

Neglect? - No Medical Treatment of Child or Treatment by Prayer

written by Richard Leslie | May 24, 2016

Avoiding Liability Bulletin - May 2009

... What if a therapist or counselor learns during the course of providing services that a child is not receiving medical treatment for religious reasons or that the parents have arranged for treatment of a child solely by spiritual means through prayer? Is the therapist or counselor required to report this information to the appropriate governmental agency because it constitutes child abuse/neglect? The answer to this question necessarily depends upon state law and upon the facts and circumstances of each particular situation.

The definition of "neglect" will vary from state to state, sometimes in fine nuance, but generally, it can be defined (as it is in one state) as the negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. It involves both acts and omissions on the part of the responsible person. This same state also defines "severe neglect" and "general neglect," (see below) both of which must be reported by mandated reporters.

"Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive. It also means, among other things, those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, including the intentional failure to provide adequate food, shelter, clothing, or medical care. "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, shelter, clothing, medical care, or supervision where no physical injury to the child has occurred.

In this particular state, the child abuse reporting law contains a provision, under the section dealing with neglect, which specifically addresses the questions asked above. The section states that a child receiving treatment by spiritual means or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. The law further specifies that it does not constitute neglect if the treatment of a child solely through spiritual means by prayer is rendered in good faith by a duly accredited practitioner of a recognized church or religious denomination and if such treatment is rendered in accordance with the tenets and practices of such church or religious denomination. The statute also says that an informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

How does the child abuse and neglect reporting law in your state define "neglect" and how does the law treat the issues of treatment of a child by spiritual means or a child not receiving medical treatment for religious reasons? Is a report mandated or permitted under such circumstances?