



Medical Child Abuse: Munchausen by Proxy and Pediatric Condition Falsification

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While many family practitioners are familiar with allegations of child sexual abuse and physical abuse, often arising in the context of a custody dispute, fewer are as knowledgeable about Factitious Disorder by Proxy ("FDP"), popularly referred to as Munchausen Syndrome by Proxy ("MSBP") and a variant thereof, Pediatric Condition Falsification ("PCF"). Whether you are representing a parent accused of child sexual abuse, the accusing parent or a parent with a chronically ill child, a basic understanding of these disorders is helpful to properly assess whether they may be an issue in your case.

This article explains both disorders and provides practice tips for handling a case where one of these disorders may be an issue.

What Is MSBP/FDP?

The American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (the "DSM-IV") is a good starting point for the practitioner seeking to understand the characteristics of FDP. While FDP is not an "official" category in the DSM-IV, a description of the disorder is contained in Appendix B, in a section of disorders requiring "further study." The DSM-IV advises practitioners to use the diagnosis of Factitious Disorder Not Otherwise Specified for individuals who satisfy the criteria for FDP.

The DSM-IV defines FDP as "the deliberate production or feigning of physical or psychological signs or symptoms in another person who is under the individual's care." The typical case involves a parent (usually the mother, but could also be a caregiver or a medical professional) making the child ill. The impetus for the perpetrator's behavior is the "psychological need to assume the sick role by proxy", as well as to receive attention and praise for coming to the aid of the child. "External incentives" such as using the child as a pawn against the other parent in order to obtain custody or to obtain "economic gain" are not part of FDP. The classic victim is usually a young child, although infants, teenagers and even adults can be victims of a parent with FDP. Of note is the fact that the DSM-IV states "[l]ife stressors, especially marital conflict, may trigger the behavior."

The perpetrator may have an accomplice in the family. Sadly, some children unknowingly cooperate with a parent's efforts to make them sick. Some spouses are complicit and other spouses choose to disregard all suspicious behavior by their partners. Medical literature indicates that spouses may be unaware that they are living with a person with FDP until the issue is raised by vigilant medical professionals.

The Origin of the FDP Diagnosis

As previously stated, FDP is also referred to as Munchausen Syndrome by Proxy, or Munchausen by Proxy, and is named after the late Baron Von Munchausen. During the 18th century, the Baron was famous for exaggerating his exploits as a mercenary. Centuries later, in 1951, Dr. Richard Asher, a British physician, gave the Baron the distinction of having an illness named after him. Asher used Munchausen Syndrome to describe adult patients who appeared to be suffering from a physical illness, but were actually faking the symptoms and telling fantastic lies about their medical history. See, e.g., Donna Andrea Rosenberg, Munchausen Syndrome by Proxy, Child Abuse, 266 (Robert M. Reece, ed., 1994).

In 1977, *The Lancet*, a leading British medical journal, published an article titled *Munchausen Syndrome by Proxy: The Hinterland of Child Abuse*, by Dr. Roy Meadow, an English pediatrician. In the ensuing 30 years, there has been much written about the condition in medical publications, but there has been a paucity of material addressing the legal implications of this condition.

The Perpetrator's Motivation

As stated earlier, the primary motivation of FDP perpetrators is to garner attention and support from the medical community. The perpetrator enjoys the attention given to her, as concerned caretakers of her sick child, by the doctors and nurses attending the child.

What Is PCF?

In striking contrast to MSBP, PCF perpetrators fabricate illness in their child, but for a different reason. According to Dr. Herbert Schrier, a leading expert in the field of Munchausen by Proxy, co-author of *Hurting for Love: Munchausen by Proxy Syndrome* and author of the Munchausen by Proxy issue of *Current Problems in Pediatric and Adolescent Health Care*, the PCF category encompasses a wide array of motivations including, but not limited to the following:

- An intense desire not to be separated from the child;
- A sincere but delusional belief that the child is ill;
- An overwhelmed parent looking for help in caring for the child;
- A hypochondriac parent causing her child to endure needless medical procedures; and
- The external incentive of "secondary gain," including monetary rewards or revenge against a spouse for some perceived or actual wrong.

For example, a mother might manipulate a child into accusing his or her father of sexual abuse or the mother may make an allegation of child abuse, thereby subjecting the child to unwarranted medical exams and interviews by psychologists, law enforcement and child protective services personnel and prosecutors. Although the DSM-IV states that external incentives are not present in perpetrators with FDP, Dr. Schrier maintains that these external incentives may be present in an FDP scenario so long as they are not the "primary motive" for the illness fabrication. If secondary gain is the primary motive, then the behavior falls more appropriately under the rubric of PCF.

Practice Tips

If you represent a parent accused of sexual abuse by the other parent:

Consider the possibility that the accusing parent may have FDP or PCF. While these disorders are unlikely to be present in the majority of your cases involving child sexual abuse allegations, you would be remiss if failed to consider this possibility. Of course, we are not recommending that you raise the issue with the court as a red herring when there are absolutely no facts indicating the possible presence of either disorder. But if a client describes facts that indicate the possible presence of either disorder, you should consult a forensic psychologist and the child's doctors. In some situations, it may be appropriate for you to alert child protective services and/or the police to your concerns.

If you represent a client whose former spouse persists in accusing him or her of sexually abusing the parties' child after the investigation(s) revealed that such allegations were unfounded, you could fashion a two pronged argument. First, you could argue the FDP or PCF is present. Second, regardless of the accusing parent's motive for making baseless allegations, the accusing parent's actions constituted child abuse for the reasons set forth in the previous section.

When you represent the spouse or former spouse of a parent with FDP or PCF:

When medical professionals and law enforcement first suggest that one parent is making the child ill, the other parent may initially defend and rally around his or her partner. This reaction is understandable, but if this parent fails to take the necessary precautions to protect the child from the offending parent, he or she is in danger of

losing physical custody of the subject child to the state, and possibly their visitation rights. In some instances, Courts have terminated both parents' parental rights when the so-called healthy parent failed to protect the child from the offending parent. Therefore, it is imperative that you advise your client to comply with all recommendations given by the medical professionals treating the child, and with all court orders. There have been cases where the healthy parent eventually came to accept that his or her spouse had FDP or PCF, took the appropriate steps to protect the child, and as a result said parent was awarded sole custody of the child or visitation.

Consider having your client file a petition for a civil protection order on behalf of the child to ensure that the perpetrator is unable to have additional contact with the child. While the parent may be harming only one child in the family, if only the subject child is removed from the parent's care, then the other children could be at risk.

Perhaps the parties will be able to reach an agreement wherein the FDP or PCF parent will voluntarily give up physical custody and visitation until he or she receives treatment and the doctors for the both the parent and the child all agree that a healthy relationship can be facilitated. If a negotiated agreement cannot be reached, then you should seek a court order. If you are unable to persuade the court that the parent is harming the child, you can argue that the judge should as a precautionary measure at least order the parent to be evaluated by a medical professional before permitting unsupervised visitation.

In some instances, it might make sense to focus primarily on the offending parent's conduct and its impact on the child because the court's determination will ultimately be based upon what is in the best interests of the child. This will avoid the court getting bogged down in fight between dueling experts over whether a parent has FDP or PCF or some other disorder.

If you represent a parent accused of having FDP or PCF:

One possible approach is to emphasize that there is a lack of consensus in the medical community regarding these disorders. You can highlight the fact that these conditions are not official categories in the DSM-IV. Be aware that opposing counsel will likely argue that the DSM-IV was published in 1994 and since that time these disorders have been the subject of a multitude of studies. Another possible approach is to argue that your client's actions were that of a good parent and do not indicate FDP or PCF. It is also advisable to hire your own forensic psychologist to interview your client and a medical expert to review the subject child's medical records.

In some instances, it may be appropriate to argue that the allegations of FDP or PCF have no basis in fact. They are merely part of a calculated strategy employed by your client's former spouse to discredit your client.

You should also investigate the possibility that the child is feigning illness without parental involvement. See, Judith A. Libow, Child and Adolescent Illness Falsification, 105 *Pediatrics* 336, 336-342 (2000).

If there is strong evidence that your client does in fact have one of these disorders, your best option is to seek supervised visitation and direct your client to get into therapy immediately. If your client makes substantial progress in therapy, you can then argue that supervised visitation is no longer necessary.

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