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Med mal indemnity fund debate continues

<http://www.crainsnewyork.com/article/20110330/PULSE/110329850>

Medical Liability Mutual Insurance Co., New York's largest medical malpractice insurance carrier, is predicting a significant drop in obstetricians' premiums if the Cuomo administration's birth injury indemnity fund plan is adopted.

The proposal would be funded by a 1.6% “baby tax” on deliveries, to be paid by hospitals. That money would go to pay for the ongoing medical expenses of infants who suffer a neurological impairment due to oxygen deprivation at birth. But the New York Chapter of the American College of Obstetricians and Gynecologists charges that such a definition is flawed.

Despite the common belief that cerebral palsy—the condition that results in the most suits against obstetricians—is caused by loss of oxygen during birth, science has shown that not to be true. “In 93% of the cases of cerebral palsy, we know that is not the case,” said NY-ACOG's executive director, Donna Montalto. “ACOG opposes the current definition of birth-related neurological injury because it is not scientifically written nor is it accurate. Such a definition could cause court proceedings to be settled or lost based on inaccurate scientific evidence of neonatal encephalopathy [brain damage] simply for purposes of qualifying for funding.”

It is in the interest of both OBs and hospitals to make sure that these children's care comes through the fund, or there will be little reduction in the number of cases that go to trial.