

May 27, 2016

Howard Bauchner, MD
Editor in Chief
JAMA and The JAMA Network

Dear Dr. Bauchner:

I am writing to call for a retraction of *JAMA*'s 2005 paper "Fetal Pain: A Systematic Multidisciplinary Review of the Evidence."¹ The basis for this request is that the central argument of the paper was conclusively refuted by medical journals less than two years after it was published.

The authors of this *JAMA* paper declared that "fetal perception of pain is unlikely before the third trimester" because:

- "pain is a psychological construct" that requires "conscious perception."
- "fetal awareness of noxious stimuli requires functional thalamocortical connections."
- "thalamocortical fibers begin appearing between 23 to 30 weeks' gestational age...."

Debunking the above, a 2006 article in the journal *Pain: Clinical Updates*² documented through "multiple lines of evidence" that the "key mechanisms" of consciousness and pain perception "are not dependent" on the cortex. Consistent with this fact, the authors determined that pain perception begins in the "second trimester" and "well before the third trimester of human gestation."

Likewise, a 2007 paper in the journal *Behavioral and Brain Sciences*³ documented that children born with little or no cortex (hydranencephaly):

- "are conscious," "awake," "often alert," and "show responsiveness to their surroundings in the form of emotional or orienting reactions to environmental events...."
- "express pleasure by smiling and laughter, and aversion by 'fussing,' arching of the back and crying (in many gradations), their faces being animated by these emotional states."
- behave so normally that they "may initially present no conspicuous symptoms," and "occasionally the condition is not diagnosed until several months postnatally, when developmental milestones are missed."

¹ Lee SJ, Ralston HJ, Drey EA, Partridge JC, Rosen MA. Fetal pain: a systematic multidisciplinary review of the evidence. *JAMA*. 2005;294(8):947-54.

² Anand KJS., Clancy, B. Fetal Pain? *Pain: Clinical Updates*. 2006;14(2): 1-4.

³ Merker B. Consciousness without a cerebral cortex: a challenge for neuroscience and medicine. *Behav Brain Sci*. 2007;30(1):63-81.

Concluding, the author noted that these findings have “ramifying implications for issues in medical ethics,” including “pain management in children” who lack a cerebral cortex.

Moreover, the 2005 *JAMA* paper’s “Financial Disclosures” state “None reported,” but according to a 2005 *USA Today* article,⁴ at the time the paper was written and published, one of the paper’s authors, Eleanor Drey, was the medical director of a center that provides abortions.

Incidentally, the paper’s lead author (Susan J. Lee) and last author (Mark Rosen) have also been involved in the abortion industry,^{5 6} and neither revealed this to *JAMA*. The same *USA Today* article notes that “Catherine DeAngelis, the journal's editor in chief, said neither Lee nor Drey disclosed their abortion-related work or advocacy to the journal. Though she wishes they had, she said, it would not have influenced her decision to print the report.”

In sum:

- The 2005 *JAMA* paper’s primary finding is based upon a demonstrably false assertion.
- At least one authors of the paper misled *JAMA* by failing to reveal a financial conflict of interest.
- At least two of the other authors withheld relevant information about their backgrounds from *JAMA*.

Hence, in the interest of scientific integrity, I respectfully call for the retraction of this paper.

Sincerely,



James D. Agresti
President
Just Facts

⁴ Bazar E. 2 authors of fetal-pain paper accused of bias. USA Today. http://usatoday30.usatoday.com/news/health/2005-08-24-fetal-pain-bias_x.htm?siteID=je6NUbpObpQ-SV_paGPuZu3Jk5jLBs.YwQ. Published 2005. Accessed May 27, 2016.

⁵ Bazar E. 2 authors of fetal-pain paper accused of bias. USA Today. http://usatoday30.usatoday.com/news/health/2005-08-24-fetal-pain-bias_x.htm?siteID=je6NUbpObpQ-SV_paGPuZu3Jk5jLBs.YwQ. Published 2005. Accessed May 27, 2016.

⁶ Murphy Paul A. The First Ache. New York Times. <http://www.nytimes.com/2008/02/10/magazine/10Fetal-t.html>. Published 2008. Accessed May 27, 2016.