

Child Abuse: Mother's Lawsuit Against Nurses Dismissed.

On a Saturday evening the mother brought her daughter to the emergency room for treatment because the daughter was "out of control."

The psychiatric triage nurse performed the initial assessment and evaluation. The daughter told the nurse her mother had been hitting her with a belt and that day had pushed her and scratched her arm. A scratch was visible on the upper arm.

The nurse then interviewed the mother who confirmed that she physically disciplined her daughter with a belt, since the girl only responded to physical force. The mother also reported the girl may have been sexually abused by a friend's son and indicated further that there may be a history of mental illness in the family.

The psychiatric triage nurse completed a suspected abuse/neglect reporting form and phoned Child Protective Services (CPS) at 8:20 p.m. that Saturday evening. No caseworker was available but the nurse left a message and noted in her triage record that a return call was expected.

The E.R. physician found marks on the girl's body that confirmed she had been struck with a belt. The physician and the psych triage nurse decided it was best to admit the girl to the psychiatric unit.

The next day, Sunday morning, the mother approached a nurse on the psych unit and said she wanted to take her home. The nurse contacted the medical director of the psych unit, informed him the girl had been admitted based on suspicion of abuse and that CPS had not called back.

The medical director said he was ordering a seventy-two hour involuntary psychiatric hold. The nurse told the mother she could not take her daughter home.

Later that day a child psychologist interviewed the daughter at length. She confirmed that the mother and father both routinely hit the child with a belt. The psychologist faxed another report to CPS.

The next day a CPS worker ordered the child returned to the parents.

The Court of Appeals of Kentucky dismissed the lawsuit the mother filed against the physicians and nurses who were involved in the girl's care. **White v. Norton Healthcare**, __ S.W. 3d __, 2014 WL 2619973 (Ky. App., June 13, 2014).

Any healthcare provider who knows or has reasonable cause to believe a child has been abused or neglected must immediately make a report to local or state law enforcement or child protective services.

Anyone acting upon reasonable cause in the making of such a report in good faith, or who participates in a judicial proceeding resulting from such action, shall have immunity from any civil or criminal liability.

Making a false report of child abuse or neglect is a misdemeanor.

The evidence is overwhelming that the girl's caregivers had reason to suspect child abuse and did not act in bad faith.

A healthcare provider may take photographs to document abuse and may perform x-rays and other medical tests for diagnostic purposes or for use as evidence in subsequent judicial proceedings.

Healthcare providers have the same legal immunity for such photographs and for films and tests obtained in good faith, provided the diagnostic testing was not performed in a manner inconsistent with accepted medical practice.

COURT OF APPEALS OF KENTUCKY
June 13, 2014

Fall: Nurse Found No Water On The Floor Where The Patient Fell.

Two days after knee replacement surgery a hospital patient tried for the first time to go to the bathroom to urinate.

Previously she had had a catheter and then progressed to a bedside commode which she had used earlier that same morning.

Without using her call light to request assistance she went into the bathroom. She turned on the light and did not see any water on the floor.

She took two small steps to approach the toilet. When she turned to sit down her walker flew out of her hands and she fell.

She got up, went back to bed and used her call light.

The nurse who responded inspected the specific spot where the patient said she fell and found nothing on the floor. The nurse stooped over and did see water along the baseboard behind the toilet that had dripped from the sprayer used to flush out bedside commode receptacles.

The aide who had emptied her bedside commode earlier said she saw no water on the floor when she was in the bathroom.

The housekeeper had made his rounds earlier that morning. His routine was to mop the floor whether there was anything there or not.

Building maintenance conceded that some of the old sprayers did leak and were promptly repaired or replaced when the problem was reported.

Court Finds No Liability

The Court of Appeals of Wisconsin dismissed the patient's lawsuit.

In a civil lawsuit for injuries from a slip and fall incident in a commercial building such as a hospital, it is necessary for the victim to prove that there was a dangerous condition due to a foreign substance on the floor and that the owner or the owner's employees knew about the dangerous condition, or should have known about it, and had the opportunity to take corrective action and failed to take corrective action, before the victim fell. **Eesley v. Howard Young Med. Ctr.**, 2014 WL 2579689 (Wisc. App., June 10, 2014).