

Munchausen's Syndrome By Proxy: Suit Thrown Out Over Placement Of Children In Foster Care.

Soon after the armed forces transferred the father from Texas to Washington State, the parents brought their three children to the military base hospital at their new location. There was suspicion the children were not genuinely ill.

A civilian pediatrician with an office near the base first suspected Munchausen's Syndrome by Proxy (MSBP) and notified Child Protective Services (CPS).

A social worker from the military base hospital working with CPS had the children admitted to a children's specialty hospital for observation. A multidisciplinary team at the hospital wrote an extensive report on each child.

The multidisciplinary team at the children's hospital included a staff nurse, a child psychiatric nurse practitioner and an apnea nurse clinician. One of the children was suffering from sleep apnea.

Munchausen's Syndrome By Proxy

The team reviewed the children's overall medical histories and found them to be dramatically disproportionate to their objective findings. The bottom line was a diagnosis of MSBP. There was other evidence of abuse, for example, home blood tests done by a grandparent.

Even if the diagnosis of Munchausen's Syndrome by Proxy (MSBP) was made negligently, the members of the multidisciplinary team at the children's hospital are immune from this lawsuit because they all acted in good faith.

Any person who reports child abuse in good faith is by law immune from legal liability arising out of the report.

Good faith means having a realistic belief one is acting in the best interests of the children.

A person can be acting in good faith even when honestly mistaken whether there are grounds to recommend removing the children from the home.

Going one step further, even if there was no MSBP, there were other indications of abuse and neglect in the home that compromised the children's wellbeing.

COURT OF APPEALS OF WASHINGTON, 2000.

The Child Psychiatric Nurse Practitioner's Report

The Court of Appeals of Washington relied heavily on the child psychiatric nurse practitioner's report. According to the report, each child was at risk for psychosocial and academic delays and possible distorted identity formation due to being reared in an intense sick-role environment that was not warranted for the level of actual physical findings.

She believed this was consistent with MSBP and recommended the children be removed from the home. Two physicians agreed with her diagnosis and the physician who led the team recommended the children be placed in foster care.

The Parents File A Lawsuit

The parents sued CPS, the children's hospital and certain members of the multidisciplinary team. The parents brought in reports from doctors in Texas that the children had been seen there for genuine illnesses before moving to Washington.

The Court of Appeals of Washington accepted for the sake of argument that was true. Even if the multidisciplinary team committed malpractice diagnosing MSBP that would not support the lawsuit.

Good Faith / Legal Immunity

By law any lay person or professional who reports actual or suspected child abuse or participates in CPS proceedings to remove a child from the home cannot be sued, provided they acted in good faith. Good faith is the only issue that is relevant. Finding no evidence good faith was lacking, the court dismissed the parents' lawsuit. ***Miles v. Child Protective Services, 6 P. 3d 112 (Wash. App., 2000).***

LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

ISSN 1085-4924

© 2008 Legal Eagle Eye Newsletter

Indexed in

Cumulative Index to Nursing & Allied Health Literature™

Published monthly, twelve times per year.
Mailed First Class Mail at Seattle, WA.

E. Kenneth Snyder, BSN, RN, JD

Editor/Publisher

PO Box 4592

Seattle, WA 98194-0592

Phone (206) 440-5860

Fax (206) 440-5862

kensnyder@nursinglaw.com

www.nursinglaw.com

Circle one: \$155 one year	\$85 six months	Phone toll free
Check enclosed _____	Bill me _____	Credit card _____
1-877-985-0977		
Signature _____	Expiration Date _____	
Name _____	Organization _____	Address _____
City/State/Zip _____		
		Mail to:
		Legal Eagle
		PO Box 4592
		Seattle WA
		98194-0592