

LEGAL EAGLE EYE NEWSLETTER

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Child Neglect/Abuse: E.R. Nurse's Actions Were Correct, Parent's Lawsuit Dismissed.

The mother brought her four-month-old to the E.R. because the child was having difficulty breathing.

The E.R. physician's exam record noted a clinical impression of bronchitis, dehydration and possible malnutrition and child endangerment. An IV was started for fluid replenishment and blood was drawn for the lab.

At some point the mother became dissatisfied with the care her daughter was receiving and told the physician she wanted to take her child and leave.

The E.R. physician recommended instead that the child be admitted to the hospital. Then the nurse took over.

E.R. Nurse's Interaction With the Mother

The nurse first explained to the mother why the child needed IV fluids even though the reason the mother brought her in was a breathing problem.

The nurse went on to inform the mother that the child needed to be kept in the hospital to continue IV fluid replenishment and to continue to be observed and monitored by hospital staff.

The nurse told the mother that on the hospital's inpatient pediatric floor a different doctor than the E.R. physician who had been somewhat brusque with her would be treating her daughter and the new doctor would be willing and able to explain the lab results in detail.



State law requires an individual who believes that a child is the victim of neglect or abuse to report the neglect or abuse to proper legal authorities.

State law provides immunity from civil and criminal liability to anyone who makes such a report, unless the report was made maliciously or in bad faith. The child's mother has no evidence of that.

COURT OF APPEALS OF INDIANA
October 4, 2012

When the mother said she was going to leave and take the child to a nearby children's hospital, the nurse offered to make all the arrangements for medical transport, ostensibly so that the child's IV therapy would not be interrupted, but realistically so that the child would actually arrive at the hospital where she belonged.

Finally the nurse had to tell the mother that as a nurse she had no option but to phone Child Protective Services if the mother tried to remove the child from the hospital. The nurse followed through and made the call.

The Court of Appeals of Indiana ruled there were no grounds for the lawsuit the mother filed against the hospital because the E.R. nurse properly followed through and called Child Protective Services.

The Court said the nurse was not trying to threaten or intimidate the mother but instead had only the child's welfare and the nurse's own legal responsibilities in mind.

The mother's lawsuit pointed up no evidence of malicious intent or bad faith by the nurse, that being required to support a successful lawsuit against a mandatory reporter under these circumstances. ***Miller v. Anonymous Hosp. & Jane Doe Nurse, 2012 WL 4718673 (Ind. App., October 4, 2012).***

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