

## ADHD & Perinatal Hypoxic Ischemic Events... The New Plaintiffs' Frontier?

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In 2008 four to twelve percent of children in the United States between five and 17 years of age were diagnosed with ADHD. The national annual cost of ADHD-related illnesses in children under 18 was estimated to be between \$38 and \$52.4 billion. This staggering figure doesn't include the cost of care for other mental and physical conditions commonly linked to ADHD. Children diagnosed with ADHD often require intensive medical care along with specialized social and educational services<sup>1</sup>.

*The Journal of Pediatrics* reports that the prevalence and chronic nature of ADHD—combined with rising healthcare costs—makes ADHD-related treatment “a public health priority.” In December 2012 a retrospective study<sup>1</sup> investigated the association between ischemic hypoxic conditions (IHCs) and ADHD, indicating “the role of IHCs in the development is unexplored.” The authors hypothesized that if independent risk factors for ADHD—such as IHCs—could be identified, this could lead to early diagnoses when treatment is more effective. They further suggested that early diagnosis could lead to possible interruption of “modifiable” clinical conditions, such as preeclampsia and fetal asphyxia, which may be risk factors for ADHD. The authors concluded that IHCs, “especially birth asphyxia,” are strongly and independently associated with the increased risk of ADHD.

These unproven assertions create new concerns for physicians, hospitals, and professional liability insurance carriers. The study implies that not only are labor and delivery events strongly associated with ADHD, but that ADHD may be avoidable in some circumstances. These conclusions open the door to an extension of causation theories and damages in birth-related injury cases.

You and your defense counsel should be prepared to challenge the scientific basis and reliability of this study, which may be employed by plaintiffs' attorneys, especially in cases where damages are uncertain.

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<sup>1</sup>Getahun D, Rboads GG, Demissie K, Lu SE. In utero exposure to ischemic-hypoxic conditions and attention-deficit/hyperactivity disorder. *Pediatrics*. 2012; 131(1): 53-61.