Baxter case

In a 60 Minutes Report on March 16, 2008, Dennis Quaid and his wife Kimberly reported on the near death of their newly born twins. The twins had been taken to the hospital a few days after coming home because they showed signs of a staph infection. Part of the standard treatment in such cases, apparently, is the use of a blood thinner to prevent clotting. But the twins were given a blood thinner that turned their blood to the consistency of water. It was pouring out of them, leaking out everywhere it could -- their belly buttons, their noses, their toes.

Kimberly Quaid had a premonition that something had gone wrong, and so Dennis Quaid called the hospital at 9 p.m. to ask if the twins were O.K. He was told that they were, but, in fact, they were not. When the Quaids came to the hospital the morning after the disaster, they were met by their pediatrician, the head nurse, and a lawyer from “risk management,...the liability division of the hospital.”

The Quaids had not been called about the problem.

The twins should have been given Hep-Lock, a blood thinner for infants. They were given the adult version, Heparin. They should have gotten 10 units; they got 10,000 -- a thousand times more than prescribed, and they got it at least twice. The President of the hospital where this occurred said of the infants’ near-death experience:

It was the result of human error.

The spokesperson for Baxter, the manufacturer of the two blood thinners, said it was not their fault:

The errors that the hospital has acknowledged were preventable and due to failures in their system.

Both these statements blame the operators, three in this case according to the hospital: the individuals who put Heparin in the drug cabinets for the nurses to use, the person or persons who took the drugs from the cabinet to give to the nurses, the nurse or nurses who administered the drug.

The spokesperson for Baxter said that the way to prevent such errors is to read the label, but the containers for Heparin and Hep-Lock are very similar and are thus easy to confuse. They are the same shape and the same size, with labels differing only because one is darker blue than the other with a different name, but all in the same font. The previous year, six infants in Indianapolis were also given Heparin instead of Hep-Lock. Three died, and as a result, Baxter sent out a warning and redesigned the container for Hep-Lock so that it was visually different from the container for Heparin and required the removal of a

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1 *Ibid.*, quotation from Dennis Quaid on the 60 Minutes report. He added that the person was a lawyer.
plastic cover. What Baxter did not do was recall any of the old stock, and the Heparin that caused the near death of the Quaid twins came from old stock.²

It would be naive to accept the statements of Baxter and the hospital President at face value. Neither can be read straight, as statements of fact. Both are attempts at risk management, Baxter explicitly saying that it was not their fault and both saying that it was a preventable human error -- “not our fault,” that is, but “operator error,” the fault of those careless nurses and others in the hospital.

It would also be a mistake, however, to dismiss the claims. They purport to be truth-carriers, and so we should do what we need to do to determine whether they are true. To determine that, we would have to investigate in some detail, as the 60 Minutes Report did, exactly how it came to be that the drug was administered to the infants. We would need answers to the three questions we must ask regarding any accident:

What about the operators? Intelligent, well-trained, fully engaged in what they were doing? Were the nurses and others involved capable?

What about the situation? Unusual, different enough to cause problems even for the most well-trained, intelligent, and fully engaged operator? Did the problems occur at the end of a particularly hectic day? At the end of a shift?

What about the object at issue? So well designed that it would ensure that no operator error could cause something untoward?

Only after answering all three questions will we be in a position to determine the truth, or falsity, of the claims being made. In the case of the Quaid twins, it seems both that some in the hospital made mistakes and that there is a reason for their making mistakes, the objects at issue -- the containers for the drugs -- making it more likely than not that even the most intelligent, well-trained and fully engaged individual would mistake one for the other of the two medications at some time or other. The design produced an accident that had been waiting to happen. Only with more detailed information will we be able to provide a properly nuanced judgment.

Yet some moral judgments are easy to make:

• Baxter should have recalled all its former stock so that the kind of accident that occurred in Indianapolis could not occur again because of any failure on Baxter’s part to ensure that the drug containers were clearly distinguishable.
• The President of the hospital had no right to accuse anyone of human error without a full investigation.
• Baxter was in no position to accuse the hospital of “failures in their system” because it made those judgments without doing a proper analysis of the problem to see if it was in any way responsible.

² Tara Parker-Hope, New York Times, March 17, 2008; the quotations come from the “60 Minutes” report on the issue of medical mistakes of March 16, 2008. See the article and a link to the 60 Minutes report, see http://well.blogs.nytimes.com/2008/03/17/a-hollywood-family-takes-on-medical-mistakes/
Those in the hospital responsible for the twins were wrong not to inform the Quaids when they called that there was a problem with the twins. And it was impolitic in the extreme to have a hospital lawyer at the door to the twins’ room when the Quaids arrived: it sent the signal that those in the hospital were far more concerned to limit the hospital’s liability than to help solve the problem and save the twins.

These moral judgments are judgments about particular acts and omissions by Baxter and by those in the hospital, and none require any significant analysis -- though each is tentative, of course, refutable by additional evidence or good reasons for what all the world look to be unethical acts and omissions.

These moral judgments are easy to make in part because of the relations we take up with others once we occupy a particular role. In taking on the Quaid twins as patients, the physicians and nurses at the hospital took on moral responsibilities to the twins and to the Quaids, responsibilities the administrators in the hospital have an obligation to support and encourage. Those in the hospital breached those responsibilities when they failed to inform the Quaids of the problem when they called. These are responsibilities that are functions of the hospital having taken on patients. But the manner in which those in the hospital responded to the problem the improper medication caused puts into doubt the integrity of those who responded and those responsible for those responses, and it puts at risk the integrity of everyone else in the hospital. Any potential patient would have to wonder whether the problems the Quaids had was a fluke, uncharacteristic of care at that hospital, or the uncovering of a systemic problem -- a feature of the hospital’s character, as it were.

Why did those responsible not inform the Quaids when they called? It is difficult not to believe that they hoped to take care of the problem without the Quaids ever finding out. Why did those responsible have a lawyer by the door waiting to receive the Quaids the next morning? It is difficult not to believe that those responsible had a paramount interest in limiting their liability. This is not the sort of behavior we expect from someone of good character, and it is equally not the sort of behavior we expect from those in a hospital -- an organization whose stated purpose is to provide care for the sick and whose employees are supposed to act to further that stated purpose. Through their actions, those responsible are like a physician’s saying in such a situation, “I do not tell the truth when it might cause me harm” and “I am also more concerned about being sued than about helping my patients.” We would think such a physician had a character flaw.

Something more is wrong, that is, than just a single unethical act or omission. Consider Baxter’s response. Baxter is a pharmaceutical company. It makes drugs which it then sells so that patients can get proper medication. Patients and medical care professionals cannot know, and have no easy way of finding out, whether those drugs are properly made, whether they are what they claim to be, whether Baxter has taken due care in manufacturing them so that they are always have the same amount of ingredients, with their ingredients thoroughly mixed, in containers properly marked with the right ingredients of the right size. In short, we must trust that those in charge at Baxter have done what its selling drugs obligates them to do. They failed to do that when they did not recall
the former stock. They put children at risk and did so knowingly, aware that the problem of packaging had caused three deaths already.³

It is difficult not to believe that those in charge at Baxter put profit over the potential harm that it knew its packaging could cause, that they did just what those at Guidant did when they discovered that their implant could short-circuit: they traded the company’s reputation for money.

Those in charge at Baxter and Guidant and the hospital did not just make a moral mistake. The way in which all responded to the criticism they received indicates a deeper moral problem. Each pointed the finger of blame at others, trying to deflect criticism from themselves rather than trying to determine what went wrong and fixing the problem so that such harm could not happen again. Because of that sort of response, we have another sort of moral problem: those at these companies and the hospital have lost their moral compass. Would you trust a Baxter representative who told you, after yet another “accident,” that it was not Baxter’s fault? Guidant? The hospital? We all make mistakes, and we can excuse even the most grievous of errors if those making it respond appropriately. But these three responded in a way that puts their corporate character in question. They responded the way a restaurant I was patronizing responded to a complaint about a fly in a friend’s rice -- “flyed rice,” as another friend called it -- by blaming the waiter rather than apologizing and saying they would work to ensure it did not happen again.

What is even more morally appalling -- and the reason these examples have been chosen -- is that those at Baxter, Guidant, and the hospital all have taken on special obligations to help by being in the businesses they are in. Baxter manufactures and sells drugs that are to help the sick; Guidant designs, manufactures, and sells heart implants to those whose lives depend upon electrical circuits firing to restart their faulty hearts; the hospital is licensed to care for its patients. All three betrayed that obligation to help when they responded by blaming others rather than by investigating what went wrong and fixing it so that others would not be harmed, but helped. We want to say, “These companies and that hospital have lost their way.”

This is not a moral judgment about any particular act or omission, but about the nature of these companies -- their corporate character. Marriage counselors say that a marriage has moved significantly closer to disintegration when one spouse criticizes the other, not for some particular act or omission, but for being a particular kind of person -- from “You forgot to take out the garbage” to “You are a lazy SOB.” The judgment of a person’s character signals a change in the way we are looking at a person -- not as someone who just made a mistake, but as someone who makes mistakes, not as someone who failed to do something, but as the kind of person who fails to do what needs to be done, not as someone who lied, but as a liar. Once that move is made and a person’s character

³ It does not help Baxter that other drug companies have had, and are continuing to have, serious problems ensuring that their products meet acceptable standards. Johnson & Johnson has had problems with patients “developing temporary gastrointestinal trouble, including nausea and vomiting, after taking [some of its] medicines” (see Scott Hensley, “Johnson & Johnson Recalls Tylenol, Rolaid, and Motrin Over Bad Odors,” NPR, January 15, 2010, available at http://www.npr.org/blogs/health/2010/01/johnson_johnson_recalls_more_m_1.html, accessed 6.3.10). In addition, the company’s unit McNeil Consumer Healthcare has had to recall “36 million bottles of liquid pediatric Tylenol, Motrin, Benadryl and Zyrtec because they may have contained too much of the active ingredient of the drug, metal specks or inactive ingredients that failed testing requirements” (Natasha Singer, “F.D.A. Weighs Penalties in Drug Recall,” New York Times (May 27, 2010)). The problems concern quality control and are apparently a pervasive difficulty for the company, having a long history.
is put into question, everything the person does is open to question. Where we once presumed a good character, we now presume a bad one, and where we once assumed a problem was a mistake, out of character for the person, we now assume it is exactly what that sort of person would do.

The judgment of character is a judgment about the internal morality of the person, about the kind of person they are, and that is the sort of judgment we are making about Baxter, Guidant, and the hospital: they did not just make a mistake, but responded in a way that illustrated their true corporate character. They were more concerned about maximizing their profits than about doing what they are obligated to do because of the sorts of companies they are. They are like toy companies that purvey toys contaminated by lead and seem unable to ensure that their toys are lead-free. Parents have no way of determining before purchasing a toy whether it contains lead or not, and after purchase, it would be an undue burden on them to have a toy tested for lead before giving it to a child. We rightly expect toy companies to bear that burden and ensure that the toys they sell are safe. Just so, we rightly expect companies like Baxter to do what they can to ensure that their products are safe and are safely dispensed -- especially when they have the sort of warning Baxter received from the deaths of three children in Indianapolis. Its failure to answer that wake-up call should create doubt on the part of consumers about the company’s commitment to their well-being.