

Child Abuse/Unexplained Fracture: Hospital Not Liable To Parents For Holding Child For Protective Services.

The child was taken to the emergency room by the parents on their pediatrician's advice. X-rays showed a fractured femur, which the Supreme Court of Monroe County New York noted was an unusual injury for a five-month-old, and one for which the parents were unable to offer any explanation.

An orthopedist casted the leg and told the parents the child had to be held twenty-four hours for medical observation. The hospital social worker went to work. She consulted with her supervisor, then called the local child protective services hotline, and was given to understand the hospital should hold the child pending an investigation. Child protective services obtained the cooperation of local police. They posted an officer at the door of the child's room to prevent the parents from taking the child. The child went into foster care, then was placed with the child's grandmother.

According to the court record, criminal charges of abuse were never conclusively proven against the parents. The parents sued the hospital in civil court for intentional infliction of emotional distress, interference with the custodial relationship with their child, violation of their civil rights and false imprisonment of their child.

The court threw out the parents' case against the hospital. Hospital personnel by law must report evidence of apparent child abuse. If so ordered, they must hold the child pending completion of a child protective services investigation of possible abuse and the filing of legal proceedings to remove the child into foster care.

When acting under a reasonable belief that their actions are warranted to prevent further imminent harm to an apparently abused child, hospital personnel are immune from liability in civil and criminal court for their actions, the court ruled. **Sager vs. Rochester General Hospital**, 647 N.Y.S. 2d 408 (N.Y. Sup., 1996).

A femur fracture seen in the emergency room in a five-month-old child for which the parents can offer no explanation is probable evidence of child abuse.

When a child's condition gives hospital personnel reasonable cause to believe that placing the child back into the parents' custody would present an imminent danger of harm to the child, the hospital must take all necessary and appropriate measures, including retaining custody of the child pending initiation of child-protective proceedings.

When a hospital retains custody of a child, local child protective services must be notified immediately to commence an investigation and to follow up with court proceedings.

A healthcare professional or institution making a child protective services report, removing a child from the parents or retaining physical custody of a child with a good faith belief it is necessary to prevent further imminent harm to the child cannot be liable in a civil suit.

SUPREME COURT, MONROE COUNTY NEW YORK, 1996.

Patient Out Of Bed Against Medical Advice: Court Finds No Grounds For Lawsuit.

Based on the physician's orders, the hospital nursing staff instructed the patient to remain on strict bed rest for twenty-four hours following her surgery. The patient later acknowledged in court she was aware of the surgeon's instructions to remain in bed and admitted she arose from bed on her own to use the bathroom in direct violation of what she had been told by her physician and by the nursing staff.

The patient sued anyway.

The New York Supreme Court, Appellate Division, dismissed the suit. The hospital's nursing staff had no obligation for keeping this patient in bed, beyond making sure she understood the physician's instructions, the court ruled. **Romano vs. Marks**, 647 N.Y.S. 2d 272 (N.Y. Sup., 1996).

Nurse Arguing Loudly With Supervisor Not Grounds For Firing, Court Says.

Merely becoming loud and argumentative with a nursing supervisor on one occasion is not sufficient grounds to terminate a registered nurse from employment, according to the New York Supreme Court, Appellate Division.

The nurse had been disciplined for sub-standard nursing documentation and warned to be more cooperative with others. However, she had never been warned or disciplined for being argumentative with her supervisors and had no reason to anticipate it could provoke her discharge. **Claim of Bukowski**, 646 N.Y.S. 2d 1006 (N.Y. Sup., 1996).