

N.Y. / REGION

Mother Accuses Doctors of Forcing a C-Section and Files Suit

By ANEMONA HARTOCOLLIS MAY 16, 2014

After two cesarean sections, Rinat Dray wanted to give birth naturally.

But when she arrived at Staten Island University Hospital in labor, the doctor immediately began pressuring her, she said, to have a C-section.

The doctor told her the baby would be in peril and her uterus would rupture if she did not; he told her that she would be committing the equivalent of child abuse and that her baby would be taken away from her, she said in an interview this week.

After several hours of trying to deliver vaginally and arguing with the doctors, Mrs. Dray was wheeled to an operating room, where her baby was delivered surgically.

The hospital record leaves little question that the operation was conducted against her will: “I have decided to override her refusal to have a C-section,” a handwritten note signed by Dr. James J. Ducey, the director of maternal and fetal medicine, says, adding that her doctor and the hospital’s lawyer had agreed.

Mrs. Dray is suing the doctors and the hospital for malpractice, charging them with “improperly substituting their judgment for that of the mother” and of trying to persuade her by “pressuring and threatening” her during the birth of her third son, Yosef, in July 2011.

But more broadly, her case is part of a debate over the use of cesarean

sections. It also raises issues about the rights of pregnant women to control their own bodies, even if that might compromise the life of a fetus.

Across the country, nearly 33 percent of births, or almost 1.3 million, were by cesarean section in 2012, according to the Centers for Disease Control and Prevention. The World Health Organization recommends that the rate should not be higher than 10 to 15 percent.

The rate has been climbing since 1996, despite warnings from health officials that C-sections are more likely than natural births to cause problems for the health of the mother and the baby. It has recently leveled off.

Indeed, in Mrs. Dray's case, her bladder was cut during the procedure, according to court papers.

The increase in the number of C-sections has been attributed to a rise in high-risk pregnancies; a desire by doctors and mothers to schedule their deliveries; and fears of malpractice lawsuits should the baby be injured during a normal delivery, which typically takes far longer than a cesarean. Obstetricians pay some of the highest malpractice insurance premiums of any medical specialty because of the frequency of birth-related lawsuits.

A spokesman for the hospital, Christian Preston, said Friday that he could not comment on the case because of the litigation and privacy concerns. But he defended the hospital's record, saying it had a 22-percent C-section rate compared with a state average of 34 percent. Its 2012 rate of "vaginal birth after C-section" was almost 29 percent, much higher than the state average of 11 percent, he said.

The lawsuit, filed last month in State Supreme Court in Brooklyn, where Mrs. Dray lives, also names Dr. Leonid Gorelik, who delivered the baby, as a defendant. Dr. Gorelik, in court papers, denied that he had taken Mrs. Dray for a C-section against her will. He said that her own "culpable conduct and want of care" contributed to any injuries she may have sustained.

Dr. Ducey's lawyer did not respond to a request for comment. In the medical record, he wrote that the fetus was "at risks for serious harm without the C-section."

Dr. Howard Minkoff, chairman of obstetrics at Maimonides Medical

Center in Brooklyn, whose articles on the subject of patient autonomy have been published in medical journals, said he believed that women had an absolute right to refuse treatment even if it meant the death of an unborn child. “In my worldview, the right to refuse is uncircumscribed,” Dr. Minkoff said, cautioning that he was not commenting on the particular facts of Mrs. Dray’s case. “I don’t have a right to put a knife in your belly ever.”

Such a person might be accused of being immoral or a terrible mother, he said, “but we won’t tie you down.”

As she describes it, Mrs. Dray’s experience illustrates the debate over C-sections.

Now 35, she is the mother of three healthy boys. She found her doctors through word of mouth and the Internet, she said, speaking in the office of her lawyer, Michael Bast. She said the first doctor, at NewYork-Presbyterian/Weill Cornell hospital, began urging her to have a cesarean after her water had broken and she had labored for a few hours. Hoping for a different outcome for her second pregnancy, she went to Lenox Hill Hospital, with the same result.

Still hoping for a vaginal birth, she changed doctors again for the third pregnancy. She also hired a doula to help her with the childbirth.

At first, she said, Dr. Gorelik appeared to relent, saying he would give her an epidural for the pain and then reconsider. “I was begging, give me another hour, give me another two hours,” Mrs. Dray said. Her mother, who was there, supported her, and the doctor said, “I’m not bargaining here,” Mrs. Dray said.

Mrs. Dray said she kept begging on the operating table. His answer, she recalled, was, “Don’t speak.”

Sheelagh McNeill contributed research.

A version of this article appears in print on May 17, 2014, on page A18 of the New York edition with the headline: Mother Accuses Doctors of Forcing a C-Section.