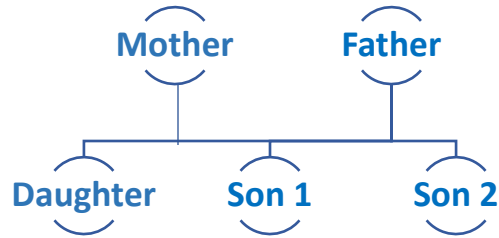


Hearsay Evidence Session: Fact Pattern and Questions



Mother and Father have a four-year-old Daughter and two-year-old twins, Son 1 and Son 2. DSS received an anonymous CPS report alleging that Son 2 “is always crying” and was recently observed “covered in tiny blisters and burns.” Reporter alleged the family is exhausted.

As part of the DSS assessment, Social Worker interviewed the parents and their neighbor, Karen. Per Social Worker’s notes:

- Mother was asked about the reported blisters and burns on Son 2. Father interrupted, saying “He probably just screamed himself red. That boy never shuts up.”
- Karen said that “Father is always stressed. He’s drinking more than usual.”
- According to Karen, “Daughter was walking with a limp and wincing in pain.”

Social Worker has since retired and moved out of state.

DSS arranged for the children to be examined by Dr. Brayboy at WakeMed. In his report, which is part of the medical records, Dr. Brayboy detailed his observations of Son 2 (“2nd degree burns on chest. 1st degree burns on arms, neck, and face. Different stages of healing.”). Son 2 is reported as having responded, “Daddy mad,” when asked what happened to him. Dr. Brayboy concluded that Son 2’s burns are “nonaccidental, consistent with having been sprayed with very hot water.”

The WakeMed records contain X-rays of Daughter, including one with an arrow drawn pointing to a thin crack in her foot. Attached to the X-rays is a handwritten note by Nurse Jackie which reads, “I introduced myself to Daughter. I told her I am here to make her feel better. I asked her what happened and told her it is important to tell the truth. Daughter said she woke up from a nap and nobody was home. She looked for her parents and fell crossing nearby railroad tracks, hurting her foot. Daughter said she cried but did not tell anyone. Says no one hurt her.” Nurse Jackie’s notes also indicate that Social Worker stated, “Leaving a kid this young home alone is neglect. Kids can’t take care of themselves until they’re teenagers.” A notarized affidavit signed by the WakeMed records custodian is attached.

DSS has filed petitions alleging Son 2 is abused and that all three juveniles are neglected. The petitions are based on Son 2’s injuries as well as the parents’ failure to obtain necessary medical care, living in an injurious environment, and lack of proper supervision.

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1. Are the unidentified reporter's statements admissible? Why or why not?

2. If Social Worker who prepared the records is not present, are the records generally admissible?

3. Is Father's interruption of Mother's answer to Social Worker admissible? Why or why not?

4. Is Karen's statement that Father is stressed and drinks more than usual admissible?

Is Karen's statement that "Daughter was walking with a limp and wincing in pain" admissible?

5. Are the WakeMed records generally admissible? Why or why not?

6. Are Dr. Brayboy's observations and conclusions admissible? Son 2's statement, "Daddy mad"?

7. Are Daughter's x-rays and statements to Nurse Jackie admissible?

8. Is Social Worker's statement that "Leaving a kid this young home alone is neglect" admissible?

9. Do you see any other evidence issues?
