Appellate Court Rules that Physician Can be Sued for Failure to Report Child Abuse



9/30/2023

On August 30, 2023, a New Jersey appellate court held that a physician can be sued for failing to report information indicating that another physician was sexually assaulting female patients. The underlying case involved allegations against a pediatrician who was accused of neglecting to report information indicating inappropriate behavior by a pediatric gastroenterologist toward female patients who were treated by both physicians. A lower court dismissed the claim against the pediatrician, finding that the plaintiff should have presented an affidavit of merit by a qualified medical expert setting forth the standard of care applicable to the pediatrician regarding the pediatrician's duty to the patient under New Jersey's child abuse, abandonment, cruelty, and neglect laws. The appellate court reversed the lower court's ruling to dismiss the case, finding that under New Jersey law, any person, whether or not they are a physician, has a statutory duty to report suspected child abuse, and therefore the plaintiff was not required to submit an affidavit of merit, which would typically only be required to establish the applicable standard of care in professional negligence cases. The appellate court stressed that its reversal is limited to the affidavit of merit requirement, which was the lower court's basis for dismissal in favor of the pediatrician, and the court expressed no opinion as to whether the plaintiff has a viable cause of action against the pediatrician based on the pediatrician's purported failure to report the pediatric gastroenterologist.

Click Here to read the entire September 2023 Healthcare Law Update now!

For more information, contact:
Keith Roberts | 973.364.5201 | kroberts@bracheichler.com
Jonathan J. Walzman | 973.403.3120 | jwalzman@bracheichler.com

Harshita Rathore | 973.364.8393 | hrathore@bracheichler.com