

Had an abortion? Call an attorney

By Andrew Schlafly, Esq.

After emotional and spiritual counseling needs have been addressed, what can we say to a woman who has recently had an abortion?

Answer: Call an attorney.

According to numerous reports, abortion increases the risk of breast cancer. However, the abortion industry and medical establishment withholds this information in an attempt to prevent massive lawsuits from being filed. Many abortion proponents allege that the abortion-breast cancer (ABC) link is fabricated, but comparisons among similar countries only reinforce the connection.

In Ireland, for example, the breast cancer rate is about one in 13—approximately half of the one in 7.5 rate in the United States. The difference: Ireland bans abortion, while the United States promotes it. In England, abortion is common and breast cancer rates are high. But in Northern Ireland, the breast cancer rates are significantly lower than in England. This is because abortion there is legal but uncommon.

Romania, which enjoyed one of the lowest breast cancer rates in the entire world until 1990, displays a similar dynamic. Romania's breast cancer rate was once an astounding one-sixth the rate of the United States. But since abortion's legalization and widespread promotion, breast cancer rates have sharply increased. In the information packet for the World Conference on Breast Cancer (July 1997), a Romanian observer lamented, "The liberalization of abortions in Romania in 1990, the significant increase of the number of abortions at relatively short intervals, determined a rise in the incidence of breast and uterine cervix cancer in my country."

Malpractice suits

So what does all this mean for an abortion victim? For the rest of her life, she should be on the lookout for breast cancer. Her chance of developing the disease may have risen from only one in 13 to one in three, depending on her original risk. Dr. Chris Kahlenborn, an internist in Pennsylvania who has studied the increase in breast cancer from abortion, cited a study showing that women who have a genetic disposition towards breast cancer see their risk of developing the disease before age 45 rise to one in one after an abortion—a virtual certainty.

Breast cancer cases already constitute the most popular form of malpractice actions, as attorneys sue physicians for not diagnosing the condition sooner. The average payout is \$200,000. The malpractice crisis is primarily due to the rise in breast cancer, and high abortion rates are imposing this cost on all medical care.

Yet the worst still lies ahead. Most victims of abortion haven't reached the ages most susceptible to breast cancer. The wave of breast cancer cases seen to date is likely just the beginning. The tsunami of breast cancer cases from the large number of abortions in the 1980s and 1990s has yet to hit.

State disclosure

Today, a victim of abortion faces a heightened risk of developing breast cancer in 10, 20 or 30 years. But would the mother have agreed to that abortion had she known about her risk? Many, perhaps most, would not.

Only three states—Texas, Mississippi and Minnesota—have statutes expressly requiring abortion providers to inform their patients that abortion may

increase the risk of breast cancer. But under pressure by pro-abortion groups, Minnesota's health department backed away from its own requirement in its materials. A fourth state, Kansas, provides the information through state publications, including its web site. However, two other states, Alabama and Louisiana, have retreated from disclosing the increased risk. This is because the abortion industry is powerful and will do anything—including exerting pressure in particular states—to conceal this risk from women.

In Mississippi, where disclosure of the risk became mandatory in 1996, many women have decided against having an abortion. Mothers cannot procure an abortion there until they sign a form indicating they've specifically been told about an increased ABC risk. In response to this and other requirements, abortions have dramatically fallen in Mississippi. In 1991 the number of abortions performed there was 8,814; and in 2002, the latest year for which data is available, this number dropped to 3,605, a decline of nearly 60 percent. If that trend spread nationwide, more than 500,000 infants would be saved annually.

What victims can do

If a victim was not told her abortion could increase her risk of breast cancer, then she may not have given "informed consent" and should consult an attorney.

All physicians have a general duty to obtain "informed consent" from patients prior to any operation. This same duty applies to abortion, just as it would apply to repairing a broken arm or removing an appendix. Even patients who receive vaccinations are entitled to know the risks associated with it, and their consent is only meaningful if it is fully informed.

Mothers who have undergone abortion without full disclosure are beginning to exercise their legal rights—as they should. One lawsuit on this issue in Pennsylvania has already settled on confidential terms, after a lawsuit on similar grounds succeeded in Australia. Pennsylvania does not have a law expressly requiring that abortion providers disclose a connection with breast cancer, but the common law imposes a duty of informed consent in nearly all states.

Similarly, an Oregon judge approved a settlement paid on behalf of an abortion provider there to a 19-year-old girl with a family history of breast cancer. The girl was not told of an increased risk when she had an abortion at age 15. Nevertheless, she recovered damages in her youth, even though she has not developed breast cancer.

If there was a lack of informed consent, then those who made money from the abortion should be held liable by the court system for that cost.

Finding legal help

Lawsuits for personal injury or malpractice are typically pursued on a contingency basis. In practical terms that means the patient or victim typically doesn't pay any of the costs or fees related to such a lawsuit. The attorney bears the expenses of investigating the facts, hiring an expert, paying the filing fees and prosecuting the matter until its conclusion.

The greater the injury and higher the claim for damages, the more willing an attorney will be to pursue the case. If the abortion victim, for example, has a family history of breast cancer, and she was not told that the abortion heightens her risk, then her abortion may have given her a death sentence without her consent. Thus, she has a claim for a potentially shortened life, substantial medical expenses, loss of employment and mental distress because her consent was not informed.

Whether she lives in a state mandating disclosure or not, her legal action is simple. At trial, a jury should hear how an operation causing her this increased risk was performed without her informed consent. The jury will then decide how much to award the victim.

Even many people who favor abortion disapprove of concealing or withholding medical information from patients about the procedure. Though the legal profession, and particularly the judiciary, tends to support abortion more than other professions, the doctrine of informed consent is well established. Inevitably, abortionists who do not inform mothers of the risks of the procedure will lose in court.

The abortion industry is analogous to the tobacco industry of decades ago, which was finally held liable for the costs it imposed on individuals and society. Any industry that profits from causing cancer will be held liable by juries for injuries it causes. Injuries also include problems beyond breast cancer. For example, the heightened risk of premature births for future children may lead to greater claims.

Our legal system properly requires businesses to pay for the harm they cause. If an industry can avoid liability for its harm, then it will exploit that advantage at the expense of innocent victims. However, the legal system can prevent that from happening. Many victims of abortion face future breast cancer, which will impose enormous costs, and the abortion industry should pay those costs. Perhaps abortion clinics would be less profitable and far fewer in number if they were financially obligated to pay the costs caused by their operations.

Andrew Schlafly, Esq., is general counsel to the Association of American Physicians & Surgeons. Persons with ABC link cases or questions can email him with "abortion" in the subject line at ASchlafly@aol.com. This article does not constitute legal advice and readers should consult their own attorneys.