

No. 1-18-1845  
IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

JUAN MERCADO, as Independent	)	
Administrator of the Estate of Gizzell Ford,	)	Appeal from Circuit Court
Deceased Minor,	)	of Cook County, Illinois,
	)	County Department, Law
Plaintiff-Appellee,	)	Division
	)	
v.	)	No. 14 L 7337
	)	
NORELL ROSADO, M.D.,	)	Hon. James M. Varga
	)	Judge Presiding
Defendant-Appellant.	)	

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**BRIEF OF *AMICI CURIAE* ILLINOIS STATE MEDICAL SOCIETY,  
AMERICAN MEDICAL ASSOCIATION, AMERICAN NURSES  
ASSOCIATION—ILLINOIS, ILLINOIS CHAPTER, AMERICAN ACADEMY OF  
PEDIATRICS, ILLINOIS HEALTH AND HOSPITAL ASSOCIATION, ILLINOIS  
PSYCHIATRIC SOCIETY, ILLINOIS SOCIETY FOR ADVANCED PRACTICE  
NURSING, ILLINOIS SOCIETY OF ANESTHESIOLOGISTS, AND RAY E.  
HELPER SOCIETY IN SUPPORT OF DEFENDANT-APPELLANT NORELL  
ROSADO, M.D.**

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***AMICI CURIAE* BRIEF AND ARGUMENT OF  
THE ILLINOIS STATE MEDICAL SOCIETY, AMERICAN MEDICAL  
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CHAPTER, AMERICAN ACADEMY OF PEDIATRICS, ILLINOIS HEALTH  
AND HOSPITAL ASSOCIATION,, ILLINOIS PSYCHIATRIC SOCIETY,  
ILLINOIS SOCIETY FOR ADVANCED PRACTICE NURSING, ILLINOIS  
SOCIETY OF ANESTHESIOLOGISTS, AND RAY E. HELFER SOCIETY**

**IN SUPPORT OF DEFENDANT-APPELLANT NORELL ROSADO, M.D.**

**STATEMENT OF INTEREST OF *AMICI CURIAE***

The Illinois State Medical Society (ISMS), American Medical Association (AMA), American Nurses Association—Illinois (ANA-Illinois), Illinois Chapter, American Academy of Pediatrics (ICAAP), Illinois Health and Hospital Association (IHA), Illinois Psychiatric Society (IPS), Illinois Society for Advanced Practice Nursing (ISAPN), Illinois Society of Anesthesiologists (ISA), and Ray E. Helfer Society, (REHS), by their attorneys, submit this brief in support of defendant-appellant Norell Rosado, M.D.

The ISMS is a non-profit, I.R.C. § 501(c)(6) professional society comprised of practicing physicians, medical residents, and medical students. ISMS membership encompasses practicing physicians from a broad range of specialties, geographic locations, and types of practice.

The AMA is the largest professional association of physicians, residents and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all US physicians, residents and medical students are represented in the AMA's policy making process. AMA members practice and reside in all states, including Illinois. The objectives of the AMA are to promote the science and art of medicine and the betterment of public health. The AMA and ISMS appear on their own behalves and as representatives of the

Litigation Center of the American Medical Association and the State Medical Societies. The Litigation Center is a coalition among the AMA and the medical societies of each state, whose purpose is to represent the position of organized medicine in the courts.

ANA-Illinois is a non-profit, I.R.C. § 501(c)(6) professional association comprised of thousands of registered nurses from Illinois. The association represents the interests of over 180,000 licensed registered nurses from all areas of practice and academia.

The ICAAP is a non-profit, I.R.C. § 501(c)(3) organization representing nearly 2,100 pediatricians, pediatric subspecialists, pediatricians in training and other pediatric health professionals in Illinois. ICAAP seeks to improve the health and wellbeing of children throughout Illinois.

The IHA is a statewide non-profit association with a membership of 210 Illinois hospitals, virtually every hospital in Illinois. For ninety years, the IHA has served as representative and advocate for its members, addressing the social, economic, political and legal issues affecting the delivery of high quality health care in Illinois.

The IPS is the state branch of the American Psychiatric Association. Representing Illinois psychiatrists, its mission is to advocate for the highest quality care for patients with psychiatric disorders which include substance use disorders, to represent the profession of psychiatry, and to serve the professional needs of its membership.

The ISAPN is a non-profit, I.R.C. § 501(c)(6) professional association that represents the interest of advanced practice nurses of Illinois. ISAPN membership encompasses all four specialty areas of practice: nurse midwives, nurse practitioners, clinical nurse specialists and nurse anesthetists.

The ISA is a non-profit, I.R.C. § 501(c)(6) professional society that represents 1,700 practicing anesthesiologists in Illinois. ISA is a membership organization of Illinois anesthesiologists focused on furthering patient safety and the practice of its discipline through education, representation and advocacy for our members. ISA also provides its members with opportunities to connect as a community through events and networking opportunities.

The REHS is a professional society of physicians seeking to provide medical leadership regarding the prevention, diagnosis, treatment and research concerning child abuse and neglect. It envisions that children will thrive in a society that values them, and its particular mission is to help prevent and reduce the harm resulting from child maltreatment by advancing the work of physicians in the areas of education, clinical care, research and advocacy. The REHS currently serves 596 members, among whom are the great majority of board-certified child abuse pediatricians. The REHS was instrumental in requesting the American Board of Medical Subspecialties to recognize child abuse pediatrics as a sub-specialty of pediatrics, and in supporting training programs that prepare pediatricians and other physicians in the area of child abuse pediatrics. Committees of the REHS advance research, education, physician wellness, ethical practices, career development, and quality clinical practices in the areas of child physical abuse, sexual abuse, neglect, and related childhood adversities.

The main issues in the proposed brief addressed by *amici* are whether the Abused and Neglected Child Reporting Act (“ANCRA”) provides good faith immunity in the instant case, whether Dr. Rosado owed a duty to warn and protect Gizzell Ford from criminal harm perpetrated by third parties, and whether ANCRA provides a private cause

of action.<sup>1</sup> Upholding the decision would create substantial injustice to the health care professionals of this State who provide care to the vulnerable children of this State by removing statutory protections of good faith immunity and against the filing of private causes of action against healthcare professionals who have no special relationship with their patient. Additionally, such a ruling would unjustly frustrate the plain language of the law.

ISMS, by virtue of being the most broadly based professional association representing Illinois physicians, has a vital interest in the resolution of issues concerning the practice of medicine and the interpretation of the Abused and Neglected Child Reporting Act, and specifically the good faith immunity extended to health care professionals in the making of a report, referral or participating in an investigation of such a report or referral.

The AMA, ANA-Illinois, ICAAP, IPS, ISAPN, ISA, and REHS, as the representative membership organizations of healthcare professionals, maintain an interest in this case as a negative outcome will detrimentally impact the ability of members to practice in this State.

As the representative of nearly every hospital and health system in Illinois, IHA has a profound interest in this case. The IHA joins in this brief in the hope that it will provide helpful information that will allow the court to understand the impact of this case on Illinois hospitals as well as the communities and individuals that they serve.

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<sup>1</sup> The *amici curiae* chose to concentrate on these issues because they believe they have special insights into these specific areas, which may aid the Court's understanding.



The Circuit Court of Cook County improperly applied and interpreted Abused and Neglected Child Reporting Act. The plaintiff-appellee's position would eviscerate the protections contained in that important statute and would be out of step with the public policy purpose of the law.

### **ARGUMENT**

#### **I. THE RULING OF THE CIRCUIT COURT OF COOK COUNTY MISINTERPRETS THE PLAIN LANGUAGE OF THE ABUSED AND NEGLECTED CHILD REPORTING ACT.**

The *amici curiae* believe that the ruling of the Circuit Court of Cook County misinterprets the plain language of Abused and Neglected Child Reporting Act and frustrates the intent of the General Assembly. The *amici curiae* fully support those arguments offered by the defendant. We offer this brief to demonstrate the harms that the holding of the Circuit Court of Cook County will cause to the child protection systems in place.

The facts are as follows: Gizzell Ford was the subject of a custody battle between her mother, Sandra Mercado, and her father, Andre Ford. In December 2012, the Circuit Court of Cook County awarded custody of Gizzell Ford to her father, who resided with Gizzell's grandmother, Helen Ford (C. 1499; E.5).

In April 2013, Gizzell stated that her mother's boyfriend had touched her chest and vaginal areas (E.74). The Illinois Department of Children & Family Services (DCFS) was notified about Gizzell's complaint of alleged abuse, and Gizzell and her grandmother were sent to Proviso Children's Advocacy Center (Proviso) by DCFS for a forensic interview (E.74).

Proviso clinical social worker Tom Plach interviewed Gizzell outside of the presence of her grandmother; DCFS and Melrose Park police observed (R. 1184, 1329, and 1331). Gizzell's hygiene, grooming, and demeanor were non-concerning to Plach (R. 1332). Gizzell noted that at the Ford house disciplinary methods include doing squats or standing with her arms up, and Plach did not ask for further explanation of these statements (R. 1334, 1338-39). In Plach's professional opinion, he did not believe she was in imminent risk of harm, and gave DCFS his summary (R. 1335-37).

In June 2013, Gizzell told DCFS that a different boyfriend of her mother's had sexually penetrated her, and this occurred while living with her mother and under her care (E.190). Gizzell was referred to the Chicago Children's Advocacy Center (CCAC) for a medical exam (R. 775, 1318-19). Appointments are required, and the CCAC is otherwise not open to the public (R. 1169-71). Dr. Norell Rosado, a board-certified child abuse pediatrician, evaluated children at CCAC, and his sole job was to perform child abuse examinations (R. 791, 1164, 1171, and 1303).

Gizzell was accompanied by a Proviso caseworker and her grandmother, who was determined to be a "non-offending caregiver", which is a person deemed safe based upon a screening by DCFS, the police, and/or a court (R. 1191-92, 1260). Her grandmother stayed during the exam with Gizzell's permission (R. 1197, 1258-59).

During Dr. Rosado's examination of Gizzell on June 17, 2013, he reviewed Gizzell's intake information and the forensic interview summary, in addition to speaking with the Proviso caseworker and her grandmother (R. 1172, 1192-93, 1201-04, 1234-35; E. 191). Dr. Rosado noticed two parallel, linear scabbed abrasions on the back of each thigh and a "very, very, very faint" mark in the shape of a loop over the

left buttocks that did not resemble anything (R. 1211-14; E.202). Dr. Rosado did not receive any information regarding when Gizzell got that mark, nor what may have caused the mark; no such information has ever been made available regarding the genesis of that mark. Based upon his experience and training as a board-certified child abuse pediatrician, Dr. Rosado determined the marks to be non-suspicious for abuse and did not question Gizzell about them (R. 1252). In addition, Dr. Rosado examined Gizzell's genitourinary system, as she had alleged sexual abuse at the hands of her mother's boyfriend (R. 1201, 1209-11). The genitourinary exam was normal and Dr. Rosado concluded that the allegations of sexual abuse were unconfirmed (R. 1209, 1216).

Dr. Rosado discussed disciplinary measures with Gizzell's grandmother, and offered suggestions for appropriate ways to discipline a child (R. 1220-21, 1281). After the appointment, Dr. Rosado's office sent Gizzell's visit record to DCFS and spoke with Shirley Contreras of DCFS about the records and exam on June 26, 2013 (R. 1242, 1262-63). They discussed the findings, including the skin marks, and his conversation with the grandmother regarding discipline (R. 1242, 1262-63, 1306-07).

Gizzell was strangled to death on July 12, 2013, and an autopsy noted significant bruising and abrasions on her face and body, but no loop mark on the buttocks (E. 290, 296; R. 839-43, 849).

Plaintiff filed suit against DCFS, Contreras, and Dr. Rosado, alleging failure to adequately examine Gizzell and to investigate, document, and report signs of abuse to DCFS (C.9-34, 1527-56). DCFS was voluntarily dismissed by the plaintiff, and the court involuntarily dismissed Contreras (C.415-17, 491-93, 549, 659).

In addition to other arguments, Dr. Rosado argued that the Abused and Neglected Child Reporting Act and the Local Governmental and Governmental Employees Tort Immunity Act granted him immunity (C.171-72, 247-48, 305-12, 785-86, 802-11, 442-44).

On December 13, 2017, the jury returned a \$48 million verdict against Dr. Rosado (C. 1681; A.2), and this appeal was timely filed.

**A. The Circuit Court of Cook County’s application of ANCRA defeats the purpose of the Act, as it requires a mandated reporter to report where there is “any cause to believe” or “mere suspicion”, while the plain language of the statute clearly intended for mandated reporters to report only where there is “reasonable cause”.**

In an effort to “protect the health, safety, and best interests of the child in all situations in which the child is vulnerable to abuse or neglect,” the General Assembly created ANCRA, codified at 325 ILL. COMP. STAT. ANN. 5/1 et seq. (West 2019). The Act has a two-fold purpose: first, to protect children from abuse and neglect, and second, to protect subjects from the detrimental effect of inaccurate reports. *Shawgo v. Dept. of Children & Family Servs.*, 182 Ill. App. 3d 485, 490 (4th Dist. 1989).

ANCRA states in part:

Sec. 4. Persons required to report; privileged communications; transmitting false report. Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatric physician, physician assistant, ...registered nurse, licensed practical nurse,...advanced practice registered nurse,...psychiatrist, or field personnel of the Department of...Children and Family Services,...**having reasonable cause to believe** a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department. (Emphasis added.)

\* \* \* \* \*

Any person who **knowingly transmits a false report** to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 2012. A violation of this provision is a **Class 4 felony**. (Emphasis added.)

\* \* \* \* \*

Any person who knowingly and willfully violates any provision of this Section other than a **second or subsequent violation of transmitting a false report** as described in the preceding paragraph, is guilty of a **Class A misdemeanor** for a first violation and a **Class 4 felony** for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a **Class 4 felony** for a first offense and a **Class 3 felony** for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense). (Emphasis added.)

\* \* \* \* \*

(Source: P.A. 100-513, eff. 1-1-18; 100-1071, eff. 1-1-19.)

The primary objective in interpreting a statute is to ascertain and give effect to the intent of the legislature. *Solon v. Midwest Medical Records Association, Inc.*, 236 Ill. 2d 433, 440 (2010). The most reliable indicator of such intent is the language of the statute, which is to be given its plain and ordinary meaning. *Solon*, 236 Ill. 2d at 433, citing *Blum v. Koster*, 235 Ill. 2d 21, 29 (2009). Furthermore, courts will not read limitations into a statute that the legislature did not originally include. *People v. Rokita*, 316 Ill. App. 3d 292, 303 (5th Dist. 2000). Additionally, it is established that “[w]hen a statute is clear, there is no reason for courts to search for the motives of the legislature to justify giving the statute a meaning different than the words of the statute indicate...” *Kozak v. Retirement Bd. of Firemen’s Annuity & Ben. Fund*, 95 Ill. 2d 211, 220 (1983).

Furthermore, words and phrases must not be viewed in isolation but must be considered in light of other relevant provisions of the statute. See *Sylvester v. Indus. Comm'n*, 197 Ill. 2d 225, 232 (2001).

To achieve the first purpose of ANCRA—the protection of children from abuse and neglect—the General Assembly set forth in plain and ordinary language that mandated reporters, which include over fifty types of persons and entities thoroughly listed in Section 4, must report only where they have **reasonable cause to believe** that a child known to them in their professional or capacity may be an abused or neglected child. The defendant-appellant, as a licensed physician in the State of Illinois, is a mandated reporter. However, the Act does not require reporting where a mandated reporter **does not hold a reasonable cause to believe** that a child may be an abused or neglected child, and the absence of such language is supportive of the second purpose of ANCRA—to protect subjects from the detrimental effect of inaccurate reports. In fact, if a mandated reporter makes or causes a report to be made to the Department where they do not hold that reasonable cause to believe, they have knowingly made a false report, which is a Class 4 felony.

Gizzell Ford was known to and had a history with the Illinois court and DCFS systems long before Dr. Rosado ever met her. Prior to Dr. Rosado's only encounter with Gizzell, she had undergone a forensic interview at Proviso on April 24, 2013 after her sexual abuse allegations were tendered to DCFS (R. 1329). Cook County Children's Advocacy Center protocols in place at the time state that the ideal model for interviewing children and adolescents in Cook County allows for a one-time collaborative interview by a qualified interviewer in a safe, victim-sensitive

environment, using professionally-accepted protocols and methods at a time conducive for the child.<sup>2</sup> Such an interview is an adult fact-finding encounter, and the purpose is to provide the adult investigator with a chance to elicit responses from the child that will clarify whether prior allegations of inappropriate behavior had taken place.<sup>3</sup> During such interviews, it is important for all to follow prescribed guidelines to make sure that there is uniformity in the manner in which information is obtained, as that decreases the influence of subjective variables upon the interviewee.<sup>4</sup> Additionally, the Cook County protocols specifically stated that the number of interviews of the child should be kept to a minimum and should avoid duplicate questioning.<sup>5</sup>

A medical evaluation, which Dr. Rosado conducted, is a part of the multidisciplinary team (MDT) assessment of the child. In general, other MDT members include DCFS, the children's advocacy center (CAC), law enforcement, the state's attorney's office, the medical provider, the mental health provider, the victim advocate, and the forensic interviewer.<sup>6</sup> In Chicago and as applicable to the instant case, through a Memorandum of Understanding, the participating agencies of the CCAC, the Chicago Police Department, the Cook County State's Attorney's Office, DCFS, and Cook County Health and Hospital Systems agreed to serve as a multi-disciplinary group and

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<sup>2</sup> CHI. CHILDREN'S ADVOCACY CTR., COOK COUNTY PROTOCOL MULTI-DISCIPLINARY TEAM RESPONSE TO CHILD AND ADOLESCENT REPORTED SEXUAL ABUSE CASES 5 (2013) [hereinafter COOK COUNTY PROTOCOL], <http://www.chicagocac.org/wp-content/uploads/2016/02/Final-CAC-Protocol-2-5-13.pdf>.

<sup>3</sup> Melanie J. Thakkar et al, *Guidelines for Conducting a Victim-Sensitive Interview*, 24 J. CHILD SEXUAL ABUSE 717, 730 (2015).

<sup>4</sup> *Id.* at 718.

<sup>5</sup> COOK COUNTY PROTOCOL, *supra* note 2, at 7, 14.

<sup>6</sup> *Id.* at 2-3.

delineate the roles of each agency to deliver coordinated and comprehensive services.<sup>7</sup> Coordination with the MDT by the medical provider is important in both reducing duplicative interviewing and medical exams.<sup>8</sup> This is a highly collaborative process, and each member of the MDT is required to follow protocols whereby they rely upon the work of others to avoid further traumatizing of the child. This Court has previously held that physicians may rely upon a third party when determining the presence of child abuse. *Poulos v. Lane*, 279 Ill. App. 3d 524, 531 (1st Dist. 1995).

In compliance with the protocols, Dr. Rosado reviewed Gizzell's intake information and the forensic interview summary, and spoke with the Proviso caseworker (R. 1172, 1192, 1234-35; E.191). Dr. Rosado performed a thorough genitourinary exam, as Gizzell's complaint was alleged sexual abuse by her mother's boyfriend, and a physical exam, during which he noted an extremely faded mark that was nonsuspicious for abuse. At that time and to this day, Dr. Rosado is a board-certified child abuse pediatrician (CAP), of which there are fewer than twenty in the state of Illinois.<sup>9</sup> The medical community recognizes CAPs as the medical experts in the evaluation and treatment of children who are victims of suspected maltreatment, and access to this medical expertise is essential to all cases targeted for a unit-based

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<sup>7</sup> MEMORANDUM OF UNDERSTANDING AMONG CHI. CHILDREN'S ADVOCACY CTR., INC., CHI. POLICE DEP'T, COOK COUNTY STATE'S ATTORNEY'S OFFICE, ILL. DEP'T OF CHILDREN & FAMILY SERVS., & COOK COUNTY HEALTH & HOSP. SYS. 1 (2012), <http://www.chicagocac.org/wp-content/uploads/2016/02/MOU-FINAL-8.15.13.pdf>.

<sup>8</sup> COOK COUNTY PROTOCOL, *supra* note 2, at 5.

<sup>9</sup> PEDIATRIC RES. CTR., DIRECTORY OF ILLINOIS HEALTHCARE PROVIDERS FOR CHILD ABUSE & NEGLECT INVESTIGATIONS 1 (2019), <https://peoria.medicine.uic.edu/wp-content/uploads/sites/8/2017/07/Directory-of-IL-Healthcare-Providers-for-Child-Abuse-and-Neglect-Investigations.pdf>.



MDT investigation.<sup>10</sup> Based upon his medical expertise and consideration of information put together by other members of the MDT, which Cook County CAC protocols dictated that he consider, Dr. Rosado concluded that Gizzell's allegations of sexual abuse were unconfirmed, and that she had an extremely faded mark that was nonsuspicious for abuse. After his evaluation of Gizzell, Dr. Rosado communicated all of his findings with Shirley Contreras of the DCFS, and Gizzell's records were provided.

Not all injuries are indicative of child abuse,<sup>11</sup> and CAPs such as Dr. Rosado are uniquely qualified among MDT unit members and among other physicians to diagnose and investigate maltreatment.<sup>12</sup> Here, this highly-trained CAP **did not hold a reasonable belief** that Gizzell Ford was an abused child at the time he examined her, and in compliance with Section 4 of ANCRA, did not create a separate report to DCFS about a child already well-known to them. The holding of the Circuit Court would instead require all mandated reporters to report to DCFS for **any cause or even mere suspicion**, even though reasonable cause was not found. Such a reading of the statute removes the ability of professionals to base their reporting upon reason, and will have the effect of inundating the DCFS, which already has an overloaded hotline and

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<sup>10</sup> ILL. CHILDREN'S JUSTICE TASK FORCE, THE URGENT NEED IN ILLINOIS FOR UNIT-BASED MULTIDISCIPLINARY TEAMS TO INVESTIGATE CHILD ABUSE 27 (2016), <https://www.childrensadvocacycentersofillinois.org/uploads/documents/mdt-report.pdf>.

<sup>11</sup> DEP'T OF CHILDREN & FAMILY SERVS. & ILL. CHILDREN'S JUSTICE TASK FORCE, MANUAL FOR MANDATED REPORTERS 17 (2019) [hereinafter MANUAL FOR MANDATED REPORTERS], [https://www2.illinois.gov/dcf/safekids/reporting/documents/cfs\\_1050-21\\_mandated\\_reporter\\_manual.pdf](https://www2.illinois.gov/dcf/safekids/reporting/documents/cfs_1050-21_mandated_reporter_manual.pdf).

<sup>12</sup> ILL. CHILDREN'S JUSTICE TASK FORCE, *supra* note 10, at 27.

investigators,<sup>13</sup> with unreasonable reports of alleged child abuse. Thus, a counterproductive diversion from cases that actually merit investigation may result,<sup>14</sup> which is directly contrary to the original purpose of the child abuse reporting laws.<sup>15</sup> To be effective, child abuse statutes must mandate intervention when appropriate,<sup>16</sup> and the holding of the Circuit Court of Cook County would result in large-scale, inappropriate, unreasonable over-reporting thereby endangering victims of child abuse.

Furthermore, the Circuit Court's holding leaves no possible way for mandated reporters to comply with the law. Section 4 of ANCRA also states that it is a Class 4 felony for any person to knowingly transmit a false report to DCFS—which is exactly what the holding of the Circuit Court would force mandated reporters to do. The overburdened DCFS is then charged with sending written notification to the local State's Attorney where there is a false report. ILL. ADMIN. CODE tit. 89, § 300.20(d) (2019). This creates an untenable situation and fully frustrates the intent of the ANCRA. The plaintiff-appellee's attempts to rewrite the requirements of ANCRA to require reporting where a mandated reporter does not hold a reasonable belief that a child may be abused or neglected are wholly inappropriate and should be rejected by this Court.

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<sup>13</sup> OFFICE OF THE AUDITOR GEN., PERFORMANCE AUDIT OF THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES INVESTIGATIONS OF ABUSE AND NEGLECT 5 (2019), [https://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/2019\\_Releases/19-DCFS-Abuse-Investigations-Prgm-Full.pdf](https://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/2019_Releases/19-DCFS-Abuse-Investigations-Prgm-Full.pdf).

<sup>14</sup> Marjorie R. Freiman, *Unequal and Inadequate Protection Under the Law: State Child Abuse Statutes*, 50 GEORGE WASHINGTON L. REV. 243, 262 (1982).

<sup>15</sup> Curt Richardson, *Physician/Hospital Liability for Negligently Reporting Child Abuse*, 23 J. Legal Med. 131, 136 (2002).

<sup>16</sup> Freiman, *supra* note 14, at 243, 268.

Since its creation in 1975, ANCRA has been amended over two dozen times. Yet, there is no indication that the General Assembly has desired to create a reporting requirement in all scenarios regardless of whether there is a reasonably-held cause to believe a child has been abused. In 2017, House Bill 3288 was introduced, which would have completely overhauled ANCRA to require **any person**, agency, organization, or entity that **knows or in good faith suspects** a child may be an abused or neglected child to immediately report it to DCFS. H.B. 3288, 100th Leg., Reg. Sess. (Ill. 2017). This would have made every citizen a mandated reporter and also significantly changed the threshold from “reasonable cause to believe” to “in good faith suspects.” The General Assembly deliberately chose not to advance this bill, and judicial action in the face of legislative decisions is inappropriate. *Charles v. Seigfried*, 165 Ill. 2d 482, 501 (1995). In 2019, the General Assembly undertook the task to thoroughly rewrite Section 4 of ANCRA through Public Act 101-564, which goes into effect on January 1, 2020. Pub. Act 101-564, 101st Gen. Assem. (Ill. 2019). Public Act 101-564 outlines the training that mandated reporters must undergo, and creates a new public awareness program that is premised upon the fact that “[p]rotecting children is a responsibility we all share,” including persons such as the Independent Administrator. Pub. Act 101-564, 101st Gen. Assem. (Ill. 2019). Despite the broad changes made to the Act, the General Assembly still did not change the basic premise: a report is required by a mandated reporter when they have **reasonable cause to believe** that a child known to them in their professional or official capacities may be an abused or neglected child. The Circuit Court’s holding must be overturned.

**B. The Circuit Court of Cook County improperly construed ANCRA to render its good faith immunity under Section 9 meaningless.**

To further emphasize that the General Assembly did not want to create a scenario whereby mandated reporters would feel compelled to report where they did not have reasonable cause to believe that a child was abused or neglected, it created Section 9, which plainly states that good faith on the part of the mandated reporter is **presumed** in the absence of willful or wanton misconduct.

Section 9 states:

Sec. 9. Any person, institution or agency, under this Act, participating in good faith in the making of a report or referral, or in the investigation of such a report or referral...or in making a disclosure of information concerning reports of child abuse and neglect in compliance with Sections 4.2 and 11.1 of this Act or Section 4 of this Act, as it relates to disclosure by school personnel and **except in cases of wilful or wanton misconduct, shall have immunity from any liability, civil, criminal or that otherwise might result by reason of such actions.** For the purpose of any proceedings, civil or criminal, **the good faith of any persons required to report or refer, or permitted to report, cases of suspected child abuse or neglect...shall be presumed.** For purposes of this Section “child abuse and neglect” includes abuse or neglect of an adult resident as defined in this Act. (Emphasis added).

(Source: P.A. 95-908, eff. 8-26-08; 96-1446, eff. 8-20-10.)

This Court has held that bad faith reporting, which would fall outside of the protections offered under Section 9, occurs where the reporter has actual knowledge that he or she has insufficient cause to suspect abuse, yet makes a false report anyway. *Brown v. Farkas*, 158 Ill. App. 3d 772, 778-79 (1st Dist. 1986). In that case, the reporter of child abuse alleged that he heard the defendant make a comment indicating child abuse. *Id.* at 776. However, the court found that the reporter had knowledge that the alleged comment was not true and he had insufficient cause to suspect abuse at the time

he made the report. *Brown*, 158 Ill. App. 3d at 778-79. In the instant case, Dr. Rosado had insufficient knowledge to suspect abuse, and had he made a separate report, it would have been in bad faith and outside of the protections afforded under Section 9.

Similar to Section 4, the General Assembly has not diminished the good faith protections available under Section 9 of ANCRA. If anything, the General Assembly has expanded the protections available. In 1997, the General Assembly went so far as to add that a person who participates in making a disclosure of information concerning reports of child abuse and neglect in compliance with sections 4.2 and 11 of ANCRA shall have immunity. Pub. Act 90-0015, 90th Gen. Assem. (Ill. 1997). The holding of the Circuit Court of Cook County does violence not only to the intent of Section 9 of ANCRA, which provides for good faith immunity absent willful or wanton misconduct, but also Sections 4.2 and 11, and must be overturned.

**C. The Circuit Court of Cook County improperly found that a special relationship exists between physicians and patients.**

Under common law, the universally-accepted rule is that a private person has no duty to affirmatively act to protect another party from a criminal attack by a third person absent a “special relationship” between the parties, four of which have been recognized: common carrier and passenger, innkeeper and guest, custodian and ward, and business invitor and invitee. *Simpkins v. CSX Transp., Inc.*, 2012 IL 110662, ¶ 20. The Illinois Supreme Court also recognizes several special relationships between defendants and tortfeasors, including parent and child, master and servant, and employer and employee, that may give rise to duties. *Id.* at ¶ 20. The traditional physician-patient relationship is not one of those special relationships.

In the instant case, Dr. Rosado had no special relationship with Gizzell and therefore owed no duty to warn or rescue another from injuries by third parties. The Circuit Court's holding runs contrary to well-established common law that there is no duty under the Illinois common law of torts or ANCRA to rescue others from being injured by third parties. *Varela ex re. Nelson v. St. Elizabeth's Hosp. of Chicago, Inc.*, 372 Ill. App. 3d 714, 727 (1st Dist. 2006), citing *Cuyler v. United States*, 362 F.3d 949, 954 (7th Cir. 2004). To improperly expand the category of special relationship places healthcare professionals in the position of the police and DCFS, a position that they are not equipped to fulfill. Healthcare professionals do not receive the training given to police officers and DCFS personnel, and the number of patients with whom a physician has a physician-patient relationship is enormous; in 2016 alone, there were over 883 million office visits.<sup>17</sup> The holding of the Circuit Court of Cook County must be overturned.

**D. The Circuit Court of Cook County improperly found that ANCRA creates a private cause of action.**

Similarly, it is well-established that ANCRA does not create a private right of action for damages. This Court has previously held that there is no legal basis or authority to create common law liability for statutory violation, and noted that the Illinois legislature has met without amending the statute to create a private cause of action. *Varela ex re. Nelson v. St. Elizabeth's Hosp. of Chicago, Inc.*, 372 Ill. App. 3d 714, 727 (1st Dist. 2006). In addition, the Appellate Court of Illinois, Third District,

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<sup>17</sup> NAT'L CTR. FOR HEALTH STATISTICS, CTRS. FOR DISEASE CONTROL & PREVENTION, U.S. DEP'T OF HEALTH & HUMAN SERVS., NATIONAL AMBULATORY MEDICAL CARE SURVEY: 2016 NATIONAL SUMMARY TABLES 1 (2016), [https://www.cdc.gov/nchs/data/ahcd/namcs\\_summary/2016\\_namcs\\_web\\_tables.pdf](https://www.cdc.gov/nchs/data/ahcd/namcs_summary/2016_namcs_web_tables.pdf).

has previously found that an implied private cause of action is not necessary to provide an adequate remedy for violations of the statute, as it already provides criminal sanctions under Section 4 for failure to report. *Doe I ex rel. Tanya S. v. North Cent. Behavioral Health Sys., Inc.*, 352 Ill. App. 3d 284, 288 (3rd Dist. 2004).

Here, General Assembly went the additional step to add administrative **and** criminal sanctions specific to physicians. Section 4.02 of ANCRA states:

Sec. 4.02. Any physician who **willfully fails** to report suspected child abuse or neglect as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with paragraph 22 of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any other person required by this Act to report suspected child abuse and neglect who willfully fails to report such is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation. (Emphasis added.)

Source: P.A. 91-197, eff. 1-1-00; 92-801, eff. 8-16-02.

This sanction, in conjunction with the penalties described under Section 4 of ANCRA, are sufficient to assure compliance with the provisions of the statute. The Circuit Court's holding is plainly inconsistent with Illinois law as there is no indication that the statute does not already adequately serve its purpose, absent a private cause of action. Mandated reporters, including healthcare professionals are well-aware of their duties under ANCRA, and are required to sign a statement on a form prescribed by the Department to the effect that they have knowledge and understanding of their reporting requirements. 325 ILL. COMP. STAT. ANN. 5/4 (West 2019). The holding of the Circuit Court of Cook County must therefore be overturned.

**II. UPHOLDING THE DECISION OF THE CIRCUIT COURT OF COOK COUNTY WILL NEGATIVELY IMPACT THE ABILITY OF CHILDREN'S ADVOCACY CENTERS AND CHILD ABUSE PEDIATRICIANS TO PROVIDE SERVICES IN ILLINOIS.**

Children's advocacy centers, such as the CCAC, and the health care professionals that staff them, are important sources of accessible health care for this State's young citizens, and a decision to uphold the ruling of the Circuit Court of Cook County would have a substantial negative impact on the health of Illinois citizens by decreasing access to highly-trained health care professionals.

**A. The General Assembly specifically created ANCRA as a response to the child abuse crisis.**

It is a sad reality that child abuse laws are a more recent legal creation, although the issue is not a new one. The first organization devoted to child protection issues in the United States, the New York Society for the Prevention of Cruelty to Children, was incorporated in April of 1875 at the urging of Etta Wheeler, a charity worker.<sup>18</sup> In April of 1874, Ms. Wheeler entered a tenement apartment and found a child beaten and chained to a bed, and although she informed the police about the child's treatment, they declined to act without proof of an assault, and they could not enter the apartment to obtain such proof.<sup>19</sup> There were no laws that prohibited the abuse of children, nor allowed intervention or removal of children from parental custody.<sup>20</sup> Nearly a century later, California responded to this crisis by becoming the first state to mandate the

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<sup>18</sup> Ruby Andrew, *Child Sexual Abuse and the State: Applying Critical Outsider Methodologies to Legislative Policymaking*, 39 U.C. DAVIS L. REV. 1851, 1863-64 (2006).

<sup>19</sup> Andrew, *supra* note 18, at 1863.

<sup>20</sup> *Id.* at 1863.



reporting of child abuse by statute in 1962.<sup>21</sup> Two years later, the federal government enacted the Child Abuse Prevention and Treatment Act (CAPTA),<sup>22</sup> which encouraged state programs for the identification, prevention, and treatment of child abuse and neglect by providing federal financial assistance to those states that implemented such programs.<sup>23</sup> Illinois created ANCRA as a result of CAPTA. Since the creation of CAPTA, the federal government has created other similar laws, such as the Victims of Child Abuse Act, which applies to healthcare professionals engaged in a professional capacity on federal land or in a federally contracted or operated facility, and provides immunity for good faith reporting or otherwise providing information or assistance in connection with a report, investigation, or legal intervention.<sup>24</sup>

Under ANCRA, the DCFS is statutorily mandated to “protect the health, safety, and best interests of the child in all situations in which the child is vulnerable to child abuse or neglect, offer protective services in order to prevent any further harm to the child and to other children in the same environment or family, stabilize the home environment, and preserve family life whenever possible.” 325 ILL. COMP. STAT. ANN. 5/2 (West 2019). In its manual for mandated reporters, it notes the difficult balance that it must strike: “Mandated reporters express concern that children who have been abused or neglected often remain in their parents’ care. This fact illustrates the philosophy and law of the State of Illinois, as well as federal law, that the majority of children are best

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<sup>21</sup> Richardson, *supra* note 15, at 131, 133.

<sup>22</sup> CHILD ABUSE PREVENTION AND TREATMENT ACT, 42 U.S.C. § 5101 et seq. (1964).

<sup>23</sup> Richardson, *supra* note 15, at 133.

<sup>24</sup> VICTIMS OF CHILD ABUSE ACT OF 1990, 34 U.S.C. § 20341 (1990).

served in their own homes by their own families, with specialized services and monitoring of child safety provided by the State.”<sup>25</sup>

**B. Children’s Advocacy Centers provide a vital service to the children of the State of Illinois through the use of a multidisciplinary team, of which health care professionals serve a critical role.**

To assist with providing a formal, comprehensive, integrated, and multidisciplinary response to the investigation and disposition of reports or child maltreatment, the General Assembly created the Children’s Advocacy Center Act. 55 ILL. COMP. STAT. ANN. 80 et seq. (West 2019). They are “essential to providing a formal, comprehensive, integrated, and multidisciplinary response”<sup>26</sup> to allegations of child abuse, and their main purpose is to limit the number of interviews that a traumatized child must undergo (R. 1168). The importance of a CAC should not be minimized:

Without a CAC, the child may end up having to tell the worst story of his or her life over and over again, to doctors, law enforcement, lawyers, therapists, investigators, judges, and others. They may have to talk about that traumatic experience in a police station where they think they might be in trouble, or may be asked the wrong questions by a well-meaning teacher or other adult that could hurt the case against the abuser.<sup>27</sup>

By teaming professionals from the fields of medicine, mental health, social work, law enforcement, and DCFS, CACs limit a child’s exposure to only one interview and one physical examination (R. 1168-69).

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<sup>25</sup> MANUAL FOR MANDATED REPORTERS, *supra* note 11, at 3.

<sup>26</sup> 55 ILL. COMP. STAT. ANN. 80/2(a) (West 2019).

<sup>27</sup> What is a Children’s Advocacy Center?, <https://www.childrensadvocacycentersofillinois.org/about/cac-model> (last visited Sept. 16, 2019).

The services provided by CACs are wide-ranging and thorough. For example, the CCAC, whose mission is to “unit[e] public, private, and community partners to ensure the safety, health and well-being of abused children”<sup>28</sup> offers the following:

- Comprehensive, developmentally-sensitive, trauma-informed medical assessments and care for child sexual abuse;<sup>29</sup>
- Direct mental health therapy for children within its capacity;<sup>30</sup> and
- Long-term support services for children and families.<sup>31</sup>

When police or Department of Children and Family Services believe a child is being abused, the child is brought to the CAC by a caregiver or other “safe” adult; in this case, that was Gizzell’s grandmother, Helen Ford. The CCAC is a closed-door facility whereby appointments are needed and generally made by DCFS or medical professionals (R. 1169-70). At the CAC, the child tells their story once to a trained interviewer who knows the right questions to ask in a way that does not retraumatize the child. Then, a team that includes medical professionals, law enforcement, mental health, prosecution, child protective services, victim advocacy, and other professionals—the MDT—make decisions together about how to help the child based on the interview. In Fiscal Year 2018 alone, Children’s Advocacy Centers of Illinois (CACI), a network of 37 CACs in Illinois, conducted over 12,400 forensic interviews.<sup>32</sup>

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<sup>28</sup> Who We Are, <https://www.chicagocac.org/who-we-are/> (last visited Sept. 23, 2019).

<sup>29</sup> What We Do, <https://www.chicagocac.org/what-we-do/> (last visited Sept. 23, 2019).

<sup>30</sup> Family Hope Center, <https://www.chicagocac.org/what-we-do/family-hope-center/> (last visited Sept. 23, 2019).

<sup>31</sup> Who We Are, *supra* note 28.

<sup>32</sup> CHILDREN’S ADVOCACY CENTERS OF ILL., 2018 ANNUAL REPORT 9 (2018) [hereinafter CACI 2018 ANNUAL REPORT], <https://www.childrensadvocacycentersofillinois.org/uploads/documents/caci-2018-annual-report.pdf>.

CACs offer therapy and medical exams, plus courtroom preparation, victim advocacy, case management, and other services, all on a limited budget.<sup>33</sup> In July 2017, CACI was awarded a \$7.1 million grant through the Victims of Crime Act,<sup>34</sup> which it distributed to 35 CACs, an average of \$202,800 per CAC, which in turn hired 121 full-time employees.<sup>35</sup>

The crucial work provided by CACs to the children and families of the State of Illinois is best described by the people who provide these protective services on a daily basis:

If we all live to be a hundred, we'll never understand why places like [the CAC] have to exist, but we thank God that they do exist for the children that each and every one of us, all of the disciplines here, serve every day.<sup>36</sup>

**C. There are an extremely limited number of board certified child abuse pediatricians in Illinois, and lack of immunity protections will negatively impact their ability to provide treatment to children.**

A key component of CACs is their MDT, an important part of which are CAPs. Currently, there are fewer than 20 CAPs in the State of Illinois.<sup>37</sup> This State cannot afford to lose such individuals, which is what will happen should the ruling of the

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<sup>33</sup> What is a Children's Advocacy Center?, *supra* note 27.

<sup>34</sup> The Victims of Crime Act of 1984 serves as the central source of federal financial support for services to crime victims. It is funded with fines paid by offenders convicted of violating federal laws. 34 U.S.C. § 20101 et seq (1984).

<sup>35</sup> CACI 2018 ANNUAL REPORT, *supra* note 32, at 14 (2018).

<sup>36</sup> ChicagoCAC, *Shauna Boliker – What My Eyes Have Seen*, YOUTUBE (Apr. 29, 2011), <https://www.youtube.com/watch?v=Nd9sUC1ZP24>. The Hon. Shauna Boliker is now a judge in the Circuit Court of Cook County. When she gave this interview, Judge Boliker was the First Assistant State's Attorney in the Cook County State's Attorney's Office.

<sup>37</sup> PEDIATRIC RES. CTR., DIRECTORY OF ILLINOIS HEALTHCARE PROVIDERS FOR CHILD ABUSE & NEGLECT INVESTIGATIONS 1 (2019), <https://peoria.medicine.uic.edu/wp-content/uploads/sites/8/2017/07/Directory-of-IL-Healthcare-Providers-for-Child-Abuse-and-Neglect-Investigations.pdf>.

Circuit Court of Cook County be upheld. A recent report to Congress by the U.S. Department of Health and Human Services portends a decline in participation by such highly-trained individuals due to liability issues.<sup>38</sup> The reauthorization of CAPTA required the Secretary of Health and Human Services to consult with experts in healthcare and other fields, and examine how immunity from prosecution under state and local laws facilitates or inhibits individuals from cooperating, consulting, or assisting in making good faith reports of suspected child abuse or neglect.<sup>39</sup> The Secretary was also required to submit a report to Congress with information about the study conducted and recommendations for statutory or regulatory changes.<sup>40</sup>

To undertake the study, an information tool was developed by a research specialist and then provided to the American Academy of Pediatrics (AAP).<sup>41</sup> The AAP used the information tool to conduct a survey of its membership: 95% of respondents indicated they had worked with local child protective services before, and 9% declined to participate in an investigation, citing concerns about being the subject of a lawsuit or having a prior negative experience.<sup>42</sup> Negative experiences from being named in a federal or state suit included anxiety and/or depression or emotional stress, time taken away from their practice, financial burden, and repercussions of a negative reputation.<sup>43</sup>

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<sup>38</sup> CHILDREN’S BUREAU, ADMIN. FOR CHILDREN AND FAMILIES, U.S. DEP’T OF HEALTH AND HUMAN SERVS., REPORT TO CONGRESS ON IMMUNITY FROM PROSECUTION FOR PROFESSIONAL CONSULTATION IN SUSPECTED AND KNOWN INSTANCES OF CHILD ABUSE AND NEGLECT (2013) [hereinafter REPORT TO CONGRESS], [https://www.acf.hhs.gov/sites/default/files/cb/capta\\_immunity\\_rptcongress.pdf](https://www.acf.hhs.gov/sites/default/files/cb/capta_immunity_rptcongress.pdf).

<sup>39</sup> *Id.* at 3.

<sup>40</sup> *Id.* at 3.

<sup>41</sup> *Id.* at 4.

<sup>42</sup> REPORT TO CONGRESS, *supra* note 38, at 4-5.

<sup>43</sup> *Id.* at 5-6.

Eight percent of respondents indicated that the outcome of the lawsuit impacted their willingness to consult or assist on future cases.<sup>44</sup> Given the dire situation that could result from such impactful health care professionals declining to provide their services because of liability issues, suggestions to fix the situation included strengthening immunity provisions and addressing suits that circumvent immunity statutes.<sup>45</sup>

This concern is not unique to physicians. The National Association of Chiefs of Police, National Education Association, American Public Human Services Association, and National Association of Public Child Welfare Administrators stated their member constituents have expressed fear of litigation resulting from cooperating in an investigation.<sup>46</sup> However, the report found that while other professionals are concerned with such issues, they are not as directly affected as pediatricians.<sup>47</sup> The report concluded that a critical issue is the need to provide stronger protections to allow professionals to work on child maltreatment cases without fear of being sued for providing assistance to vulnerable children.<sup>48</sup>

The very concerns reflected in this report to Congress are being played out in the instant case, and upholding the ruling of the Circuit Court of Cook County would remove important protections for healthcare professionals and discourage them from providing their critical services within the State of Illinois, and will negatively impact the health and safety of its minor citizens. As discussed above, CACs are comprised of many separate but vital professionals working together to ensure the safety and well-

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<sup>44</sup> *Id.* at 6.

<sup>45</sup> CACI 2018 ANNUAL REPORT, *supra* note 32, at 7.

<sup>46</sup> *Id.* at 9-10.

<sup>47</sup> *Id.* at 10.

<sup>48</sup> *Id.* at 20.

being of children. A paramount component of the CACs are health care professionals, and making them liable for the unforeseeable torts and criminal acts that third parties commit against these children will have a grave chilling effect. If not overturned, this verdict will have disastrous consequences for the CAPs, CACs, children, and families of Illinois.

### **III. CONCLUSION**

Organized medicine unquestionably and unanimously supports the statutory requirements of ANCRA. It is the policy of the ISMS to urge all state health agencies and family service agencies which become involved in child abuse cases to conduct prompt, necessary investigation of the family environment prior to the release of the child for return to the same home where the abuse occurred. In addition, the *amici* support the development of a comprehensive educational strategy across the continuum of professional development that is designed to improve the detection, reporting, and treatment of child maltreatment, and support the concept that physicians act as advocates for children in this area.

The General Assembly clearly intended to provide mandated reporters, including health care professionals, with broad immunity under the Abused and Neglected Child Reporting Act to engage in the making of a report where there is a **reasonable belief** that a child known to them in their professional or official capacity is an abused or neglected child. To grossly eviscerate the protections as plaintiff-appellee suggests, and effectively gut the statute, would contradict the long-established purpose of the legislation. The language in the ANCRA is clear and unambiguous, and applies in the instant case to defendant-appellant Norell Rosado, M.D. Where a

mandated reporter does not have a reasonable belief to suspect child abuse, reporting is inappropriate and cannot nor should not be required.

Similarly, the traditional physician-patient relationship does not rise to the level of a special relationship creating a duty to warn or protect from criminal harm, nor does ANCRA provide for a separate, civil cause of action. In response to a tragic incident where Gizzell Ford was murdered by her grandmother, the Circuit Court of Cook County is creating an untenable situation for healthcare professionals in this State. For all of these reasons, the Illinois State Medical Society, American Medical Association, American Nurses Association—Illinois, Illinois Chapter, American Academy of Pediatrics, Illinois Health and Hospital Association, Illinois Psychiatric Society, Illinois Society for Advanced Practice Nursing, Illinois Society of Anesthesiologists, and Ray E. Helfer Society respectfully request this Court to overturn the holding of the Circuit Court of Cook County in this matter.

Respectfully submitted,

By: /s/ Sherri DeVito

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No. 1-18-1845  
IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

JUAN MERCADO, as Independent	)	
Administrator of the Estate of Gizzell Ford,	)	Appeal from Circuit Court
Deceased Minor,	)	of Cook County, Illinois,
	)	County Department, Law
Plaintiff-Appellee,	)	Division
	)	
v.	)	No. 14 L 7337
	)	
NORELL ROSADO, M.D.,	)	Hon. James M. Varga
	)	Judge Presiding
Defendant-Appellant.	)	

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**SUPREME COURT RULE 341(c) CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 29 pages.

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	)	
NORELL ROSADO, M.D.,	)	Hon. James M. Varga
	)	Judge Presiding
Defendant-Appellant.	)	

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**NOTICE OF ELECTRONIC FILING AND PROOF OF SERVICE**

I, Sherri DeVito, hereby certify that on September 26, 2019, I electronically filed and served with the Clerk of the Court using the File and Serve system the foregoing *Amici Curiae* Brief by the Illinois State Medical Society, American Medical Association, American Nurses Association—Illinois, Illinois Chapter, American Academy of Pediatrics, Illinois Health and Hospital Association, Illinois Psychiatric Society, Illinois Society for Advanced Practice Nursing, Illinois Society of Anesthesiologists, and Ray E. Helfer Society in support of Defendant-Appellant Norell Rosado, M.D. I further certify that the above-mentioned document has been served upon the attorneys of record hereinafter indicated by the File and Serve system and by email transmission.

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