

## Legal liability in South Korea

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Dear Sir,

The field of obstetrics is vulnerable to legal liability, and we read Eggermont's judicial recommendation with interest [1], since Korean obstetricians are interested and concerned about reducing legal liability. Korea antenatal care and delivery are performed in primary, secondary, tertiary care centers equipped with delivery rooms. Midwives facilitate a small number of deliveries in the delivery room but cannot recommend or decide on procedures without obstetricians. Obstetricians cover antenatal, delivery, and postnatal care without or with midwives by performing vaginal delivery in low-risk patients and cesarean sections in high-risk patients and managing postpartum hemorrhage and cesarean section recovery. There is no recommendation or guideline to reduce legal liability for obstetric care in Korea. Therefore, obstetricians take responsibility for every procedure and take on the burden of legal liability. In 2012, the Korean government opened a medical dispute mediation and arbitration agency to control disagreements. The object of this system is to solve disputes within a designated period. The agency is composed of expert

doctors, attorneys, and patient representatives. However, obstetricians refused to participate in this agency because there were several unacceptable clauses, including one requiring that physicians be responsible for compensating patients in no-fault cases. The government assigns an allowance in no-fault obstetric cases based on a ~\$10/delivery/year assessment to be paid by every delivery hospital; these funds would be used to finance allowances paid to patients. Under the agreement, in cases of cerebral palsy of unknown cause or other unpredictable complications where there is no negligence, obstetricians would pay patients upon request from the mediation and arbitration agency.

We agree with Eggermont's recommendation that liability in obstetric fields be reduced. However, the experience in Korea suggests that a mediation and arbitration system is equally important and leads to reduced legal fees and reduced time loss for physicians and attorneys, although some significant issues must be overcome in optimizing this system.

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### Reference

1. Eggermont M (2015) Intrapartum care and substandard care: juridical recommendations to reduce the risk of liability. Arch Gynecol Obstet. doi:10.1007/s00404-014-3612-y

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