Nursing Care and Inmates

written by Nancy Brent | May 26, 2016

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If you are a governmental employee of a federal or state correctional institution, you may enjoy certain immunities against a lawsuit being filed against you as a named defendant when an inmate alleges your nursing care was lacking. As you know, inmates do not have a right to boutique care or outstanding care. Rather, they have a right to "adequate" medical care. What you may not know is that you may be sued for nursing care given to a inmate of a federal or state prison or jail when the inmate is brought to your ER—not the prison infirmary– and your care is non-existent.

In a Texas case[1] ,an inmate woke up in his cell in a pool of blood and asked for care. The inmate was sent to an outside hospital ER, where the ER nurse placed him on oxygen and began an IV. Despite the inmate's apparent weakness due to the loss of blood, the nurse made him walk from one bed to another and then left him alone for some time. When she returned, she told the inmate "there was nothing wrong" with him, discontinued the IV and oxygen and he was discharged without being evaluated by a physician.[2]

The inmate returned to the prison, was sent to another hospital where he was diagnosed with a "serious case of bleeding ulcers". The inmate sued both the private hospital where the ER was located and the ER nurse who saw him in the ER.

The Texas District Court for the Southern District of Texas held that the inmate could sue both the hospital and the nurse. Inmates have a U.S. Constitutional protection against cruel and unusual punishment under the 8th Amendment and supported in the United States Supreme Court decision,Estelle v. Gamble.[3] When an inmate is denied adequate medical care, it is called "deliberate indifference", a violation of the 8th Amendment's prohibition against cruel and unusual punishment. Therefore, the Court opined, if health care providers within the prison can be sued for deliberate indifference, a private health care provider who works for an institution that contracts with the correctional institution to provide care to inmates can be sued as well.

Deliberate indifference can occur in many ways other than just the example in the case under discussion. Other examples of purposely avoiding a "serious medical need" of an inmate include ignoring an obvious condition, delaying treatment, interfering with access to treatment, and failing to provide treatment for diagnosed conditions.[4,5] It is fairly clear that at the very least the first three examples nicely describe the nurse's conduct in this case.

You may think that the law is "on the inmate's side" when it comes to alleging deliberate indifference by you or others. However, it is not as easy as it may at first sound. The US Supreme Court, in a 1994 case[6]

set the test for what constitutes deliberate indifference:

1. There must be an excessive risk of harm to the inmate, based on the specific facts of each case;
2. Actual knowledge by prison officials of the risk of harm or, at least the obviousness of the risk of harm; and
3. A conscious disregard of the risk of harm an inmate claims.[7]

The implications of this case for you are numerous, regardless of whether you work in a correctional facility or work with inmates when they are sent to your private facility:

1. Don't assume you enjoy immunity from a suit by an inmate;
2. Don't willfully or consciously disregard an inmate's health complaints;
3. Don't conduct yourself as is described in the examples given of deliberate indifference;
4. At a minimum, evaluate the inmates complaints;
5. When an inmate has a known condition, you must act with "adequate" medical care, based on the situation;
6. Never ignore an inmate's voiced concerns;
7. Document any interventions you do undertake and notify those who need to be notified in the system in which you work; and
8. Remember your ethical responsibilities to provide adequate and humane care to all persons.

FOOTNOTES

1. Carter v. Benavides, 2007 WL 676686 (S.D. Texas, March 1, 2007).

2. "Constitutional Rights: Inmate Can Sue Private Hospital Nurse", (April 2007) Legal Eagle Eye Newsletter For The Nursing Profession. Available at www.nursinglaw.com (subscription required).

3. 429 U.S. 97 (1976).

4. "Your Right To Adequate Medical Care" (2009), A Jail House Lawyer's Manual, Columbia Human Rights Law Review. Available at: https://www.scribd.com/document/132500388/Jailhouse-Law-Book. Accessed 11/30/14;

5. Brandi Harper (2010), "Deliberate Indifference". Available at: https://wagnerpelayes.wordpress.com/2010/11/15/deliberate-indifference/. Accessed 11/30/14.

6. Farmer v. Brennan, 511 U.S. 825 (1994).

7. "Deliberate Indifference", supra note 5.

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