

Wrongful conception

[Health & Medicine](#), [Pregnancy](#)



The traditional way of doing things in America goes as follows; you meet Mr. or Mrs. Right, you get married, buy a house and have a family. After having all the children that one family wants someone in the relationship makes the responsible decision to be permanently sterilized or continue using birth control until menopause. Being permanently sterilized means, having the woman's fallopian tubes either clamped or cut so as no more eggs are released into the uterus or having a man's seminal vesicles cut so that no sperm is ejaculated.

When a pregnancy occurs after one of these measures has been taken, it is looked into as wrongful conception or wrongful pregnancy. Women can become pregnant when their fallopian tubes were not completely cut, a man's seminal vesicles are not severed all the way or something is wrong with the birth control in which she is taking. Wrongful conception, also known as wrongful pregnancy, is a case of action based on negligence in the provision of birth control or performance of sterilization procedures that result in an unwanted pregnancy. (Sullivan, 2000) Physicians and pharmacists have come under legal trouble when a patient becomes pregnant and it is unwanted. Women have many reasons for no longer wanting any more children. It could be due to the age of the woman and she is at a higher risk for the child to be mentally handicapped. The couple could merely be done having children because they have the desired amount that they could afford and wanted. The woman could have had a very difficult pregnancy in the past and therefore not want to put her at risk any further.

All of these are legitimate reasons to have a surgical intervention to no longer have children or to prevent having children with birth control. Many of <https://assignbuster.com/wrongful-conception/>

those parents who end up taking legal action against a physician are those who have genetic disorders that they do not wish to pass on to their unborn children. Parents who have genetic testing done and find out that the likelihood of their children developing sickle cell anemia, downs syndrome or any other genetic disorder choose to no longer put themselves in the running to conceive a child.

According to The Journal ofHealth, many medical malpractice claims have been brought against doctors by parents of children born with genetic diseases. In most of these cases, the parents allege either that the physicians failed to inform the parents of the availability of genetic testing for the unborn child or that the physician negligently performed the genetic testing. These claims automatically make physicians, genetic counselors, and genetic testing laboratories possible defendants in civil law suits.

As the patient or victim, it is a crushing moment to find out that someone failed to do their job and now an innocent life is being brought unwanted into the world. Patients have a Bill of Rights that must be followed by any physician or hospital. Patients have the right to access their own medical records. According to George D. Pozgar, patients may have access to information which includes, “ that maintained or possessed by a health care organization and/or a health care practitioner who has treated or is treating a patient” (Pozgar, 2010, p. 396).

With this right in place, patients should be able to prevent unwanted pregnancies from happening. This right makes for an open book policy in many hospital and physician offices. Patients now have access to their labs

and records online or even in the physician's office. The history behind wrongful conception is hard to determine with a timeline. It appears that when patients could have genetic testing done is when the number of cases started to arise for legal action being taken against physicians. One of the first reported cases was in 1974 with a family who sued their physician who performed a vasectomy after the couple's fourth child.

Continuing on from 1974 until present day, there are many patients that are affected from the actions of physicians all over. Currently, patients rely on medical testing to look for genetic disorders that can affect unborn children. Testing is becoming more and more advanced every day. Many pregnant have option to undergo genetic testing at twelve weeks to check for downs syndrome, trisomy 18, or trisomy 13. At the same time as these blood tests, an ultrasound test for fetal nuchal translucency is performed. Nuchal translucency screening uses an ultrasound test to examine the area at the back of the fetal neck for increased fluid. (" Common tests during,") During the second trimester of pregnancy a whole new set of blood tests are performed. Alpha-fetoprotein screening is done to determine open neural tube defects (ONTD) such as spina bifida, Down syndrome, other chromosomal abnormalities, defects in the abdominal wall of the fetus, twins - more than one fetus is making the protein, or a miscalculated due date, as the levels vary throughout pregnancy. (" Common tests during,") Some of these tests can come back negative when in reality they are positive or patients can also get a false-negative result.

Patient now sign consents so that they will not sue the physicians when these rare occurrences happen. The way that lawsuits and malpractice suits have come up, the rate of lawsuits against physicians will continue to rise. It seems that physicians need to have malpractice insurance with higher premiums due to the fact the patients now are “sue happy”. Physicians are very careful about what information they tell their patients and with how tests and physical examinations are given. The more information and the more physicians explain circumstances to patients, the less likely a patient is to sue.

There are patients who look for reasons to file malpractice suits against physicians. Wrongful conceptions or wrongful pregnancies do happen. There are many reasons for this unhappy occurrence to happen, physician wrongdoing, pharmacist tampering or misinformation given to the patient. No matter what the reason is that the conception happened, the parents of the unborn child are still going to be affected. To compensate for some of the mental and emotional damage that is going to be done with having an unplanned pregnancy, patients are choosing to sue physicians.

References

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