

BIRTH
MONOPOLY



How To

FILE A COMPLAINT

for mistreatment
during childbirth

birthmonopoly.com



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DISCLAIMER & DISCLOSURE

PLEASE READ:

The information in this booklet, on our webpage, and other materials about patient rights and reporting mistreatment comes from the author's personal experience as an advocate supporting birthing people and in working with legal, maternal health, and patient activist colleagues on related projects since 2012. The author is neither a medical nor legal professional.

This body of knowledge is constantly changing and improving. We cannot guarantee that all or any of it is accurate, up to date, or applies to you. How you choose to use this information is solely your decision and at your own risk.

Moreover, every hospital and state is different. Please read this manual with the understanding that it is meant to give you general information only, which may or may not apply to your circumstances or where you live. Be prepared to do your own research.

Because this manual is based on the personal and professional experience of a white, able-bodied woman, there are many ways people are mistreated, especially related to racism, that lie outside its purview. We acknowledge those limitations and continue to learn.

If you have additional information to share that we might use for future versions of this manual, please contact us at birthmonopoly@gmail.com.



HI, I'M

Cristen Payanucci



I'm the founder of Birth Monopoly, an organization that exists to further human rights in childbirth. An important part of that goal is accountability around how birthing people are mistreated in their healthcare, especially in institutional settings.

When my son Henry was born in 2011, I was shocked at the state of the maternity care I was thrust into and disturbed by what I heard from others about how they were treated. Henry was still a baby when I switched career tracks from public affairs consulting to advocating for birthing people to be treated safely and humanely, and as people with rights. Since then, I've been fighting for change every way possible--teaching, speaking, writing, helping people file lawsuits, running multiple consumer advocacy and media campaigns, and producing a podcast and an upcoming documentary film.

In 2013, I published a how-to manual on filing complaints for mistreatment in birth through a non-profit advocacy organization I was working with at the time. What you are reading now is a hefty update of that manual with many more years' worth of my experience, input from respected professionals, and new resources.

I've seen firsthand how the accountability mechanisms in place work... and don't work. I hope this manual helps you navigate their limitations to find your own path to healing and resolution.



YOU ARE

not alone.



If you are reading this, you probably experienced something traumatic. Picking up this manual today is an act of advocacy for yourself! I give you so much credit for that.

And I want to tell you something important I have learned to share right off the bat with the brilliant and strong survivors I work with:

Use the reporting and complaint processes in maternity care as a tool in your healing, and not the endpoint.

The expectation that your trauma will be cured by holding someone accountable for it is not realistic from a practical standpoint nor from a trauma standpoint.

Trauma cannot be reversed by meeting a goal; it can only be healed through a process.

By centering your own healing, you can use this chance to reclaim your story at your own pace, take back your agency, and advocate for yourself from a stronger position than the last time.

Love,
Cristen

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Part 1

YOUR BASIC RIGHTS

In Birth



Understanding your rights can help
you describe how you were mistreated.





INFORMED CONSENT & REFUSAL

Everyone has basic rights to informed consent and refusal of treatment in their healthcare.

Informed consent is a constitutionally based right enshrined in various ways in the law of all 50 states. It means **you understand and freely choose** the treatment or intervention your care provider is suggesting, based on thorough discussion of its risks, potential benefits, and alternatives. When informed consent happens, that means you are fully informed, and have freely given permission.

Refusal of medical treatment is also a human right and a legal right strongly upheld in U.S. courts. It means **you can say "no" to anything** in your healthcare. No one has the right to touch or treat you without your permission.

Additionally, there are laws protecting us from unwanted touch, or battery.

Providers have legal and ethical obligations to respect those rights and to follow guidelines for their profession as described in the law and by their own profession. The details will vary from state to state, but they generally serve to protect patients from any treatment that they do not want or understand.

All of these rights are based on the idea that **you have autonomy: the right to make decisions about your own body and healthcare.**



INFORMED CONSENT & REFUSAL

WHAT SHOULD I EXPECT?

Your care provider should:

- ▼ **INFORM** you about your clinical condition and give you objective information about all of your treatment options: the risks and potential benefits of each, and the option of doing nothing, or waiting. Your care provider should answer all of your questions and, if they are recommending a particular treatment, explain why they are recommending it for you as an individual.

They must:

- ▼ Get your **CONSENT** ("Yes") before doing anything, or
- ▼ Respect your **REFUSAL** ("No") if you decline any intervention.

REMEMBER:

Refusal of medical treatment is a basic right that has been strongly upheld by U.S. courts. The right to say "no" (refuse) is what gives your "yes" (consent) its power.

Your care provider may give advice and recommendations, but true consent means your decision is made freely, without coercion, threats, or undue pressure.



CONSENT FORMS

Some people confuse consent forms with the informed consent discussion.

However, **informed consent is a discussion**, not a form.

Consent forms are merely meant to document that informed consent has happened. The form is not necessary, but the informed consent is.

In practice, though, the consent form is often used in place of the informed consent discussion. And patients may be confused because these forms may use legal language that sound as if you are “signing all of your rights away.”

Don't worry! It is not true that you must accept any and all treatment just because you've been admitted to the hospital or signed a form. There is no form you can sign that forfeits your basic legal rights--not even if that form uses lots of big, fancy words and terms.

You can verbally revoke (take back) your consent at any time, even if you have signed a form previously.



HOSPITAL POLICY

Another area of confusion for many people is hospital policy, which, like consent forms, are often treated as if it carries legal obligations for the patient.

Hospital policy is frequently communicated as "must" and "not allowed." This language is misleading because no one has the right to dictate your medical care or to restrain you from, for example, eating and drinking or moving around freely.

Policy does not override your rights, including your right to informed consent and refusal and to be free from unwanted touch.

For example, hospital policy might say that all patients must be induced if they are still pregnant at 41 weeks. While providers may use this as a guideline for the care they practice in general, the policy cannot override an individual's right to have an informed consent discussion about all of the possible implications of the procedure. It cannot override your right to refuse (say "no") to an induction if that is your choice.

Care providers themselves may believe that it is their job to enforce hospital policy. While it is part of their job to ensure care is delivered according to accepted standards, it is not part of their job to violate patients' rights in order to ensure compliance with policy.



WHAT ABOUT THE BABY?

The law in some states creates confusion around the rights of fetuses--and therefore around the rights of birthing people whose rights are compromised by the existence of a competing set. These laws were generally not intended to impact birth choices. However, even in states without those laws, maternity care providers often believe they have the right to act on behalf of the fetus in place of the birthing person. This idea has deep cultural roots, if not valid legal ones.

In fact, the U.S. obstetricians' group is very clear about who has the right to decision-making in birth--even when the stakes are highest:



Pregnancy is not an exception to the principle that a decisionally capable patient has the right to refuse treatment, even treatment needed to maintain life. Therefore, a decisionally capable pregnant woman's decision to refuse recommended medical or surgical interventions should be respected.

From "Refusal of Medically Recommended Treatment in Pregnancy," Committee Opinion #664 from the American College of Obstetricians and Gynecologists' Committee on Ethics (2016)

You have the right to make healthcare decisions for your baby--most especially when that baby is inside your body! And no: complicated, higher risk, and emergency situations don't change this fact. The person in whose body the baby resides still has the ethical and moral right to decide what is safest and best for them both.



WHAT DO VIOLATIONS LOOK LIKE?

Common examples of legal and ethical violations in maternity care are when:

- A provider tells a patient they have no choice about receiving a medication, invasive exam, or surgery
- A provider administers a procedure like breaking the water (AROM or amniotomy) without asking the patient
- A patient agrees to a procedure based on coercion from a provider (“The doctor won’t come in the room until I check your cervix”)
- A patient agrees to a procedure based on inaccurate or incomplete information about its necessity or risks (“Your baby could die if you don’t have continuous monitoring”)

More information is at the Birth Monopoly Obstetric Violence resource page [here](https://birthmonopoly.com/obstetric-violence) (birthmonopoly.com/obstetric-violence).

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Part 2

I'VE BEEN HARMED.

Where Do I Report It?



Let's take a look at who is responsible
for policing providers.





GETTING STARTED: THE TOUGH TRUTH

In a minute, we're going to give you more detail about the primary avenues for reporting mistreatment, and suggest some additional ones. But you may be wondering, why would I need to know more than one?!

I admit I am biased after years of watching authorities dismiss the people they should be protecting, but the **tough truth** is that none of these avenues works very well on its own. Hospitals have a vested interest in reducing their liability exposure, and thus suppressing information about adverse incidents. State boards are often largely made up of the professionals themselves who may not be eager to come down on their peers, and, even if they were, their powers are limited by strong medical and physician lobbies. Filing a lawsuit for mistreatment in birth takes a lot of time, energy, money, and luck.

There are exceptions and I have seen them happen! But for most people, it is emotionally safer to go in to this process with realistic expectations. When you do hit a bump, you'll be much more prepared to bust over it instead of letting it stop you.

The #1 purpose of this manual is to help more of us speak up, and do so more effectively. So, let's keep putting the pressure on our hospitals and state boards to protect patients.

And: it's really important we **utilize those avenues as documentation** for when we get louder and more creating sharing our stories later. More on that in a bit!

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Believe Yourself.

WE BELIEVE YOU, TOO.



Read our article about
believing yourself [here](https://birthmonopoly.com/why-dont-women-report-assault-in-sex-and-birth)
(birthmonopoly.com/why-dont-women-report-assault-in-sex-and-birth)





PRIMARY AVENUES FOR COMPLAINTS

There are three primary avenues available to patients who wish to report mistreatment: hospital grievances, state board complaints, and lawsuits. (The terms "grievance" and "complaint" are sometimes used interchangeably; for clarity in this manual, we will continue to use them as we have done above.)

- Every **hospital** has a formal process to address patient concerns or complaints. Hospitals have some authority to investigate and potentially discipline providers and to limit or remove their ability to practice at that facility.
- Licensed professionals like physicians, nurses, and midwives are regulated by **state boards** that have the mission of protecting the public. When a patient has a complaint about the care they received from one of these professionals, they can ask the board that licenses the professional to investigate and potentially discipline them, up to and including removing their license to practice in that state.
- Filing a **lawsuit** means beginning the process of asking a court of law to evaluate the evidence and decide whether you were harmed as a result of someone else's intentional act or failure to act as defined in the law, and what kind of financial compensation you deserve, if any.

Note: grievances and complaints will serve as evidence in the event of a lawsuit, so consider consulting with a lawyer before filing anything.



FILE A GRIEVANCE WITH YOUR HOSPITAL

OVERVIEW

WHAT IT IS:

This involves submitting a written account of the mistreatment (usually a letter, unless the hospital has a specific procedure for this) directly to the facility where it happened. The value of a grievance is that it provides the opportunity for 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.

WHAT IT DOES:

Generally, a healthcare provider working at the hospital is employed by them, contracted by them, and/or given specific permission to practice at their facility (“privileges”). Every hospital has procedures for grievances from patients. If a grievance is considered to have merit, it triggers an internal investigation by the hospital. If the investigation merits action, a care provider may be subject to corrective or disciplinary action. This might take the form of a warning, mandatory education or training, suspension or dismissal, or limitation or revocation of privileges.

Importantly, a hospital grievance does not automatically trigger reporting to state boards or other agencies that oversee healthcare provider licensing or public health. You will need to make those complaints separately.



FILE A GRIEVANCE WITH YOUR HOSPITAL

WHAT YOU SHOULD KNOW:

- Grievances made to the hospital generally stay within the hospital – these are costumer complaints, not unlike 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 up to the hospital whether or not to respond to you and how.
- **Liability management** will be top-of-mind for the hospital. Do not expect an apology or admission of wrongdoing, or detailed information about the disciplinary action taken (if any).
- As you go, **meticulously document** your records, including the name(s) of who you spoke with or tried to speak with. Always ask for email addresses. Follow up every interaction you have with time-stamped emails, even if you weren't able to reach anyone or the person wasn't able to help. For example: "Dear Ms. X, this email is to confirm I left you a voicemail on your work phone today requesting an update..."
- Consider copying multiple recipients on your complaint, as suggested in "Additional Recipients" on page 20.

COST:

It does not cost any money to file a grievance, although there may be expense involved to obtain copies of your medical records.



FILE A GRIEVANCE WITH YOUR HOSPITAL

KEY STEPS

Document/collect evidence for your story.

- Do this as soon as possible before you forget details. It doesn't need to be pretty; just get the facts down. Send your best friend or even yourself an email recounting as much as you can. Take a selfie video--you can always transcribe it later if you need to. Collect any supporting evidence you may have, including your medical records or witness accounts. Get your doula's notes from the birth.

Write your story.

- **One way** to do this is to:
 - Write out an objective, factual list of events with a timeline as best you can reconstruct (“1 a.m., 7 cm dilated, asked for an epidural a second time. Nurse did not respond.”).
 - Write out a personal version of events, including how you felt, what you were thinking, your perspective on how you were treated or what went wrong and the longer-term consequences (“I was confused as to why no one was listening to me about pain medication. I started to panic. Later I had nightmares about it.”)
 - When you are ready, you can pull from these two versions to draft your grievance.



FILE A GRIEVANCE WITH YOUR HOSPITAL

- Another resource is at writingyourbirthstory.com, an affordable course created by writer and doula Carrie Murphy to help birthing people process their stories onto paper over seven days or more. Birth Monopoly contributed to the creation of the course and we believe it's an excellent resource. Please note this course is not primarily aimed at traumatic birth experiences. Use coupon code “birthmonopoly” for a discount. We do not receive any compensation for sharing this course.
- The [Hospital Grievance Letter Template](#) in Part 4 of this manual is another good guide for getting your story on paper.

Decide what you want out of this process.

- What's important to you: more information and communication about what happened to you, or action taken about unsafe, unprofessional, or unethical treatment. What specific questions do you have or actions do you want taken?

Get contact information from the hospital.

- Contact the hospital to find out who to meet with to get more information about your birth, or where to address your grievance. A good point of contact might be the hospital's patient advocate, patient liaison, patient experience officer, or risk management office.



FILE A GRIEVANCE WITH YOUR HOSPITAL

Schedule a meeting or submit your grievance.

- If you have a meeting, you might decide from there whether or not to follow up with a written grievance.
- If you have a meeting, be prepared to advocate for yourself. Take a supportive person with you, if possible. Be clear about what you want out of the meeting--what action taken or information you need. Remember, the ideal outcome for the hospital is for you to feel heard and then go away.
- If you have a meeting, make every effort to audio record it (the Voice Memo app on iPhone works great for these purposes--don't forget to place your phone in airplane mode so the recording is not interrupted by an incoming phone call). Check your state's law to see if you need the consent of everyone present to record, or if it is enough that you are present and consent to your own recording (as it is in many states). You may also state that you can't move forward with the meeting unless they allow you to record it.

Be persistent.

- If you don't feel satisfied with the information you receive or the action taken, consider contacting or writing to other parties in the hospital (see "Additional Recipients" on the following page) and be prepared to follow up.



ADDITIONAL RECIPIENTS

ALSO CONSIDER CONTACTING OR COPYING:

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



GREAT RESOURCES FOR YOU

PODCAST: "FILING A HOSPITAL COMPLAINT"

In this episode of Birth Allowed Radio, Dr. Tracey Vogel walks us through the bureaucratic structure of hospitals and how they receive and process grievances; the must-have details to capture in a formal written complaint, and closure after a traumatic birth experience.



Listen [here](https://birthmonopoly.com/filing-hospital-complaints-dr-tracey-vogel) (birthmonopoly.com/filing-hospital-complaints-dr-tracey-vogel).

TEMPLATE: HOSPITAL GRIEVANCE LETTER

TEMPLATE: GRIEVANCE LETTER
Download at birthmonopoly.com/grievance-letter-template

[Address]
[City, State]
[Email]
[Contact number]
[Date]

To [Patient Safety Officer]:

I am writing this letter of complaint regarding my birth experience at [hospital system/name] on [date of birth or incident].

I feel very strongly that the Hospital System and my providers should be made aware of how I perceived my birth experience and how it has impacted me in the time following delivery. Although I may not have shared many of these details with my providers immediately after the event, I now understand the serious nature of a traumatic birth experience and the importance of communicating these details to them now.

On [date/dates] I was admitted for [induction of labor/augmentation of labor/labor] and this is what happened from my perspective.

This is what happened:
[Type your version of what happened here.]

This is how it made me feel:
[Type what feelings you experienced- during the event and afterwards.]

This the impact it had on my significant other:
[Share anything here that you feel is important.]

This is what happened to me in the postpartum period:
[Type as many details as you want to share about the feelings postpartum.]

These are my expectations:

I want my voice to be heard.

I want an opportunity to speak with my providers, in a non-threatening environment with a patient advocate present, to learn more about WHY things happened the

See Part 4 of this manual for a template from Dr. Vogel and The Empowerment Equation, her platform to create space for communication between traumatized patients and providers.

Download the template [here](https://birthmonopoly.com/affidavit-template) (birthmonopoly.com/affidavit-template).



FILE A COMPLAINT WITH A STATE BOARD

OVERVIEW

WHAT IT IS:

Licensed care providers in hospital-based maternity care, like physicians, nurses, and Certified Nurse Midwives, are overseen by state boards whose mission is to protect the public. (Some community-based midwives are also overseen by state boards.)

These boards have certain authority to discipline or remove the licenses of the professionals they oversee. You can make a complaint to the state board that oversees the license of a professional who holds a specific credential, like a physicians board or nursing board. Many midwifery boards are housed within other boards. See Birth Monopoly's [State Board Directory](https://birthmonopoly.com/find-your-state-board/) (birthmonopoly.com/find-your-state-board/) for links to complaint information with the boards specific to you.

Be aware that there may be time limits written into the law about when you must file a complaint after an incident has occurred, and the board may also have a time limit within which they are required to complete an investigation or take action.

Also note that the board only has authority within its state and a professional's record may or may not follow them from state to state.



FILE A COMPLAINT WITH A STATE BOARD

WHAT IT DOES:

If your state board decides the complaint merits investigation, a formal process is triggered by which the healthcare professional is notified about the complaint and asked to respond to the accusation; additional evidence may be gathered and witnesses may be questioned. The board may also look at previous complaints that have been made against the professional when deciding whether and how to act.

If they decide to take action as a result of their investigation, a care provider may be subject to corrective or disciplinary action. This might take the form of a written reprimand, mandatory education or training, fines, probationary supervision, or suspension or revocation of their license.

WHAT YOU SHOULD KNOW:

Every board is different, and there is extreme variability in outcomes and transparency to the public pertaining to these boards and their investigations. Most boards are set up so that a profession regulates itself, which can be beneficial in many ways, but does allow the possibility of conflicts of interest. National investigations into medical boards have raised serious concerns about boards' integrity and effectiveness around the United States.



FILE A COMPLAINT WITH A STATE BOARD

The Medical Board of California, for example, oversees the licenses of the largest number of licensed physicians and surgeons of any other state (they also oversee a very small number of other professionals) and is considered to be one of the better boards in the country.

Yet, out of nearly 11,000 complaints made against licensees in the most recent reporting year, less than 1% of them resulted in serious action by the board or referral to the attorney general. See the California medical board's 2019-2020 annual report [here](https://www.mbc.ca.gov/Publications/Annual_Reports/) (https://www.mbc.ca.gov/Publications/Annual_Reports/).

For more information, check out these resources:

- Consumer Reports, “What you don’t know about your doctor could hurt you” (April 2016) [here](https://www.consumerreports.org/cro/health/doctors-and-hospitals/what-you-dont-know-about-your-doctor-could-hurt-you/index.htm) (<https://www.consumerreports.org/cro/health/doctors-and-hospitals/what-you-dont-know-about-your-doctor-could-hurt-you/index.htm>)
- Atlanta Journal Constitution, “Doctors and Sex Abuse” (April 2018) [here](https://doctors.ajc.com/) (<https://doctors.ajc.com/>)
- Patient Safety Action/Medical Board Roundtable bibliography on medical board reports, including state-specific articles (October 2020), [here](#)



FILE A COMPLAINT WITH A STATE BOARD

(https://97285586-5443-4e03-b0bb-3bc35e349156.filesusr.com/ugd/bb8e9a_9a74ebef7149473994edc795093fd18a.pdf)

COST:

It does not cost any money to file a complaint with a state board, but there may be expense involved to obtain copies of your medical records.



FILE A COMPLAINT WITH A STATE BOARD

KEY STEPS

Prepare your case:

- Document your story as soon as possible so that you don't forget details. It doesn't need to be pretty; just get the facts down. Send your best friend or even yourself an email recounting as much as you can. Take a selfie video--you can always transcribe it later if you need to. Ask witnesses to write their accounts of what happened, and use our template in Part 4 to create affidavits.
- Order your medical records immediately, from both your care provider(s) and the facility, if applicable. Request a complete copy of your records, including doctors' and nursing notes, lab results and copies of diagnostic images. If you had surgery, there may also be an operating room report. Federal law entitles you to a copy of your own medical records, and limits the amount that you can be charged.
- Collect any supporting evidence you may have, including your medical records, witness accounts, email communications, and photographs. Get your doula's notes from the birth.
- Google the law in your state related to patient rights around informed consent and refusal of medical treatment and/or the professional standards you believe your provider violated. Most lawyers will do free consultations; we recommend speaking with one or more in your state about the specific laws or guidelines



FILE A COMPLAINT WITH A STATE BOARD

that may have been violated in your case. Generally speaking, all patients in the United States are entitled to informed consent and refusal of medical treatment, as we described in Part 1 of this manual.

Get information from your state board:

- On the website for the relevant state board (see our [State Board Directory](https://birthmonopoly.com/find-your-state-board) at birthmonopoly.com/find-your-state-board), look up your provider for previous disciplinary actions. Please note that most states will only show serious actions taken and not unresolved complaints made against the provider. Also, look at the fine print: some states erase physicians' online record after a certain number of years and you will need to contact them directly to see archived records.
- Review the board's **time limits** for when you must file a complaint (statutes of limitations) and any time limits on the board to investigate or close your complaint (usually set by law and often noted on the website). Note any relevant dates on your calendar.

Write your story:

Although it may be difficult to do so, it is best to limit emotional testimony or subjective opinion from the complaint you submit to the board. With that in mind, here is one method to help you develop the content you can then use to draft your complaint.



FILE A COMPLAINT WITH A STATE BOARD

In whichever order you like,

- Write out an **objective, factual list of events** with a timeline as best you can reconstruct (“1 a.m., 7 cm dilated, asked for an epidural a second time. Nurse did not respond.”).
- Write out a **personal version of events**, including how you felt, what you were thinking, your perspective on how you were treated or what went wrong and the longer-term consequences (“I was confused as to why no one was listening to me about pain medication. I started to panic. Later I had nightmares about it.”)

Another resource is at writingyourbirthstory.com, a course created by writer and doula Carrie Murphy to help birthing people process their stories onto paper over seven days or more. Birth Monopoly contributed to the creation of the course and we believe it's an excellent resource. Please note it is not primarily aimed at traumatic birth experiences. Use coupon code “birthmonopoly” for a discount. We do not receive any compensation for sharing this course.

Draft your complaint:

- Start with a single summary paragraph briefly but clearly identifying the rights or professional guidelines you believe your provider violated, and the facts of how they did that. This paragraph will serve as the introduction to and a summary statement of your complaint.



FILE A COMPLAINT WITH A STATE BOARD

- Now provide a **supporting narrative and detail** for the body of your complaint. Be precise with names and words that were said. Note the impact of the mistreatment on you (psychological distress requiring weekly therapy, further surgeries, ongoing pain, etc.). List out any evidence that corroborates your story and include it with your complaint. Keep your complaint as clear and concise as possible while including all of the relevant facts.
- We suggest you have a trusted friend or family member review your complaint before you submit it.

IMPORTANT: Be concise, but include all relevant information. This may be the only opportunity you have to contribute your voice or evidence to an investigation.

Submit your complaint:

- Follow the instructions from the board to file your complaint. Be sure to keep copies for yourself in a safe place. Expect a written acknowledgement from the board that your complaint has been received for processing.
- As you go, **meticulously document** this process for your records, including the name(s) of who you spoke with or tried to speak with. Always ask for email addresses. Follow up every interaction you have with time-stamped emails, even if you weren't able to



FILE A COMPLAINT WITH A STATE BOARD

reach anyone or the person wasn't able to help. For example:
"Dear Ms. X, this email is to confirm I left you a voicemail on your work phone today requesting an update..."

- Plan to continue to **advocate for yourself** so that your complaint is thoroughly investigated in a timely manner.



FILE A COMPLAINT WITH A STATE BOARD

PRO TIPS

- Remember the board requires evidence to support an accusation before they can act, but even if you cannot supply evidence other than your own testimony, it might still help someone else if you file a complaint. Anecdotally, we know that boards may be more likely to take future complaints seriously if they see a pattern of accusations against a provider in their files.
- Include as much documentation and evidence as possible with your initial complaint. Sometimes boards move forward with investigations and make decisions without contacting the patient, so you may not have another chance to share it with them.
- Boards may or may not have the legal authority to subpoena witnesses (like a nurse who saw an assault happen).
- Do not expect to be very involved in an investigation. It varies from board to board, but the process and the results of investigations are often kept private between the board and provider they oversee.
- Be persistent. You may need to advocate for your complaint to be taken seriously, or for your case to be re-opened if you feel it warrants more investigation than it was given.



GREAT RESOURCE FOR YOU

TEMPLATE FOR WITNESS AFFIDAVIT

An affidavit is a simple, low-cost way to legally swear to a statement you've made. It is a piece of paper you sign in front of a notary to confirm your identity, and attach to your written account. You can use this for your own statement or witnesses (support people, doula) can use it to swear to theirs.

An affidavit template is in part 4 of this manual or you can download it [here](https://birthmonopoly.com/affidavit-template) (birthmonopoly.com/affidavit-template).

TEMPLATE: AFFIDAVIT
Download at birthmonopoly.com/affidavit-template

AFFIDAVIT

STATE OF _____
COUNTY OF _____

The undersigned, [your name or witness name], being duly sworn, hereby deposes and says:

1. I am over the age of 18 and am a resident of the State of _____. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.

2. I suffer no legal disabilities and have personal knowledge of the facts set forth below and/or attached.

I declare that, to the best of my knowledge and belief, the information herein is true, correct, and complete.

Executed this _____ day of _____, 20 ____.

[your signature or witness signature]
(Signature)
[your name or witness name]
(Printed name)

NOTARY ACKNOWLEDGMENT

STATE OF _____, COUNTY OF _____, ss:

Notary Public

Title (and Rank)

My commission expires



FILE A LAWSUIT: QUICK FACTS

We can't possibly do justice to such a complex topic in this short manual. So, I'm going to briefly list out some quick facts I've learned along the way about bringing lawsuits, with my recommendation that you speak with one of the lawyers in our directory if this is an option you are considering.

Lawsuits are a high-risk, high-reward option. Let's start with some of the risks.

- A successful lawsuit can be very powerful, but they are an extremely difficult avenue to access for recourse. The first barrier is finding a lawyer with the right expertise. Because maternal harm in childbirth is an emerging area of practice, you may find that it is difficult to find a lawyer with the right kind of experience or willingness to learn about this kind of law.
- Lawyers usually will not take cases involving maternal harm unless the violation is clear cut and well documented, and the resulting damage was both significant and measurable in dollars. Usually, lawyers take these kinds of cases on a contingency basis, where you do not pay them until you win in court or reach a settlement with the other side; then they take a portion of that (typically one-third to one-half). Sometimes a lawyer will agree to work on a retainer basis, where the client pays directly for their time on an hourly basis and other expenses (filing fees, professional fees, expert fees) related to the case. Either way, expenses can easily get into the tens of thousands of dollars.



FILE A LAWSUIT: QUICK FACTS

- Lawsuits take a long time to resolve (often years). If you go to court, there are often months in between court dates.
- Another factor is that people bringing lawsuits will most likely face hostility from the other party, including questioning their story or blaming them for their own injury or assault. This can be further traumatizing. Almost every lawsuit I've ever been involved in has had moments when the client considered giving up or did in fact agree to resolve it earlier than they'd planned because of the emotional toll.
- The vast majority of these kinds of lawsuits settle before they go to trial--which probably means financial compensation for the injured party, but also probably means they agree not to speak about the details of their story or settlement.

Now, some possible rewards:

- A successful lawsuit can result in a significant financial award for the victim, which may allow them to get follow-up treatment, surgeries, or therapy (physical or mental) they would not have been able to afford otherwise.
- Lawsuits are also a way to obtain testimony, evidence, and documentation to an excruciating level of detail that an injured party would never be able to obtain otherwise.



FILE A LAWSUIT: QUICK FACTS

- A lawsuit that goes to trial gives you an opportunity to earn media coverage and will certainly mean a trail on public record. This means the hospital cannot deny that something serious happened, or was alleged to happen, on their watch. That can be a meaningful outcome when someone has previously been dismissed or ignored by the hospital, or bullied into not speaking out.
- Lawsuits can create precedent, which can create change. Every winning lawsuit strengthens the law around all of our rights as birthing people. And if a hospital or care provider knows they can get sued, and lose, for violating the rights of a birthing patient, I think we will see maternity care culture change much faster.

Please see the following page if you'd like to talk to an expert about your legal options.



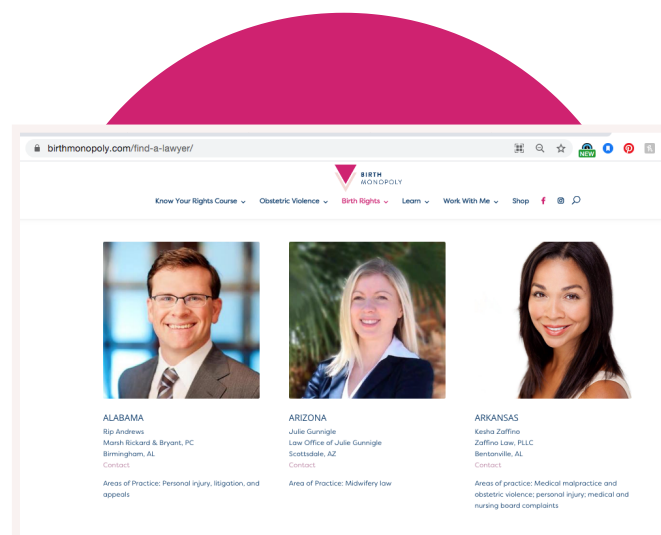
GREAT RESOURCE FOR YOU

BIRTH MONOPOLY'S "FIND A LAWYER" DIRECTORY

There are very few lawyers in the United States and around the world who specialize in or understand the unique dynamics involved in maternal injury and obstetric violence cases, and lawyers generally can only take cases in jurisdictions where they are licensed.

However, many of the experienced lawyers on our list may be able to consult with a willing lawyer located in another state, or consult with you directly as you look for or work with a lawyer in your state.

View our list [here](https://birthmonopoly.com/find-a-lawyer/) (birthmonopoly.com/find-a-lawyer) for U.S. lawyers who may be able to help. If you are outside of the U.S., email us at birthmonopoly@gmail.com.





OTHER AVENUES TO REPORT

YOU CAN ALSO REPORT MISTREATMENT TO ANY OF THE FOLLOWING ENTITIES, WHICH HAVE VARIOUS INTERESTS AND RESPONSIBILITIES IN MONITORING HEALTHCARE AND PUBLIC HEALTH:

- Your state's health department
- Your state's attorney general
- Your state's Medicaid office, whether or not you are a Medicaid recipient
- Your insurance company, if applicable
- Your state's insurance commission, if applicable (in the case of unnecessary/unwanted procedures or falsification of records, for example)
- The Joint Commission (accredits majority of U.S. hospitals): [Online Complaint Form](http://www.jointcommission.org/report_a_complaint.aspx) and [Complaint Filer](http://www.jointcommission.org/assets/1/6/complaint_flier.pdf)
(http://www.jointcommission.org/report_a_complaint.aspx and http://www.jointcommission.org/assets/1/6/complaint_flier.pdf)
- Your local and/or state [elected officials](http://votesmart.org) (<http://votesmart.org>)
- Local or national organizations that work on women's issues, civil rights issues, or sex crime issues (ACLU, NAPW, NOW)

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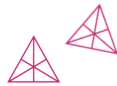
Part 3

WHAT IF WE CREATED

Our Own Paths?



Together, maybe we can build
new and better ways forward.





THINKING OUTSIDE THE BOX

"I don't want what happened to me
to happen to anyone else."

This is the #1 thing people say when I ask them they want most out of the complaint process.

So, as you digest all of the information in this manual and decide how you want to move forward, consider adding one more question to the mix.

Regardless of how the hospital, state board, or anyone else defines or values what you have been through:



How can you help prevent
what happened to you
from happening to others in your community?





COMMUNITY-BASED EFFORTS

THE "IRTH" APP FROM KIMBERLY SEALS ALLERS

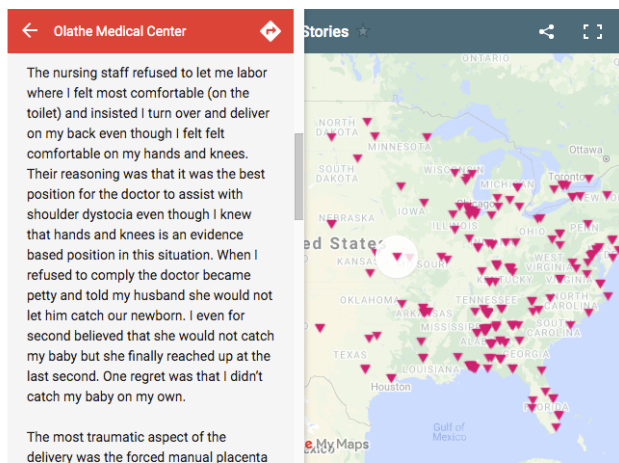
Created by an award-winning journalist, maternal health advocate, and Black woman, Irth is "the #1 'Yelp-like' platform for the pregnancy and new motherhood journey, made by and for people of color."



Learn more about Irth and download the app [here](https://irthapp.com/) (https://irthapp.com/).

BIRTH MONOPOLY'S OBSTETRIC VIOLENCE STORIES MAP

People who have experienced or witnessed obstetric violence can self-submit their stories for publication. Stories are pinned to the map by facility location.



Read stories or submit your own [here](https://birthmonopoly.com/obstetric-violence/) (birthmonopoly.com/obstetric-violence/).



COMMUNITY-BASED EFFORTS

Here are some more ideas to get your creative juices going:

- A doula in Pennsylvania hosts a postpartum birth trauma group where people learn to release shame around their stories and no longer feel silenced.
- A nurse in California hosts an obstetric violence group online that meets twice weekly to discuss the problems in their community and how they can address the issues as a group.
- A mom in Texas writes a story for her local paper about how her doctor coerced her into a Cesarean.
- Birth workers in Maryland meet with policy makers to brief them on how Black birthing people are being abused by nurses and obstetricians in their local facilities.
- A doula in Kentucky works with her local elected representative on a bill to require written consent for vaginal/pelvic exams.

Maybe the most important first step is finding a way to owning your own story. Once you can do that, you can do anything you want.



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Part 4

CHECKLIST & TEMPLATES

For You



We hope you find these useful as you
go through this process.



Checklist for



FILING A COMPLAINT FOR MISTREATMENT

with a state board

PREPARE YOUR CASE

- ☐ **Document your story** as soon as possible so that you don't forget details. Ask witnesses to write their accounts of what happened, and use our template to create affidavits (birthmonopoly.com/affidavit-template). It may be easier to record a video of yourself, which you can later transcribe.
- ☐ **Order your medical records immediately** from both your care provider(s) and the facility, if applicable. Request a complete copy of your records, including doctors' and nursing notes, lab results and copies of diagnostic images. If you had surgery, there may also be an operating room report. Federal law (HIPAA) entitles you to a copy of your own medical records, and limits the amount that you can be charged.
- ☐ **Collect any supporting evidence** you may have, including your medical records, witness accounts, email communications, and photographs.
- ☐ **Research the law in your state related to patient rights** around informed consent and refusal of medical treatment and/or the professional standards you believe your provider violated. Most lawyers will do free consultations; we recommend speaking with one in your state about the specific laws or guidelines that may have been violated. Generally speaking, all patients in the United States are entitled to informed consent and refusal of medical treatment (more information is at birthmonopoly.com/complaint).

GET INFORMATION FROM YOUR STATE BOARD

- ☐ **Visit the website for your state board (see our directory)** at birthmonopoly.com/complaint to look up your provider's license and see if there are any previous disciplinary actions listed against them.
- ☐ **Check to see the board's time limits** for when you must file a complaint (statute of limitations) and any time limits on the board to investigate or close your complaint (which are usually set by law and often visible on the board's website). Note relevant dates on your calendar.



WRITE YOUR STORY

Although it may be difficult to do so, it is best to limit emotional testimony or subjective opinion from the complaint you submit to the board.

With that in mind, here is one method to help you develop the content for your complaint. In whichever order you like:

- ☐ **Write out an objective, factual list of events** with a timeline as best you can reconstruct ("1 a.m., 7 cm dilated, asked for an epidural a second time. Nurse did not respond.").
- ☐ **Write out a personal version of events**, including how you felt, what you were thinking, your perspective on how you were treated or what went wrong and the longer-term consequences ("I was confused as to why no one was listening to me about pain medication. I started to panic. Later I had nightmares about it.")

You can draw from these two versions to draft your complaint.

DRAFT YOUR COMPLAINT

- ☐ **Start with a single summary paragraph** briefly but clearly identifying the rights or professional guidelines you believe your provider violated, and the facts of how they did that. This paragraph will serve as the introduction to and a summary statement of your complaint.
- ☐ **Now provide a supporting narrative and detail** for the body of your complaint. Be precise with names and words that were said. Note the impact of the mistreatment on you (psychological distress requiring weekly therapy, further surgeries, ongoing pain, etc.). List out any evidence that corroborates your story and include it with your complaint (i.e., "Dr. Smith stated he was performing an episiotomy. At 12:41 p.m., the attached medical record corroborates the fact that I said, 'No, wait.'")

Keep your complaint as clear and concise as possible while including all of the relevant facts. We suggest you have a trusted friend or family member review your complaint before you submit it.

IMPORTANT: Be concise, but include all relevant information. This may be the only opportunity you have to contribute to an investigation.



SUBMIT YOUR COMPLAINT

- ☐ Follow the instructions from the board to file your complaint. Be sure to keep copies for yourself in a safe place. Expect a written acknowledgement from the board that your complaint has been received for processing.
- ☐ Meticulously document this process for your records. Always ask for email addresses and follow up every interaction with an email documenting what was said or what happened, including if you failed to reach anyone or if you are told there is no progress or they cannot help you.
- ☐ Plan to continue to advocate for yourself so that your complaint is thoroughly investigated in a timely manner and to practice self care.

PARTICIPATE IN BIRTH MONOPOLY'S ACCOUNTABILITY PROJECT

We are working with the Medical Board Roundtable to track the outcomes of consumer complaints to state boards for mistreatment in maternity care. Get on our email list for updates on this upcoming project.

CARING FOR YOURSELF

This process can be emotionally difficult, particularly when you are writing out your story, viewing your medical records for the first time, and receiving communication from the board. If you have access to support from a trusted friend or loved one, it can be a good idea to have them present at these moments.

Revisiting traumatic events is its own process. It can be further re-traumatizing, healing, or both. Be gentle with yourself and make space for whatever comes up for you.

There are many ways of healing and many ways to get there.

Thank you to the Medical Board Roundtable and the Patient Safety Action Network for their ongoing advocacy and assistance.

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TEMPLATE: AFFIDAVIT

Download at birthmonopoly.com/affidavit-template

AFFIDAVIT

STATE OF _____

COUNTY OF _____

The undersigned, [your name or witness name], being duly sworn, hereby deposes and says:

1. I am over the age of 18 and am a resident of the State of _____. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.

2. I suffer no legal disabilities and have personal knowledge of the facts set forth below and/or attached.

I declare that, to the best of my knowledge and belief, the information herein is true, correct, and complete.

Executed this _____ day of _____, 20 _____.

[your signature or witness signature]

(Signature)

[your name or witness name]

(Printed name)

NOTARY ACKNOWLEDGMENT

STATE OF _____, COUNTY OF _____, ss:

Notary Public

Title (and Rank)

My commission expires

TEMPLATE: GRIEVANCE LETTER

Download at birthmonopoly.com/grievance-letter-template

[Address]

[City, State]

[Email]

[Contact number]

[Date]

To [Patient Safety Officer]:

I am writing this letter of complaint regarding my birth experience at [Hospital system/name] on [date of birth or incident].

I feel very strongly that the Hospital System and my providers should be made aware of how I perceived my birth experience and how it has impacted me in the time following delivery. Although I may not have shared many of these details with my providers immediately after the event, I now understand the serious nature of a traumatic birth experience and the importance of communicating these details to them now.

On [date/dates] I was admitted for [induction of labor/augmentation of labor/labor] and this is what happened from my perspective.

This is what happened:

[Type your version of what happened here.]

This is how it made me feel:

[Type what feelings you experienced- during the event and afterwards.]

This the impact it had on my significant other:

[Share anything here that you feel is important.]

This is what happened to me in the postpartum period:

[Type as many details as you want to share about the feelings postpartum.]

These are my expectations:

I want my voice to be heard.

I want an opportunity to speak with my providers, in a non-threatening environment with a patient advocate present, to learn more about WHY things happened the

way they did, and to share my perspectives with them.

I would like my case (of emotional/psychological complications) to be addressed similarly to other cases that involve physical complications (this might include a Root Cause Analysis or Peer reviews- whatever the standard is at your hospital) and have any outcomes and/or solutions shared with me. My hope is that this scenario never happens to anyone else.

I have been significantly impacted by my experience at your facility. This letter again serves to raise awareness of the serious psychological consequences that occurred after my experience and to allow my story to hopefully be that spark that ignites change to keep this from happening again.

Sincerely,

[Your name]

This letter formulated with assistance from The Empowerment Equation, LLC.



FINAL NOTE

If you'd like to work with me directly, please contact me at cristen@birthmonopoly.com. My awesome assistant, doula and now midwifery student (!!) Chanté Perryman, will take care of you.

This manual has been a labor of love and I hope you've felt that as you've read through it.

I couldn't do this work without the compassion and love I get every day from other advocates and survivors in this community and I thank you.

Rebecca Dekker is always pushing me, my biggest scold and my loudest cheerleader.

Nekole Shapiro changed my life by teaching me how to use triggers as medicine and heal myself through Holistic Peer Counseling.

Hermine Hayes-Klein has been a loyal friend and teacher since the beginning, advocating fiercely for my work and for all women.

There are so many folks to thank from our amazing Know Your Rights community, but right now I'd like to name Barbie Christianson, who has been fighting her own fight for several years now after reporting a patient assault she witnessed as a nurse. I am so thankful for her and others like her, putting their careers on the line to do the right thing, day after day, against all the odds.

Most of all, to the victims, survivors, and those who reject the labels: I see you. I believe you. And I believe in your unlimited ability to heal.

Lots of love,
Cristen