

Your Child Is Disabled Since Birth? Did Something Happen ?

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A few years ago, I wrote several articles entitled, "Don't always trust your CPA, Don't always trust your realtor", etc. The articles dealt with situations in which I was acquainted, either as a participant or spectator. The first article stated the basics of the articles, as follows;

In our economy/society, whenever we hire a professional, we make several important assumptions. Some of those assumptions, in one business affair or another, will be proven false. First, we assume that if the professional operates in any given field, that the professional is well trained, knows the rules, and remains current with regard to new developments in that field. Second, we assume that the professional won't "bite off more than he can chew", that is, if the services we require are beyond the ability of the professional to provide, he will withdraw and refer us to someone else who is able to provide those services. And last, as regards this article, probably the most important assumption we make is that the professional is ethical. By that, we assume that the professional won't take advantage of our ignorance, our situation in life, our lack of training in his area, or our failure to "watch carefully." We assume that the professional will do what's best for us, his client. We expect the professional to do the "right thing". We expect the professional to be our advocate. We expect to pay the professional a fair amount for his efforts and we assume that if the professional agrees to that and if he agrees to represent us, to work for us, to advise us, that our interests, as they are represented by him, will come first.

Sadly, in one occurrence after another, in practically every vocation, the above is not always the case. And in some, not only is it only one or even several participants responsible for acting in a manner contrary to the above, it does in fact seem universal.

This article addresses the practice of medicine, specifically physicians, certainly not all physicians, but probably more than one would expect from this esteemed profession. It will describe a pregnancy and birth and the months and years following the birth. I will describe the successes and failures, what went wrong and why and what could have gone right and didn't.

Physicians stand at the pinnacle of one of the world's most respected professions. We all have stories of this or that physician saving one's life, etc. I know of several wonderful physicians who go far out of their way for their patients, who have bedrooms at hospitals, who miss birthdays, Christmas, and other holidays, But we must always remember that physicians are simply human, subject to the identical incentives as all other humans.

Child disabilities are facts of life. And there are many. And the causes are innumerable. Autism, chromosome abnormalities, Down syndrome, fetal alcohol and drug syndromes, genetic disorders, spina bifida, epilepsy, dyslexia, dyscalculia, and cerebral palsy are just a few. Some have no definite cause, while some have specific causes. It may simply be God's will. But it may also be medical malpractice. The cause is often obvious. But often it is very well hidden. Often the parents will never know the why, only the what.

I know of one young man who, during his early toddler years, met all the various milestones for his age, including standing, crawling, taking steps, pulling up, and others. Then, immediately after receiving a vaccination, he began seizing and losing whatever abilities he had previously achieved. The two events, his vaccination and the onset of seizures, etc., were clearly inter-related. Some may think I am against vaccinations, which is not true. But we need to face facts. Stuff happens. Rarely, but "stuff" happens. No one should use the fact that

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stuff happens to oppose vaccinations. Stuff will occasionally happen whether or not one's child is vaccinated. Should we change the vaccination process? Perhaps. Should we change the time frame in which vaccinations are administered so that so many vaccinations are not administered in such a short time frame to young and perhaps fragile bodies? Perhaps. However, vaccinations are vitally important and thus, should be used. Vaccines are not inherently more dangerous than other drugs. A short anecdote about an acquaintance, a woman who worked in hospital operating rooms her entire adult life as a registered nurse, follows. For virtually her entire career, she had never had a reaction to the anesthesia used at the time. But unexpectedly, while in her early fifties, she had a reaction to the anesthesia that very nearly killed her. It caused organ damage and she was forced to retire. She had always known the anesthesia posed risks but she chose to accept the risks as part of her profession. However, as a result of the damage caused by their product, the drug manufacturer paid her monthly stipends, significant stipends to compensate her for her injuries. Likewise, the vaccine manufacturer of the product that caused the young man's problems paid, and still pays, for any and all care, attendants, nurses, physicians, and durable medical equipment required.

Drugs and procedures are not without risks. Vaccines are not without risks. Life is not without risks.

But suppose a child's disability was not God's will and was not caused by a vaccine? Suppose the physician, or hospital personnel, made an error, didn't follow protocol, and thereby took risks that in most cases, resulted in no adverse outcomes but in this case, did result in an adverse outcome?

In 2017 I wrote an article concerning the Certified Public Accountant (CPA) profession entitled "The Risk To Me If Something Goes Wrong". In short, this means that a CPA may act in a manner not in

keeping with the professional standards he swore to uphold in his work. He may push the limits for various reasons, almost always personal gain, eg., client retention, growth of book of business, etc., if he believes that "The Risk To Me If Something Goes Wrong" is low. In other words, if the chance of something "blowing up" is low relative to the benefit he perceives he will gain by pushing the limits beyond what is normally considered acceptable, if he thinks he "will get away with it", he will push those limits.

The character flaw is not confined to CPAs. Because we are all human, the same is true of physicians, lawyers, mechanics, landscapers, virtually any profession known to man. People do things in the practice of their profession, that even though not in accordance with standards, morals, or protocol, they do it anyway. They do it because they've always done it that way, and whatever "it" is will benefit them, and they believe that they can get away with it. Sometimes to the extreme detriment of the client, patient, customer.

Regarding this article, physicians in the practice of OB/GYN, not all of course, in fact not even most, but a sufficient number to be a cause for concern, at times also employ risk analysis and adopt the philosophy espoused by "The Risk To Me If Something Goes Wrong". Also, at times, other physicians in various specialties who serve early childhood persons, not all of course, also fail in representing their client above all else.

This article concerns the birth of a child who was afflicted with Cerebral Palsy (CP), a disease that can cause motor skills limitations, developmental delays, etc. Many children with CP, although they will always have CP, go on and live productive lives, marrying, climbing mountains, etc. Others may never marry, walk, speak, drive, hit a baseball, serve in the Army.

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Skipping ahead to the day of birth, the pregnant mother began having contractions on a Saturday night and they continued throughout the night. The next day, Sunday, she and her husband loaded the car and took off for the hospital, arriving at around 7:00 AM. The baby, if born that day, would be two weeks early. The woman registered and the doctor was notified. Hospital staff delivered the woman to the birthing room. They asked whether she wanted an epidural and she responded yes. The doctor arrived and stated that her water had not broken but that “we should go ahead and have a birth today.” He manually broke her water and she and her husband sat back to wait. The woman was administered a Pitocin IV. “Pitocin is used to either strengthen contractions or to induce contractions during the labor and childbirth process”¹. At that time, the woman had dilated to approximately ten centimeters.

Importantly, although Pitocin is used extensively and typically, if not exactly safe, at least problems do not usually occur. When it is used it must be carefully monitored. If not, if overused or if problems arise as in this case, it can be very dangerous to the unborn child. Hence, “The Risk to Me If Something Goes Wrong”. Usually nothing goes wrong. And if something does go wrong, what is the risk to me, the physician?

As the day wore on, the woman remained dilated at approximately ten centimeters. So, at the doctor’s instructions, the Pitocin drip was increased. The baby was monitored and “seemed” well. However, this sequence of events was repeated several times to cause the woman to dilate to a degree to accommodate birth. So, even though the woman was having contractions, she was not dilating. It was at this time that the monitor, numerous times, indicated that the baby’s heart rate was fluctuating greatly and decreasing, even at times disappearing.

Finally, as afternoon wore on, the doctor ordered a final larger drip of the Pitocin. As the larger drip was administered, the baby’s heart fluctuated wildly and then disappeared for a time, then reappeared, and so on. And suddenly, events began moving rapidly as the doctor stated that “we need to get the baby out” and ordered a C-Section. The C-Section was performed and it was determined that the baby had been entangled in the umbilical cord and had been unable to move down the birth canal. The woman and the baby were moved to a room. However, as the woman attempted to nurse the baby, he would not suck. The nursing staff noted that his tongue was rolled up against the roof of his mouth and he would not take the nipple. The baby was kept in the hospital an extra day and the hospital staff noted that if he would not take a bottle, he would have to be tube fed. Finally, he did take the bottle and went home a day or so late.

As the months passed it became evident that the baby was meeting none of the normal milestones. He was unable to crawl, to stand, to pull up, to pass an object from one hand to another, to roll over, to hold his head up, etc. His pediatrician referred him to a pediatric neurologist who subjected him to numerous tests including an MRI on neck and head, X-Rays, tests that measured startle reflex, etc. All tests measured normal. At no time were the parents questioned about the birth, about the need for a C-Section, about the use of Pitocin. No discussion whatever.

As far as is known, there was not and never has been, any review of the records of the birth. The OB/GYN was never questioned about the emergency C-Section or baby’s pre-birth distress during labor. Following one test after another, after a visit to a geneticist, by default, the child was declared to have cerebral palsy.

¹ Pitocin Errors and Cerebral Palsy, Cerebral Palsy Guidance, Pierrette Mimi Poinsett, M.D., November 23, 2020

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To the educated observer it would appear to be quite strange that, having eliminated many causes for the child's CP, some physician, any physician who had seen the child, had not questioned the circumstances of the birth. Knowing the risks of Pitocin use, even a non-physician would have, at the least, wondered whether the long labor combined with the failure to dilate combined with the heavy use of Pitocin, may have contributed to the child's CP. But no, not one of these educated, experienced, pediatricians or neurologists was sufficiently curious, or at least sufficiently curious to ask the question, "Was this child's CP caused by medical malpractice at the time of birth"? Knowing the problems that awaited this family and knowing the future costs of care, no one mentioned to the family that Pitocin has a history, if used incorrectly, if not correctly monitored, of contributing to Cerebral Palsy. Perhaps Pitocin had nothing to do with the resulting Cerebral Palsy. Perhaps it did. The family will never know. And by not knowing, if the cause WAS medical malpractice, the family must create other means of financially caring for the disabled child for there will be no medical malpractice settlement with which to create a special needs trust, a trust designed to care for the disabled individual upon the death of the parents.

Should the child's pediatrician have taken the initiative? Should she have asked to review the records of the birth of the child, those of the OB/GYN as well as those of the hospital? Should she have made the parents aware of the dangers of Pitocin? Was she, as she certainly should have been, the baby's expert advocate? Should she have at least asked the question, "could medical malpractice at the time of birth have been the cause of all this"? Or did she, above all else, not want to rock the boat. Did she desire, above all else, to not be branded,

among the close knit medical community, a traitor to her kind?

Should the neurologist have taken the initiative? Having ruled out virtually everything else, was it not incumbent on him to at least ask the question, "could the cause have been medical malpractice"? Between trips overseas as part of Doctors Without Borders, where he treated scores of families overseas, should he have at least, AT LEAST, acted on behalf of the family as the family's expert advocate and asked the question, "could medical malpractice, at the time of birth, have been the cause of all this"? Or did he not want to rock the medical community boat?

What is a family to do in the event a child is born with a disability, one that may be, or more importantly may not be, the will of God, one that **could be** the result of medical malpractice? First, they should research the disability. Is this disability ever caused by medical malpractice? If so, what are the probabilities of such an event? How may medical malpractice cause this disability? Do court cases cite specific malpractice? After gaining knowledge of the disability and its possible causes, if it appears to the parents that the disability **could have been caused** by medical malpractice, ask the pediatrician. If the pediatrician is unwilling to even consider the possibility, then a new pediatrician is in order. Medical malpractice attorneys are everywhere. The parents should ask.

Parents should be always aware of the statute of limitations in their state. When the statute has run, then the window is closed.

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