

## Moorhead lawyer fights two-decade war on circumcision

By [Dave Olson](#) on Nov 18, 2017 at 7:33 p.m.



Attorney Zenas Baer at his home in Moorhead. Baer, who has a legal office in Hawley, Minn., has strived for years to bring awareness to the issue of infant circumcision. Dave Olson/The Forum

MOORHEAD — If you listen to public radio in the Fargo-Moorhead area, you may be familiar with attorney Zenas Baer's ubiquitous ads touting a small but curious aspect of his firm's legal expertise — "circumcision litigation."

The ads, according to Baer, do what he wants them to do: raise the consciousness of listeners about the issue of infant circumcision and "get them wondering about it."

Infant circumcision is the removal of the foreskin from the penis of a newborn male, a common practice today but one that was nearly nonexistent in the U.S. prior to about 1870, according to Baer.

It was around that time, he said, that a notion arose in the medical community that masturbation and the release of seminal fluid harmed the immune system and led to disease.

By the same token, Baer said, it was believed removing the foreskin, a fleshy hood of tissue that covers the tip of the penis, would result in less masturbation.

Neither of those ideas enjoys widespread support today, but circumcision is entrenched in American culture, with about 56 percent of males born in the U.S. being circumcised, down from 75-80 percent a few decades ago, according to Baer.

### Benefits and risks

The American Academy of Pediatrics is on record stating the benefits of circumcision outweigh the risks. Potential positive health benefits of circumcision often cited include easier hygiene, decreased risk of urinary tract infections and penile cancer, as well as decreased risk of some sexually transmitted diseases, including HIV.

Still, the AAP doesn't recommend routine circumcision for all male newborns and it advocates leaving the circumcision decision up to parents.

Stephanie Hanson, a pediatrician with Sanford Medical Center in Fargo, said circumcision is a very common procedure locally.

"It's a procedure we do in the hospital every day," Hanson said, adding that with the risks and benefits of the procedure deemed to be roughly equal, medical staff leave the decision-making to families.

Risks, she said, include the potential for infection, bleeding and cosmetic issues.

"When a family has a discussion about circumcision, it's our job as pediatricians to make sure they understand the risks and the benefits," Hanson said.

'Affront on manhood'

Baer, who lives in Moorhead and has an office in Hawley, Minn., started working in the mid-1990s against what he maintains is an unjustifiable procedure that brings shock and pain to a child's entry into the world.

Over the past two decades, Baer has filed about a dozen cases against doctors and medical facilities that perform circumcision.

Some cases have gone to trial. Some have been dismissed. Other cases have gone through arbitration and mediation, and some have been settled, with some money changing hands, according to Baer.

In many instances, it is the parent of a boy who bring cases, but children themselves can bring cases once they reach 18.

"I'm reviewing one (case) right now with a man who just turned 18. He wants to bring an action against the doctor," Baer said, adding that the legal issue in many cases is informed consent, or lack thereof.

The challenge, Baer said, is convincing jurors that someone has been harmed, especially if those jurors are circumcised.

"One of the hardest things to overcome is the notion that a man is somehow diminished if he's circumcised; it's an affront on his manhood and some men just cannot accept the notion," Baer said.

Like father, like son

Baer said doctors he interviews in the course of lawsuits will often say the procedure is performed not because of a medical diagnosis but because families request it.

"Many times the reasons are: 'I want my child to look like me.' When a doctor has said that to me in a deposition, I ask the doctor: 'Well, did you ask the dad to pull down his pants to see what the target is?'" Baer said, adding he wants parents to think about the situation from the child's perspective.

"Let's imagine that a 1-day-old child has the ability to communicate," Baer said.

"That child would say: 'You know, that was a tight squeeze. I have a headache. My eyes are burning and the doctor just told me I'm a healthy newborn infant. Now, you want me to do what, Mom and Dad?'"

"That's the way I hope people can understand and reflect on the impact on the individual," Baer said. "The only way that child can communicate is through resistance. With the arms and legs and screaming that child does everything in his power to say: 'No, no, no.' But nobody listens."

Baer said that while there is societal condemnation of the practice of removing the genital tissue of young females for cultural reasons, young boys receive no such consideration.

He maintains that informed consent for parents considering circumcision for their child should include receiving a detailed explanation of the procedure, the body part being removed and the function of that body part.

Also, he said, "I think it would be beneficial if the parents actually watched a video of that procedure."

Efforts are small scale

Last summer, a group called Bloodstained Men and Their Friends demonstrated against circumcision by holding up signs on a busy thoroughfare in south Fargo. The organization also demonstrated in other cities in the region.

A spokesman for the group, Dominic Barba, said Baer visited with members of Bloodstained Men when the organization held a demonstration in the Fargo area.

"We know and appreciate Zenas and his work," Barba said.

While infant circumcision remains common, Barba said the work done by his group and individuals like Baer may be having an effect on the country's collective mindset.

"What we're seeing is American parents are starting to see that (circumcision) isn't a necessary intervention and it's not an ethical one," Barba said.

Still, Baer said efforts to change ideas about circumcision remain small scale, with perhaps three or four other attorneys around the country waging similar fights.

The reason, Baer said, is that while circumcision is highly lucrative to the medical world, there's little reward in opposing it.

"Where's the money? How are you going to make money on this?" Baer said.

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