LIABILITY FEARS CONTINUE TO CHANGE OB.GYN.

BY MARY ELLEN SCHNEIDER

As Congress debates the role that medical liability reform should play in a larger health reform bill, ob.gyns. are sounding the alarm on the impact of an unregulated liability environment.

A new survey from the American College of Obstetricians and Gynecologists found that 63% of ob.gyns. have changed the way they practice out of fear of being sued. Obstetricians say they have cut back on the number of high-risk patients they see, are no longer performing vaginal birth after cesarean, and have increased the number of cesarean deliveries they perform. And gynecologists also have made changes because of the liability climate, with some increasing the surgical procedures they perform.

The survey highlights the impact of medical liability on access to care, said Dr. Albert L. Strunk, deputy executive vice president of ACOG.

The survey shows that in 2009, about 91% of ob.gyns. had at least one liability claim filed against them during their professional careers, for an average of 2.69 claims per physician. Sixty-two percent of all reported claims were for obstetric care, and 38% were for gynecologic care.

This is the 10th time since 1983 that ACOG has assessed the effects of liability litigation and insurance issues on practice. The last survey was conducted in 2006.

Compared with 2006, the overall impact of medical liability remained relatively stable in 2009, Dr. Strunk said. But there were a few positive changes, he noted. For example, the percentage of ob.gyns. who reported having made changes to their practice because of affordability or availability of liability insurance dropped from about 70% in 2006 to 59% in 2009.

For Dr. Jay Trabins, a gynecologist in West Palm Beach, Fla., the cost of medical liability was one of the reasons he gave up obstetrics in 2005. Four years later, he still can’t afford liability insurance for his gynecology practice and is practicing “bare.”

At the time he stopped practicing obstetrics, Dr. Trabin said he was paying more than $60,000 a year for minimum coverage of about $250,000 per occurrence and $750,000 a year. That level of coverage probably wouldn’t have been enough to protect his practice, he said, since malpractice awards in the state are high. But the affordability of the insurance wasn’t the only factor that led him to drop obstetrics. Dr. Trabin said it was a “perfect storm” of the long hours, decreasing reimbursement, and the view of many patients that any bad outcome was the result of negligence by the physician.

Those types of rising patient expectations and the fear of lawsuits are driving many physicians to practice defensive medicine, Dr. Trabin said in an interview.

Dr. Stuart Weinstein, chairman of Doctors for Medical Liability Reform, agreed that defensive medicine is pervasive and is one of the reasons that lawmakers need to reform the medical liability system.

Usually, defensive medicine comes in the form of assurance behavior, said Dr. Weinstein, who is the chair of orthopedic surgery at the University of Iowa in Iowa City. Physicians order additional tests and consultations to assure themselves they haven’t missed anything. “You are protecting yourself, not doing what you think is in the best interests of the patient,” he said in an interview.