



November 2025

Special Newsletter for

Personal Injury

Attorneys

This Month's Question:

Can Medical Consulting Services Be of Use in a Criminal Case?

GO MD Review Answer:

Since the inception of our consulting service, we have focused on helping plaintiff and Claimant attorneys with a wide range of medical issues in civil cases. A recent case involving a criminal matter demonstrates the broad scope of our ability to help attorneys help their clients.

A criminal defense attorney called about a case he was involved in. He had a 42-year-old client who is a single father of several children. The client's four-year-old daughter fell while jumping on a bed and broke the long bone in her upper arm. There were no other injuries of any kind, nor have any injuries been reported previously to this child or her siblings. Although that was her only injury, and the fall from the bed was witnessed by her siblings, who had all agreed that she fell off the bed while jumping on it, the client had been charged with felony child abuse. The state's primary witness is an overzealous social worker who opined that a broken humerus can only be caused by non-accidental trauma. The social worker based her opinion on a single article from a medical journal. The article was

written in the early 1970s when "battered child syndrome" was becoming a known medical entity.

Since the term "battered child syndrome" was first coined by Dr. Walter Kempe (at the University of Colorado) and his colleagues in 1962, professional and public awareness of the plight of maltreated children has expanded to include child sexual abuse, child neglect, and, most recently, emotional maltreatment. Battered child syndrome was initially formulated to explain patterns of unexplained fractures in young children detected by X-ray. Eventually, it included all forms of physical abuse of children by their caregivers. Kempe's initial formulation of this syndrome has shaped many people's response to this significant public health problem. To prevent cases from resulting in severe injury or death, states have developed a protection system that emphasizes early identification, mandatory reporting, investigation, and risk assessment. Unfortunately, an unintended consequence of this train of thought has led to the prosecution of parents who are innocent of abuse.

Although the social worker in this case was narrowly focused on the fact that a broken arm is always caused by physical abuse, it is abundantly clear in the medical literature that such is not the case, particularly when there is no other trauma to the child and no other evidence suggesting abuse. Nonetheless, this man was held without bail until trial. We were able to gather a large number of peer-reviewed medical journal articles that clearly state that after the age of two, children are more prone to fractures, especially when falling from heights, such as when jumping on furniture. In addition, our report clearly shows that the trauma suffered by the child was highly likely to be accidental trauma as opposed to child abuse.

The attorney with whom we consulted felt that, because of the report we prepared and the research we conducted, the charges his client faced were dropped before trial.

Thus, you and your client may benefit from a medical-legal review of your criminal case.

ALLOW ME TO ANALYZE YOUR CLAIM & OPTIMIZE ITS VALUE

- * Assessment of Case Validity and Value**
- * Determination of Future Medical Care**
- * Assistance with Strategies to Promote Medical Theories & Causation**
- * Medical Summary Reports for Settlement Letters**
- * Medical Research and Delivery of Medical Journal Articles**
- * Answering Specific Medical Questions**
- * Interpretation of Meaning, or lack thereof, of Medical Reports & Records**
- * Standard of Care Reviews**
- * Deposition & Trial Question Preparation**
- * Facilitation of Communication with Clients, Families & Professionals**
- * IME Observation & IME Rebuttal Reports**

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Best regards,

Joe Schifilliti MD, MJ

P.S.---Please reply if you have a case to discuss!

P.P.S. ---If you found this newsletter helpful, please reply with: Yes

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