

Chapter 13

Patient Abuse



Learning Objectives

- Understand the pervasiveness of patient abuse.
- Identify the signs of abuse.
- Describe the reporting requirements for abuse.

Love and knowledge led upwards to the heavens, but always pity brought me back to earth; cries of pain reverberated in my heart of children in famine, of victims tortured, and of old people left helpless. I long to alleviate the evil, but I cannot, and, I too suffer. This has been my life; I found it worth living.

– Bertrand Russell, Adapted

Patient Abuse

- Mistreatment or neglect of individuals who are under the care of a health care organization.
- Occurs to those who are most vulnerable and dependent on others for care.

CHILD ABUSE

Child Abuse

- An abused child is generally defined as a person younger than 18 years of age whose parent or other person legally responsible for care
 - Inflicts physical injury.
 - Allows, permits, or encourages a child to engage in unlawful conduct.

Reporting Abuse

- All states have enacted laws to protect abused children.
- Good-faith reporting statutes
 - Generally require mandatory reporting.
 - Provide immunity for good-faith reporting.
 - Clear documentation and photographs where possible.

Detecting Abuse

- Indicators of abuse appear to be part of a pattern:
 - Bruises
 - Burns
 - Broken bones

Behavioral Indicators of Abuse

- Diminished psychological–intellectual functioning
- Failure to thrive
- No control of aggression
- Self-destructive impulses
- Decreased ability to think and reason
- Acting out, misbehavior, or habitual truancy

Good-Faith Reporting

- Suspected child abuse must be made with a good-faith belief that the facts reported are true.
- Definition of good faith as used in a child abuse statute may vary from state to state.

Immunity and Good-Faith Reporting

Text Case

A Michigan Court of Appeals held that the child abuse reporting statute provides immunity to persons who file child abuse reports in good faith even if the reports were filed because of negligent diagnosis of the cause of the child's frequent bone fractures, which eventually was diagnosed as osteogenesis imperfecta.

Child Abuse

Nurse Fails to Report – I

A 2-year-old child had been airlifted from his foster home to a hospital. The flight crew reported to a hospital nurse that rescue personnel discovered dime-size bruises under the child's eye and down his spine. The nurse did not document the bruises or notify the state's child abuse hotline. Dominic recovered after treatment and was released from the hospital on August 14, 2002. Four days later, on August 18, Dominic was returned to the hospital where he died of "abusive head trauma."

Nurse Fails to Report – II

The nurse was criminally charged for failing to report the abuse and neglect under Mo. law because the boy's mother said the bruises were the result of the boy leaning back in his booster seat.

– *State v. Brown*, 140 S.W.3d 51 (Mo.2004)

Nurse Fails to Report – III

- Describe the legal and ethical issues.
- What additional questions should be answered before making a final decision as to the nurse's alleged neglect in reporting child abuse?

Nurse Fails to Report – IV

1. Did the defendant nurse have information that the boy's condition had already been reported to the hot line?
2. Had other health care personnel, under a duty to report, already called the hot line?
3. Were the other personnel—including health care professional—unaware that Dominic's condition triggered their duty to report?
4. Were the boy's injuries too subtle despite their graphic description here to discern that a hot line report was required?

Nurse Fails to Report – IV

- **Legal issues**
 - Failure to comply with state law
 - Child abuse reporting statutes
 - Failure to conduct a thorough nursing assessment
- **Ethical issues**
 - Failure to adhere to ethical principles.
 - Failure to comply with professional code of ethics

Child Abuse

Physician Fails to Report – I

Action was filed by Angela Draper, parent of Bryanna Draper, a 3-month old infant who died on June 2, 2000 after being abused by her father. Plaintiff alleged that Bryanna had been admitted to the hospital in May 2000. X-rays showed numerous injuries. Defendant radiologists who read the x-rays failed to report injuries.

Physician Fails to Report – II

Plaintiff alleged the defendant represented to law enforcement authorities that an x-ray taken on May 12 should have been read as abnormal, but that the abnormality was not of great concern, and inferred that it did not indicate abuse. Plaintiff alleged the defendant did not file an addendum to the report noting the presence of an abnormality until June 5, 3 days after Bryanna's death, and plaintiff concluded the defendant violated the applicable standard of care.

- *Draper v. Westerfield*, No. E2003-02381-COA-R3-CV (Ct. App. Tenn. 2004)

Physician Fails to Report – III

- Legal issues
 - Failure to comply with state law
 - Child abuse reporting statutes
- Ethical issues
 - Failure to adhere to ethical principle
 - Failure to comply with professional code of ethics

SENIOR ABUSE

People at their weakest are often treated the worst.
– Nina Santucci

Senior Abuse

- Mistreatment of elderly patients is rampant.
- Facilities of refuge have become institutions of misery and gloom.
- Who says, “I just can’t wait to go to the nursing home/facility?”
- Nursing facilities should be places of hope not hopelessness.

Forms of Abuse

- Abandonment
- Emotional or psychological
- Physical or verbal
- Neglect
- Financial and material exploitation
- Sexual abuse
- Self-neglect

Elder Abuse: The Statistics

USA Today review between 2000–2002 of more than 5,300 assisted-living facilities found that what should be havens for the elderly may in reality be exposing them to deadly risks.

Reporting Senior Abuse

- Most states have enacted statutes mandating the reporting of senior abuse.
- Senior abuse is less likely to be reported than child abuse.
- Physical and emotional neglect, as well as verbal and financial abuse, are perceived as the most prevalent forms of senior abuse.

Hidden Camera

Gale wasn't prepared for the rough treatment and cruel taunts she says her ailing mother suffered at the nursing home. She cried as a nurse's aide chastised her mother for failing to straighten her arthritic-stricken legs and she watched in disbelief as an assistant jerked her mother off her rubber bed pad and pushed her into the bed's metal rails. All of these images were caught by a "granny cam"—a camera hidden in her mother's room.

Discuss the legal and ethical issues.

Seniors Fail to Report Abuse

- **Fear of**
 - Retaliation
 - Not being believed
 - Threats of being placed in a nursing facility
 - Physical and mental abuse

Signs of Abuse or Neglect – I

- Physical abuse
- Sexual abuse
- Emotional or psychological abuse
- Neglect
- Abandonment
- Financial or material exploitation
- Self-neglect

Signs of Abuse or Neglect – II

- Unexplained or unexpected death
- Development of pressure sores
- Sedation used in place of adequate nursing staff
- Occurrence of broken bones
- Sudden and unexpected emotional outbursts

Signs of Abuse or Neglect – III

- Agitation
- Withdrawal
- Bruises
- Welts
- Discoloration
- Burns
- Absence of hair

Signs of Abuse or Neglect – IV

- Hemorrhaging below the scalp
- Dehydration and/or malnourishment without illness-related cause
- Hesitation to talk openly
- Implausible stories
- Unusual activity in bank accounts

Documentation

- Document symptoms/conditions of abuse.
- Be thorough in documentation.
- Accurately document signs of suspected abuse.
- Be objective and clear when defining physical and physiological findings.

Patients in Restraints

Signs of Abuse – I

- Physician's order for restraints
- Time-limited orders
- Number of patients physically restrained
- Types of restraints used
- Are restraints applied correctly?
- How often restrained patients observed by staff

Patients in Restraints

Signs of Abuse – II

- Signs of overmedication
- Signs of mental and physical abuse of patients
- Signs of harassment, humiliation, or threats from staff or patients
- Whether patients are comfortable with staff
- Number of patients with bruises/injuries
- Patients left in urine or feces without cleaning

Cases

- **Wanton Neglect of Residents**
- **Abuse of Residents**
- **Abusive Search**
- **Forcible Administration of Medications**
- **Intimidation of Abusive Resident**
 - **Disciplinary Overkill**
- **Deficient Care**

Case: Neglect of Residents – I

- Residents exposed to unsanitary physical conditions.
- Grossly deprived of medical care.
- Conditions caused injury to physical and mental well-being.
- Fire hazards impeded safety.
- Facility was not properly maintained (e.g., broken glass in patients' rooms).

Case: Neglect of Residents – II

- Excessive hot water in faucets.
- Dried feces on public bathroom walls and grab bars.
- Insufficient towels and linens.
- Dead and live cockroaches and worms in the food preparation area.
- No soap available in the kitchen.

Case: Neglect of Residents – III

- At one point only one bar of soap and one container of shampoo found in the entire facility.
- Dietary facilities unsanitary and inadequate to meet dietary needs of residents.
- Inadequate staffing patterns and supervision in the facility.
- Improper dosages of medications administered to residents.

Case: Neglect of Residents – IV

- Defendant argued that he did not “create” unsafe conditions at facility.
- The Court of Appeals disagreed.
 - The statute does not require that defendant create conditions at facility to sustain a conviction.
 - Defendant was administrator of facility and responsible for conditions that existed.

Look Closer, See ME

*What do you see, Nurses? / What do you see? /
What are you thinking? / When you're looking
at me?*

*I think of the years, / All too few, gone too fast, /
And accept the stark fact / That nothing can last.
So, open your eyes, people, / Open and see, /
Not a crabbbit old woman, / Look closer, See ME.*

REVIEW QUESTIONS

- What is patient abuse?
- Discuss common signs of abuse for both children and seniors.
- Describe what should a caregiver do when he or she suspects another unrelated person, caregiver, or family member has been abusing a patient.

REVIEW QUESTIONS, cont'd

- Discuss the importance of accurate and complete documentation of suspected abuse.
- Describe what good-faith reporting means.
- Discuss why patients are often reluctant to complain about their abusers and caregivers.

REVIEW QUESTIONS, cont'd

- When a health care provider reports abuse, should the accuser's identity be revealed to the accused? Explain your answer.
- Should caregivers be disciplined for reporting abuse if it proves to be false? Explain your answer.
- Discuss the patient poem "Look Closer, See Me."