

# Hypoxic And Ischemic Birth Injuries

We are looking at hypoxic and ischemic birth injuries, their various causes, and the approach taken by expert attorneys to uncover malpractice in these cases.



A White Paper Presented By

**The Lawrence Firm, PSC**  
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# Lack Of Blood Flow And Oxygen To The Brain During Childbirth

As a new parent, you may have spent several years dreaming of someday embracing your child and certainly nine months preparing for his or her arrival. When complications arose during delivery and your child was born with cerebral palsy, stroke, brain damage or other birth injury, your confusion, anger and mixed emotions are understandable.

You love your child with all your heart and will do whatever you can to care for them. But, if your child's tragic injuries could have been avoided but for some error or negligence on the part of the health care providers, you want and need to know why.

Do not feel bad about whatever emotional reactions you are experiencing. The important things are to learn more about why your child suffered this injury and to get the help you need.



# What Caused Your Child To Have Cerebral Palsy?

Cerebral palsy, the most common birth injury, has several causes. One of the leading causes of cerebral palsy is a lack of blood flow to the brain during labor and delivery. The technical term for the brain damage caused by lack of blood flow to the brain is ischemia. When the lack of blood flow to the brain resulting in injury is preceded by a lack of oxygen during labor, it is frequently referred to as hypoxic-ischemic encephalopathy (HIE). HIE can result from blood losing its ability to carry oxygen to the brain, or from the child not obtaining oxygen because he or she is asphyxiated. This type of HIE is often thought to result from asphyxia but anytime the delivery of blood to the brain is impeded whether it be due to asphyxia, trauma or compression of the fetal head, the baby is at risk for brain injury.



Brain Damage At Birth and Cerebral Palsy Are Often The Result Of Error Or Malpractice

Although cerebral palsy can happen without anyone to blame, it is frequently completely avoidable. In fact, most cases of cerebral palsy and other birth injuries resulting from ischemia, trauma, compression or hypoxic-ischemic encephalopathy are a result of someone's error, failure to follow procedure or another form of malpractice. It is normal to be upset, even outraged, that someone else's carelessness could result in such suffering and challenges for your child, and the normal response is to seek justice and compensation.

# Causes Of Lack Of Blood Flow And Oxygen To The Brain During Delivery

A variety of medical errors can lead to a lack of blood flow and oxygen to the brain during delivery. Some of the most common causes of hypoxia-ischemia are:

- + Failure to recognize or to intervene upon presentation of a non-reassuring fetal heart rate tracing
- + Failure to recognize and intervene in the case of a category III tracing or in the case of fetal distress
- + Failure to respond or intervene in the case of a category II tracing
- + Misuse of Pitocin
- + Failure to intervene in a prolonged or protracted labor
- + Failure to intervene when contractions come too frequently, too powerfully, too long or without enough rest in between (tachysystole, hyperstimulation)
- + Trauma to the fetal head from misapplication of forceps or vacuum extraction
- + Failure to recognize malpresentation
- + Delayed cesarean delivery

# Misreading Of Fetal Heart Rate Tracing

In almost all deliveries, medical professionals use specialized equipment to monitor the heart rates of both the mother and the child. When used as intended, the fetal heart rate monitoring system delivers information in the form of waveforms that indicate changes in heart rate. This data is extremely nuanced and complex, but all medical professionals involved with the birthing process should have full working knowledge of how to interpret critical information, including:

- 01 **Changes in the fetal heart rate**

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- 02 **The degree to which the fetal heart rate increases or decreases (accelerations, decelerations, bradycardia, tachycardia, decreased variability)**

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- 03 **The length of time the fetal heart rate remains abnormal**

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- 04 **The stages of the birthing process that should coincide with various changes in fetal heart rate**

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- 05 **The pattern of contractions**

These are just a few of the important aspects of data provided by the fetal heart rate monitoring technology that must be observed and interpreted correctly to avoid hypoxia-ischemia and other complications. Proper reading of the information given by the fetal heart rate monitor is essential to keep the child adequately oxygenated.

Often when the heart rate monitor indicates abnormalities, it is a sign of fetal distress and immediate action is required. Failure to correctly read the monitors can lead to unnecessary delays, which increase the likelihood of hypoxic or ischemic injury to the baby. There are also many instances in which the attendant doctor and/or nurses make serious miscalculations in their interpretations of the data or respond inappropriately.

Obviously, lack of oxygen and blood flow to a baby's brain can lead to serious brain damage. Failing to recognize the signs of asphyxia and lack of blood flow or failing to respond in a timely, appropriate manner can lead to cerebral palsy and other related forms of birth-related brain damage.

# Delayed Cesarean Delivery

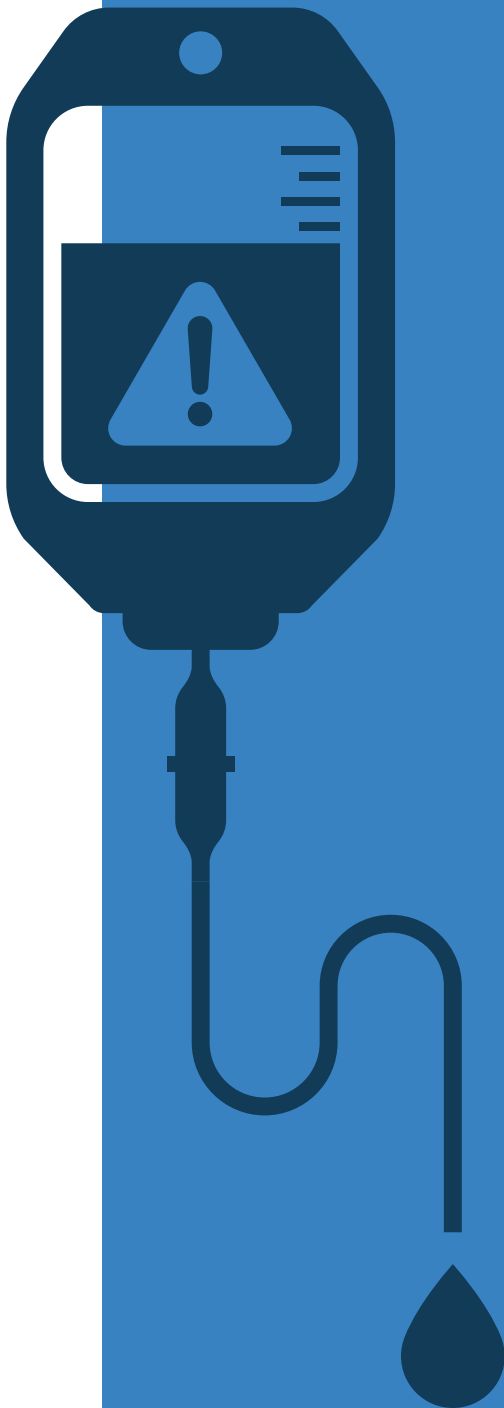
Another common reason children suffer from hypoxic-ischemic encephalopathy during childbirth is the failure to perform a cesarean section in a timely fashion. A C-section is an operation that involves delivering the child through a medical incision in the mother's abdomen, rather than through the birth canal.

With the exception of planned cesarean deliveries, most C-sections are done because something is wrong. If a C-section is not performed in a timely fashion, whatever stress the child might be experiencing is allowed to continue, thereby increasing the chances that blood flow and oxygen will be restricted and increasing the risk of injury to the child.



C-sections are performed for numerous reasons, including :

- ☑ Stalled labor (because the child's head is too large, the baby is not coming down the birth canal or the cervix has not dilated enough)
- ☑ Lack of oxygen (usually determined by proper reading and interpretation of the fetal heart rate monitoring technology)
- ☑ Abnormal positioning of the child (i.e., coming out feet or buttocks first – known as “breech” – or sideways)
- ☑ Problems with the umbilical cord (i.e., the cord is compressed by the uterus during contraction)
- ☑ Placental problems
- ☑ Previous C-section births



## Use Of The Drug Pitocin Leading To Hypoxic-Ischemic Encephalopathy

Pitocin, a synthetic form of the human hormone oxytocin, stimulates contractions so the mother can deliver the child. Oxytocin is listed as a “high-alert medication” because there is a heightened risk of causing significant patient harm when it is used in error. Many people are unaware that Pitocin can cause problems during childbirth if used inappropriately. Pitocin can cause contractions that are too frequent, too strong, or too close together. This is often called tachysystole or hyperstimulation. While a mother’s uterus is contracting, the baby can be deprived of oxygen and blood flow. With tachysystole or hyperstimulation, the baby does not have time to recover. This can lead to decreased blood flow to the fetal brain.

Accordingly, the frequency of uterine contractions and their effect on the baby’s heart rate need to be monitored closely when using Pitocin. All precautions need to be taken to make sure the child is getting enough oxygen to avoid brain damage, cerebral palsy and other related conditions.

# Protracted Labor: The Most Common Warning Sign

Labors involving complications like the ones discussed previously are often protracted labors, meaning they don't progress as quickly as expected. When the mother is in labor for an extended time, the child is much more likely to experience increased stress and complications that can result in asphyxia, hypoxia and ischemia.

If your child was born with cerebral palsy, the length of your labor is often an important consideration when it comes to evaluation of mistakes and malpractice on the part of the medical staff handling your child's birth. Attempting to discover definitively whether malpractice was involved is your legal team's most important work.

## The Indispensable Work Of Your Legal Team

Birth injury medical malpractice cases are incredibly complex and heavily defended. They often involve years of litigation and require coordination with a host of medical experts. Our premier legal team has decades of experience fighting for the rights of parents and their children who are injured during birth. We work tirelessly to obtain the compensation that families affected by medical malpractice deserve.

It takes an  
entire team  
to win this  
type of case.



# The Steps In The Legal Process

01

## **Recover:**

The most important thing for you to do is get well. Recover from the birth and make sure your child is getting the best care possible.

02

## **Call a lawyer:**

The next step is to talk with an attorney. Do this before you speak with your doctor about suspected medical malpractice or other related matters.

03

## **Initial consultation:**

During your initial consultation with an attorney from the Lawrence Firm, PSC, we will ask you several questions. Our first concern, of course, will be your well-being and the well-being of your child. We will also want to know about all the details you can remember so that we can start our investigation right away.

04

## **Case preparation:**

We perform in-depth case preparation (see the next section below) to make sure nothing is missed. If there is any evidence or expert testimony out there that we need to win your case, we'll find it.

05

## **Lawsuit:**

Many people are intimidated by the courtroom, but our lawyers have been through this process and we have won many times. In fact, our formidable track record of success often facilitates pre-suit settlement offers because defense attorneys know we are more than capable of winning in court.

06

## **Compensation:**

The goal of these cases is to obtain compensation for you and especially your child so that your child's special needs will be taken care of throughout the length of your child's life.





# Preparing Your Case

It takes an entire team to win your case.

The lawyers from the Lawrence Firm, PSC, are the drivers behind the litigation. We know how to find evidence and interpret it, how to maximize the use of experts, how to coordinate the efforts of the entire team, how to prepare your case and how to win.

One of the first things we do is get the medical records, starting with the prenatal care and delivery records. These records include any medications and treatments the doctor gave you, the fetal heart rate monitoring information, and both neonatal and post-natal care records.

Obtaining the needed medical information is not as easy as it might seem. Although the rules of evidence demand that all evidence be shared with opposing counsel, defendants' often have ways to stall this process and, sometimes, even attempt to conceal important information. Our attorneys have been through this before and we know how to uncover the evidence we need to build your case.



After the initial fact-finding, we start talking with our own network of experts to investigate the personal and medical facts and the underlying science for the case. Our lawyers work with an array of experts, formally and informally, including:

- **Obstetricians**
- **Maternal/fetal medicine experts**
- **Labor and delivery nurses**
- **Neonatologists and pediatricians**
- **Neuro-radiologists**
- **Pediatricians and pediatric neurologists**
- **Life care planners**
- **Economists**

We work with these experts to decipher the evidence and build a solid case theory. Once we have a winning strategy, we initiate litigation, conduct written discovery and start obtaining witness information by taking depositions from the doctors, medical staff on hand during the birth and any other witnesses.



Deposing doctors, nurses and other medical professionals involved in your child's birth is a critical step, because it creates a record for the judge and jury in court. It takes experience, knowledge and skill to pin them down to admitting their errors and building a strong case.

# Maximizing Your Compensation

As you probably already know, the costs of your child's injury will continue long after the initial post-natal medical care. For most people with cerebral palsy or other forms of birth-related brain damage, the medical costs, adaptive technology needs, and personal quality of life costs will continue for the duration of their lives.

Our work with life care planners and economists is crucial to the success of our clients' cases. Life care planners are experts in determining the type of care a person with special needs will require throughout his or her life, including:



**Medical care** such as medications, surgery, increased frequency of physician visits, etc.



**Technology required** to help your child overcome limitations caused by the brain's diminished function, including wheelchairs, ramps, walking aids, hearing aids, glasses, etc.



**Learning aids** to help compensate for your child's cognitive limitations, including extra schooling, special education and learning technology

Basically, life care planners help determine everything that will be needed to help your child adapt to the world and live as normal a life as possible with the limitations caused by the birth injuries he or she has suffered. Life care planners can also make an estimate as to the child's life expectancy that will be authoritative in court.

With the life care plan established, we then work with economists to determine the costs of additional medical care, adaptive technology and other issues as laid out by the life care expert.

By working with a life care planner to determine the long-term needs of your child and then with an economist to determine the cost of those extra needs resulting from your child's injuries at birth, we can present the court and jury with a compelling case for a compensation award that will truly compensate your family for a lifetime of costs.

If your family will incur costs to care for your child as a result of his or her birth injury for years to come, we work to seek compensation that covers all of those costs for your child's entire life.



# Why We Win

Our years of experience and knowledge, along with the team of professionals we use to build our cases, give us a unique edge. Our attorneys walk into the courtroom knowing exactly which areas to explore with the witnesses to strengthen your case and weaken the opposition's case. We break down the complex medical and legal details in a way that judges and juries can understand, and our team of experts helps us build a case for our clients to receive adequate compensation.

## Conclusion: Do Not Lose Hope



Although raising a child with cerebral palsy is not what you planned, do not lose hope. Most parents raising children with disabilities attest to the fact that although they face numerous challenges, there is still tremendous love and joy in their family.

You are not in this fight alone. Working with an experienced legal team can assure that you obtain a measure of justice for your family and the financial compensation to provide for the lifelong care your child needs.

## Sources

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