials
- Local Media
- Local or National Organizations that work on women's issues, civil rights issues, or sex crime issues (ACLU, NAPW, NOW)
- ImprovingBirth.org (Attn: Complaint, Improving Birth, 270-F El Camino Real #434, Encinitas, CA 92024)
- We encourage you to go online and post reviews of the care provider and/or facility, at places like Google, Yelp!, and RateMDs.com. These reviews can be more valuable than you think; what you have written will come up if anyone Googles the care provider or facility name, and may be seen by insurers as well as potential clients.



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Mailing or e-mailing out your complaints is a big step! You still have some steps to go, however. The unfortunate reality is that, in most places, complaint processes are cumbersome. Don't be discouraged, though – the only way to change this system is to challenge it.

We're all doing that together.

NOW WHAT?

Typically, a hospital or state agency will respond to acknowledge receipt of your complaint and say that they will determine whether or not it merits investigation. After that:

Be persistent. You will probably need to follow up on your own complaint. We suggest that you document every time you follow up and note whom you spoke with and what was said. The process can be a matter of a few weeks or many months.

Don't take "no" for an answer. You can expect to meet barriers. Keep going until you are heard.

Be creative. Because the system is not built to serve consumers, be prepared to go outside the box. This is why we've listed recipients like media and elected officials. Do you have any other ideas? Let us know here!

Typical first responses may include, "We are sorry about your experience, but nothing was done wrong medically"; "We regret that you felt like you were not treated properly, but sometimes things don't go as planned in birth"; "We have initiated an investigation into what happened, but the results of that investigation are private."

***Don't be discouraged! Be persistent, don't take no for an answer, and be creative.
The more women who come forward demanding safe, respectful care,
the more likely we are to get it!***