State Abused and Neglected Child Reporting Acts

written by Nancy Brent | May 26, 2016

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Licensed nurses and CNAs have an obligation to make a good faith report to the state agency that protects children from abuse or neglect when you have a reasonable suspicion that child abuse or neglect is occurring to one of your patients. This obligation is mandatory. Not reporting an incident of child abuse or neglect can result in tragic consequences for the child.

Despite this required responsibility, nurses and CNAs may be hesitant to make a report. This uncertainty may be due to many factors: insecurity about the observations and conclusions made about abuse or neglect; a nurse, nurse supervisor or CNO telling you not to make the report for whatever reason; concern about breaching the confidentiality or privacy of the patient and the family (protecting confidentiality or privacy does not apply in these cases); and fear of a lawsuit by the family of the child.

These fears, however, are not ones you can depend on not to make a report. Your duty to report is an affirmative one that cannot be ignored. Willfully disregarding it can lead to, at a minimum, a discipline by the state board of nursing.

A 2014 case illustrates how one Kentucky psychiatric triage RN handled her duty to report a suspected case of child abuse and what the Kentucky Appellate Court opinion said about her decision to report her concerns to the Kentucky Child Protective Services (KPC).[1]

In December of 2009, a mother took her daughter to a hospital ED because her daughter was “out of control”. The psychiatric triage RN did an initial psychiatric nursing assessment of the minor female. During the assessment the child told the RN that her mother “hits her with a belt and today pushed her and scratched her arm”, which the nurse observed on the patient’s upper right arm.[2]

The RN then interviewed the mother, who told her that she had physically disciplined her daughter with a belt, her daughter only responds to physical force, and she “seeks pain”.[3] In addition, the mother said that her daughter may have been sexually abused by the son of a friend whose family the mother suspected may have a history of mental illness.

Based on her assessment, the RN suspected that the daughter may have been abused and therefore completed a suspected abuse/neglect reporting form and called CPS at 8:20 p.m. A CPS staff member told the RN that the on-call case worker was unavailable but would return her call. The RN documented that she filled out the CPS form, called CPS and that the on-call case worker was to call back but had not

done so yet.

In addition to the RN's observations and information, an ER physician also examined the daughter who also told him of the regular beatings with a belt. He also noted linear abrasions on the daughter's upper left arm, the back of her left thigh, and mid back.[4] As is allowed under the Kentucky law, he took photographs of these areas.

The MD and the RN decided it was best to admit the daughter to the psychiatric unit for observation. The next morning, the mother came to the unit to take the daughter home. Unit staff informed the mother of the reporting to CPS due to suspected abuse of the daughter, that they were waiting for a response from CPS, and had placed the daughter on an involuntary custody hold. The mother became outraged that the staff would not release her daughter and was so upset, she had to be escorted from the hospital.

The daughter was later seen by a psychologist at the hospital and similar information was given to her by the daughter. She also observed abrasions on the patient. She filed another CPS form and filed it with the agency.

The CPS case worker interviewed the daughter the next day and released the daughter to her parents. The mother did not wait for her daughter to be released but rather signed her out Against Medical Advice (AMA).

The mother then filed a suit in the Kentucky circuit court against hospital and all the health care providers, including the nurse, alleging medical negligence and violations of the statute governing reporting suspected child abuse.[5]

The circuit court summarily dismissed the case. The mother appealed that decision and the appellate court upheld the dismissal of the case.

In doing so, the appellate court opined that there was no "bad faith" by the defendants as alleged by the mother. Rather, each and every health care provider's "real motivation", according to the court, was to protect the child whose mother brought her to the ED for behavioral issues that may be related to abuse at home.[6] All defendants involved acted in "good faith" and therefore were immune from any suit alleging otherwise.

The mother's medical negligence claim, the court continued, is without merit. There was no expert testimony to support that any of the defendants breached their respective standards of care in the situation.

This case illustrates the importance of taking your responsibility to report your reasonable suspicions of child abuse or neglect to the appropriate agency, documenting your actions carefully and completely, and following the specifics of the statute of your state that governs reporting. Additionally, be certain to know how your state defines abuse and neglect. Abuse is certainly defined as physical, but most states

also include in the definition sexual maltreatment, involuntary servitude, administering controlled substances to a minor, and genital mutilation.

FOOTNOTES

1. White v. Norton Healthcare, Inc., *et. al* . , No. 2013-CA-000023-MR, Court of Appeals of Kentucky, June 13, 2014, 1-6.

2. Id. , at 1.

3. Id .

4. Id ., at 2.

5. The mother filed the suit “in her individual capacity and as guardian and best friend for her minor daughter”. Because the daughter was under the age of 18 and not emancipated in any way (e.g., marriage, active service member), a parent or guardian must file a legal suit for a minor.

6. Id , at 3-4.

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