



**Public Advocate for the City of New York**

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# **A Mother's Right to Know: New York City Hospitals Fail to Provide Legally Mandated Maternity Information**

**A REPORT BY PUBLIC ADVOCATE BETSY GOTBAUM  
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# Office of the New York City Public Advocate

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**Betsy Gotbaum**  
**Public Advocate for the City of New York**

**PREPARED BY:**

**Jill E. Sheppard**  
*Director of Policy and Research*

**Laurel Tumarkin, Esq.**  
*Policy Research Associate*

**WITH THE ASSISTANCE OF:**

**Erica Hartwell**  
**Eric Nowicki**  
*Interns*

**SPECIAL THANKS TO:**  
**Elan McAllister**

## INTRODUCTION

More frequent than the removal of a gallbladder or tonsils, the most common surgery performed in the United States is a cesarean section<sup>1</sup> (or “c-section”), a procedure in which a baby is delivered through an incision in a mother’s abdomen and uterus. In fact, more than one in four babies (27.6%) in America is delivered by cesarean section.<sup>2</sup> New York State’s rate of cesarean delivery, 28.4%,<sup>3</sup> has exceeded the national average, and New York City’s rate, 26.4%,<sup>4</sup> is keeping pace with the national trend.

Choices in Childbirth (CIC), a maternity care advocacy organization concerned about this trend, began in November 2004 to try to obtain the cesarean section rates of some of the City’s hospitals. A state law known as the Maternity Information Act (MIA), which requires that such information be made available to expectant parents and the general public, should have made accessing that information possible. Yet Choices in Childbirth members found that the staff at the hospitals they spoke with did not provide the information required by the MIA.

In June 2005, the Public Advocate’s Office conducted an investigation to determine whether this failure to comply with the MIA is widespread. The Office found that hospitals throughout the City are denying parents information they need in order to make well-informed decisions about where to deliver their children, and to which they are legally entitled.

## BACKGROUND

### Surgical Births a Growing Trend

In 1970, only about 7% of babies were born by c-section in the United States.<sup>5</sup> The numbers have fluctuated somewhat over the years as health care professionals have come to varying conclusions about the relative advantages of cesarean and vaginal deliveries, but since 1996, the rate of cesarean births has steadily climbed.<sup>6</sup>

There are several factors which have contributed to the rise in cesarean section rates, and these factors have been the subject of intense debate. While doctors state that decisions to perform cesarean deliveries are based on concerns for patients’ safety, some women feel that their choice is constrained by doctors’ interest in more lucrative and less time-consuming births. Fear of malpractice suits has also likely influenced the rates of

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<sup>1</sup> International Cesarean Awareness Network, Inc., *Statistics*, available at <http://www.ican-online.org/resources/statistics.php>.

<sup>2</sup> United States Department of Health and Human Services, National Center for Health Statistics, Division of Vital Statistics, *Births: Preliminary Data for 2003*, November 2004, available at [http://www.cdc.gov/nchs/data/nvsr/nvsr53/nvsr53\\_09.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr53/nvsr53_09.pdf).

<sup>3</sup> *Ibid.* Table D, *Percent of live births by cesarean delivery by race and Hispanic origin of mother: United States, each State and territory, final 2002 and preliminary 2003*, available at [http://www.cdc.gov/nchs/data/nvsr/nvsr53/nvsr53\\_09tables.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr53/nvsr53_09tables.pdf).

<sup>4</sup> This average was calculated by the Public Advocate’s Office and was based upon data prepared by the New York State Department of Health and provided to the Public Advocate’s Office by Choices in Childbirth.

<sup>5</sup> United States National Library of Medicine, *Cesarean Section – A Brief History*, available at [http://www.nlm.nih.gov/exhibition/cesarean/cesarean\\_4.html](http://www.nlm.nih.gov/exhibition/cesarean/cesarean_4.html).

<sup>6</sup> United States Department of Health and Human Services, National Center for Health Statistics, *Births: Final Data for 2002, Table 39, Live births by method of delivery and rates of cesarean delivery and vaginal birth after previous cesarean delivery, by race and Hispanic origin of mother: United States, 1989-2002*, available at [http://www.cdc.gov/nchs/data/nvsr/nvsr52/nvsr52\\_10.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr52/nvsr52_10.pdf).

surgical intervention.<sup>7</sup> In some cases, doctors are pressured by hospital officials to perform cesarean sections in order to avoid liability; an obstetrician in Wilmington, North Carolina recently resigned after hospital officials told her she would need to more than double her c-section rate.<sup>8</sup>

Whatever the reason for the rise in cesarean sections, it is generally agreed that the increase is cause for concern. Leading medical agencies such as the World Health Organization, the Centers for Disease Control and Prevention, and the National Institutes of Health have all called upon the medical community to reduce the cesarean rate to 15% or less.<sup>9</sup>

### **Why Cesarean Sections are Controversial**

In some cases, a cesarean section may be the best option for a mother and baby; a c-section can be a life-saving procedure. Yet medical agencies have sounded the alarm about the cesarean section rate because the procedure can pose serious risks to the mother's health. C-sections can result in a variety of problems, including infections, hemorrhage, injury to other organs, anesthesia complications, infertility, and psychological trauma.<sup>10</sup> C-sections also result in a higher maternal mortality rate than do vaginal deliveries.<sup>11</sup> Cesarean delivery can also increase the risk to the infant of premature birth and respiratory problems, both of which can result in the child being placed in intensive care,<sup>12</sup> as well as asthma in childhood and adulthood.<sup>13</sup>

Cesarean deliveries also lead to much higher birthing costs. The procedure itself is more expensive than a vaginal delivery, and mothers who give birth by cesarean are likely to stay in the hospital for between three and five days, adding to the expense. One study found that hospitals charged 1.7 to 2.4 times more for c-sections than for vaginal deliveries, generally due to the mothers' longer lengths of stay.<sup>14</sup> In 1994, Public Citizen, a national consumer advocacy group, estimated that half of cesarean sections are unnecessary and result in 25,000 serious infections and 1.1 million extra hospital days and cost more than \$1 billion each year.<sup>15</sup>

### **Consumer Education is Key**

In order to make the best decisions about their care, women must have access to information about the risks and benefits of vaginal delivery, cesarean section, and other medical interventions that may occur during labor and birth. Those women who decide that they would prefer a vaginal delivery need to know which caregivers and birth settings will support their choice. If women who want and are able to give birth

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<sup>7</sup> See 5. See also Welch, Cheryl, "Doctor Won't Make the Cut," *Wilmington Star*, June 4, 2005.

<sup>8</sup> Welch, Cheryl, "Doctor Won't Make the Cut," *Wilmington Star*, June 4, 2005.

<sup>9</sup> World Health Organization, "Appropriate Technology for Birth," *Lancet*, 1985; Centers for Disease Control and Prevention, *Healthy People 2010, Maternal, Infant and Child Health*, available at [http://www.healthypeople.gov/document/HTML/Volume2/16MICH.htm#\\_Toc494699671](http://www.healthypeople.gov/document/HTML/Volume2/16MICH.htm#_Toc494699671); and see Welch, Cheryl, "Doctor Won't Make the Cut," *Wilmington Star*, June 4, 2005.

<sup>10</sup> Maternity Center Association, *What Every Pregnant Woman Needs to Know About Cesarean Section*, 2004; and The American College of Obstetricians and Gynecologists, *Evaluation of Cesarean Delivery*, 2000.

<sup>11</sup> *Ibid.*

<sup>12</sup> The American College of Obstetricians and Gynecologists, *Evaluation of Cesarean Delivery*, 2000.

<sup>13</sup> See 10.

<sup>14</sup> Richard G., et al., "Trial of Labor or Repeated Cesarean Section: The Woman's Choice," *Archives of Family Medicine*, March-April, 1997.

<sup>15</sup> Public Citizen, *Unnecessary Cesarean Sections: Curing A National Epidemic*, May 1994.

vaginally can identify birth settings that support their choice, the cesarean rate may decline. Whatever the result, women will be better able to make informed choices about their care.

### **The Maternity Information Act**

In 1989, New York State passed the Maternity Information Act (MIA),<sup>16</sup> which requires every hospital to distribute to all prospective maternity patients at the time of pre-admission, and to members of the general public upon request, a statistical profile of that hospital's birth-related practices. This informational leaflet must state the frequency with which cesarean section, induction of labor, episiotomy, and other procedures are performed, and must also contain a brief description of such procedures.<sup>17</sup> Information about each birth is provided by all hospitals throughout the state to the New York State Department of Health (NYS DOH), which is then required to compile and make available to each hospital the aggregated data for their facility. Each hospital's informational leaflet is to present the statistical information "in the most recent one year aggregate."<sup>18</sup>

This information can be very useful for those selecting a hospital in which to give birth. The NYS DOH's website describes the information as "important to the planning of your childbirth experience."<sup>19</sup> Parents who wish to do so should be able to first choose a hospital obstetric service that provides the type of care they desire and then select a doctor or midwife who has a relationship with that hospital. In spite of the importance of this information, and the law which requires its distribution, the Public Advocate's Office finds that this information is not being provided to New Yorkers.

### **METHODOLOGY**

There are 44 hospitals in New York City that offer labor and delivery services. Between June 8<sup>th</sup> and June 15<sup>th</sup>, 2005, the Public Advocate's Office called each of these hospitals and requested their informational leaflet on birth-related procedures. Initial calls were made to each hospital's main telephone number, but in most cases the Public Advocate's staff spoke with hospital personnel in many different departments, including Admitting, Parent Education, and Women's Health. The majority of calls were transferred to the hospitals' Labor and Delivery wards.

### **FINDINGS**

#### **New York City Hospitals Violate the Maternity Information Act**

- Only one hospital provided the information requested, and in that case, the data included in the brochure was from 1998 (see Appendix II).

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<sup>16</sup> NY Pub Health § 2803-j.

<sup>17</sup> Each hospital's informational leaflet must provide the annual percentage of the following maternity related procedures performed at the hospital: cesarean sections (primary, repeat and total); successful vaginal deliveries by women who have had previous cesarean sections; deliveries by midwives; use of electronic fetal monitoring; use of forceps; breech births delivered vaginally; use of analgesia; use of anesthesia; induction of labor; augmentation of labor; episiotomies; and whether birthing rooms and rooming-in is available at the facility. NY Pub Health § 2803-j(2)(a-m).

<sup>18</sup> NY Pub Health § 2803-j(4).

<sup>19</sup> New York State Department of Health, *Patient's Rights Banner, Maternity Information*, available at [http://www.health.state.ny.us/nysdoh/hospital/patient\\_rights/en/maternity.htm](http://www.health.state.ny.us/nysdoh/hospital/patient_rights/en/maternity.htm).

- All of the other 43 hospitals in New York City failed to provide the maternity information mandated by law. Some hospitals offered tours, parent education classes, or reassurances that c-sections do not occur “very often,” but none could supply up-to-date statistical information about the maternity care their facility provides.

### **The New York State Department of Health is Also Not Meeting Its MIA Obligations**

While hospitals should make available to the public the most current aggregated data that they have, it is the responsibility of the New York State Department of Health (NYS DOH) to ensure that the hospitals have the prior year’s aggregated data to distribute. DOH informed the Public Advocate’s Office that the 2001 data had long been available to hospitals throughout the State, thus hospitals should have been distributing that data until they were provided more current data; however, DOH has clearly fallen behind in compiling the data.

- The NYS DOH only recently made the 2002 and 2003 data available to hospitals and has not yet made the 2004 data available.<sup>20</sup>

### **The Rate of Cesarean Sections Varies Greatly Among New York City Hospitals**

Though the City’s hospitals did not make available their maternity care statistics to the Public Advocate’s Office, as required by law, the Office was provided the 2003 statistical profile for each hospital by Choices in Childbirth. With the assistance of an attorney, CIC obtained the data directly from the New York State Department of Health.<sup>21</sup>

The following findings are based on an analysis of this data:

- The average cesarean section rate for New York City hospitals is 26.4%.
- The hospital with the highest cesarean rate in New York City is New York Hospital in Manhattan, with a rate of 37.3%.
- The hospital with the lowest cesarean rate in New York City is New York University Downtown Hospital, also in Manhattan, with a rate of 14.2%.
- In 2003, there were 123,412 births in New York City hospitals.

For a complete list of New York City hospitals with Labor and Delivery wards and their cesarean section rates, see Appendix I.

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<sup>20</sup> Telephone conversation with New York State Department of Health, Bureau of Biometrics, June 23, 2005. The NYS DOH stated that New York City’s hospitals have not yet provided all of the information necessary in order for the State to compile the City hospital’s 2004 data. The Department stated it expects 2004 data will be available in October 2005.

<sup>21</sup> The Public Advocate’s Office requested this data from NYS DOH on June 23, 2005, and was informed that the data would be provided within two or three days. The Office thus believed that the data would be provided prior to release of this report; however, on June 29, 2005, DOH stated that it would take at least an additional two weeks to provide the data.

## RECOMMENDATIONS

The NYS DOH and the City's hospitals must work in partnership to provide current statistical information to New Yorkers about birth-related procedures so that expectant parents can make well-informed maternity care decisions.

- The NYS DOH must ensure that each of New York City's hospitals has available, and is distributing, an informational leaflet as required by State law. Regularly conducted surveys, such as that performed by the Public Advocate's Office, could help to confirm routine compliance.
- The New York City Health and Hospitals Corporation (HHC) must work with the DOH to ensure that the City's 12 public hospitals that offer labor and delivery services are in compliance with the law.
- The NYS DOH should make the 2004 data available to hospitals as soon as possible and provide future data in a timely fashion.
- The New York State Legislature should amend the Maternity Information Act to include a fine to penalize hospitals that do not comply with the law. Additionally, the Legislature should amend the law to require the NYS DOH to make the maternity information available in a user-friendly format on its website.
- The New York City Department of Health and Mental Hygiene (NYC DOHMH) should make New York City hospitals' maternity information available in a user-friendly format on its website and should distribute it in print format in appropriate locations, such as pre-natal clinics.

The New York State Department of Health, should provide leadership in meeting the 15% goal set by leading public health agencies, and prioritize decreasing the rate of c-sections as a program initiative. The initiative should include studying, in conjunction with the New York City Department of Health and Mental Hygiene, the high rates of cesarean sections in New York City hospitals and issuing "best practice" standards and other recommendations for lowering such rates; providing on-going data analysis and interpretation essential to good outcome measurement and establishing appropriate performance accountability; and funding academic studies concerning issues related to cesarean sections.

### **How to Access the 2003 Maternity Information:**

In light of the fact that New York City hospitals' maternity information is not readily available to the public at the present time, the Public Advocate's Office, jointly with Choices in Childbirth, will make such data available. Those interested in the 2003 maternity care statistical profiles for New York City hospitals can view them on the Public Advocate's website ([www.pubadvocate.nyc.gov](http://www.pubadvocate.nyc.gov)) or Choices in Childbirth's website ([www.choicesinchildbirth.org](http://www.choicesinchildbirth.org)), or may request a printed copy of the information by calling 212-669-7250.

## APPENDIX I

### *Rate of Cesarean Sections in New York City Hospitals, 2003*

Note: The information below was provided to the Public Advocate's Office by Choices in Childbirth, which obtained the data directly from the NYS DOH. The hospitals listed in italicized font are public hospitals, overseen by the HHC.

<b>HOSPITAL</b>	<b>% of C-Sections</b>
<b>Manhattan</b>	
Allen Pavilion of New York-Presbyterian Hosp.	27.9
<i>Bellevue Hospital Center</i>	20.9
Beth Israel Medical Center	23.4
<i>Harlem Hospital Center</i>	22
Lenox Hill Hospital	31.7
<i>Metropolitan Hospital Center</i>	22.5
Mount Sinai Hospital	28.4
New York Hospital (Weill Cornell)	37.3
New York University Downtown Hospital	14.2
New York University Medical Ctr. (Tisch Hosp)	28.3
Presbyterian Hospital (Columbia University)	34.8
Roosevelt Hospital	25.9
St. Vincent's Hospital	25.6
Women's Hospital (St. Luke's-Roosevelt Hosp)	21.7
<b>Queens</b>	
<i>Elmhurst Hospital Center</i>	23.1
Flushing Hospital Medical Center	35.6
Jamaica Hospital Medical Center	25.8
Laguardia Hospital (North Shore University)	32.2
Long Island Jewish Medical Center	30.6
New York Hospital Medical Center of Queens	28.2
<i>Queens Hospital Center</i>	22.1
St. John's Episcopal Hospital South Shore	31.9
St. John's Queens Hospital	32

<b>HOSPITAL</b>	<b>% of C-Sections</b>
<b>Brooklyn</b>	
Brookdale University Hospital and Medical Ctr	25.8
Brooklyn Hospital Center	34.8
<i>Coney Island Hospital</i>	27.1
<i>Kings County Hospital Center</i>	23.1
Long Island College Hospital	29.5
Lutheran Medical Center	25.6
Maimonides Medical Center	19.1
Methodist Hospital	33.7
University Hospital Of Brooklyn	29.2
Victory Memorial Hospital	28.6
<i>Woodhull Medical and Mental Health Center</i>	29.5
Wyckoff Heights Medical Center	25.7
<b>Bronx</b>	
Bronx Lebanon Hospital Ctr - Concourse Division	28.2
<i>Jacobi Medical Center</i>	19.4
<i>Lincoln Medical and Mental Health Center</i>	22.6
<i>North Central Bronx Hospital</i>	21.4
Our Lady Of Mercy Medical Center	18
St. Barnabas Hospital	23.4
Jack D. Weiler Hospital	23.7
<b>Staten Island</b>	
St. Vincent's Hospital	35.6
Staten Island University Hospital, North Site	22



## **APPENDIX II**

### ***Maternity Information Leaflet, 1998 The New York Hospital Medical Center of Queens***

The New York Hospital Medical Center of Queens was the only hospital in New York City that stated it could supply a maternity information leaflet. Unfortunately, the data included in the leaflet provided is more than six years old. A photocopy of the leaflet is included on the following pages.