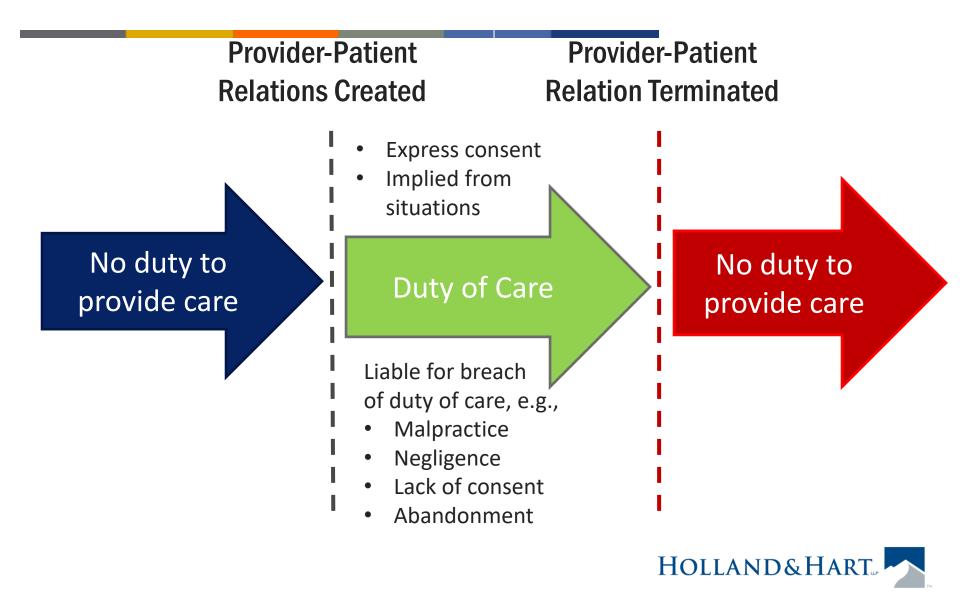
Creating and Terminating Patient Relationships

Brad Cave





Provider-Patient Relationship



Creating Relationship

• General rule:



patient seeks care from practitioner

+ <u>practitioner consents to provide care</u> practitioner-patient relationship



Wyoming Law Regarding Duty

- A physician-patient relationship is normally required to establish a duty in the context of a malpractice claim
- Wyoming Supreme Court has held that duties can arise without a formal physician-patient relationship, depending on several factors relating to the circumstances of the relationship and the harm that is alleged



Creating Patient Relationship

- Beware cases in which relationship may not be intended.
 - Phone calls or emails w/patient
 - Telemedicine
 - Social media
 - Call for appointments
 - Consultations with colleagues
 - Courtesy or favor
 - Emergency care
 - IME, employer physical, etc.
- * Each case depends on its own facts.





Creating Patient Relationship

To avoid creating unintended patient relationship—

- Be careful what you say or do.
- Don't get involved or give advice.
- Define or limit your relationship.
 - Explain non-existence or limits to your care.
 - Refer to another practitioner.
- Document the parties' relationship.
 - Policies, forms, consents
 - Discharge/referral instructions
 - Letters or emails
- Check your insurance to ensure you have coverage.

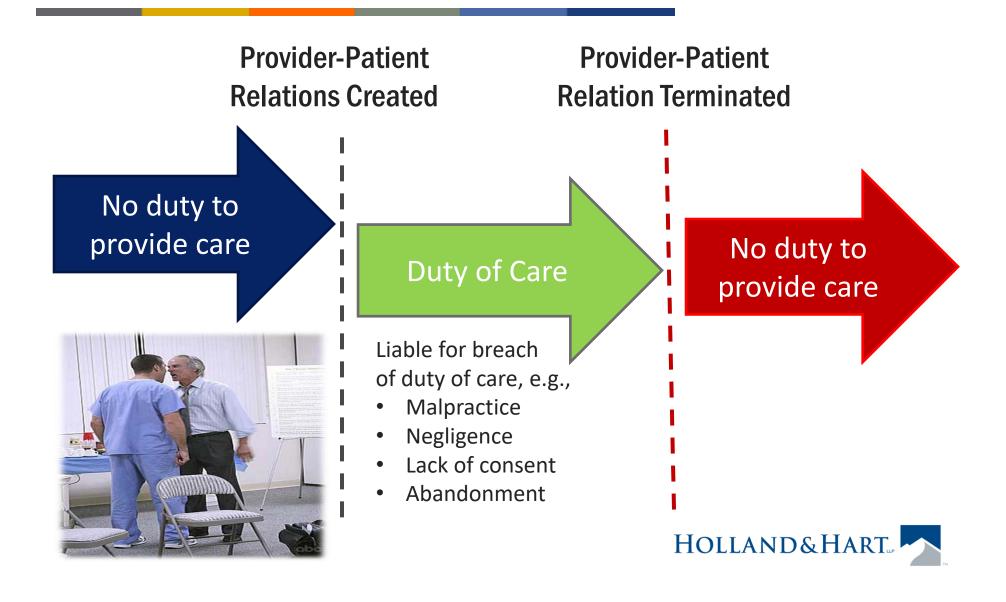


Refusing Patients

- In general, practitioners can <u>legally</u> refuse to treat anyone they want. (*See* IC 39-1391b and -1391c)
 - Ethics rules may differ...
- Exceptions:
 - EMTALA
 - Anti-discrimination laws
 - Contracts require care
 - Grant requirements
 - Charity care obligations
 - Cannot abandon patient







• Do not do this...

- Unless you want to risk liability for:
 - Malpractice.
 - Patient abandonment.
 - Civil penalties under EMTALA or COPs
 - Participation in third party payor programs.
 - Adverse licensure actions.





- Document, document, document!
 - Medical record
 - May be subject to patient's right of access.
 - May be discoverable.
 - Be objective, use quotes, etc.
 - Incident report or other peer protected
- Documentation is critical in case we need to take additional corrective action.
- Remember: "If it's not in the chart, it didn't happen."

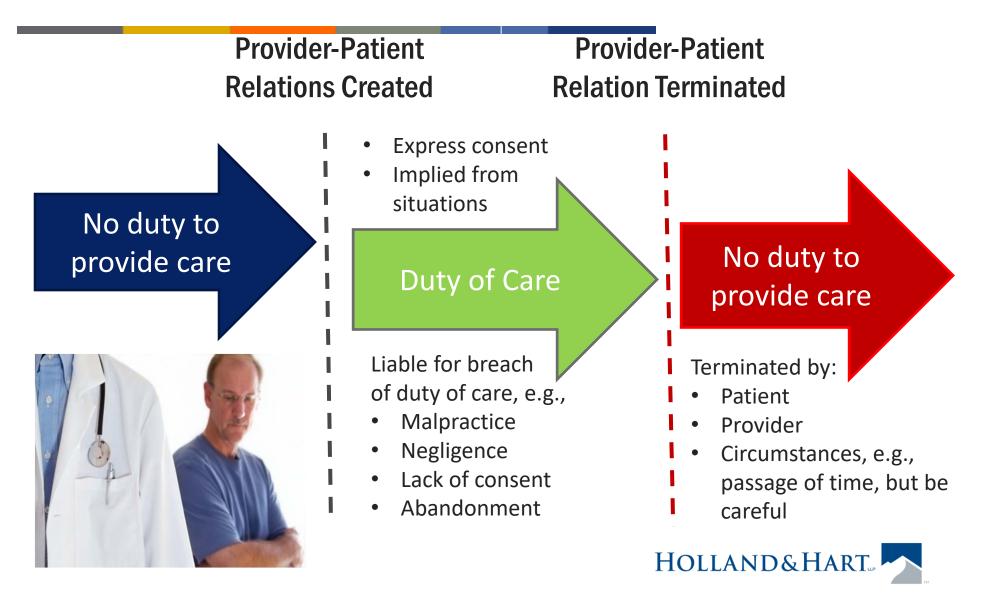


- Patient responsibilities document
 - Explain that patient's cooperation and appropriate conduct are essential to effective care.
 - Require, among other things,
 - Cooperation in developing treatment plan.
 - Compliance with treatment plan.
 - Ongoing communication and respect.
 - Professional, non-disruptive conduct.
 - Post in facility.
 - Use in communications with patient.



- Patient Care Conference / Contract
 - Refer to "Patient's Rights and Responsibilities".
 - Explain that inappropriate conduct interferes with our ability to provide effective care.
 - Warn that we will need to end relationship if they fail to comply.
 - Advise them that they may go elsewhere.





Patient Abandonment

- Abandonment =
 - Leaving town without securing coverage for your patients
 - Four weeks publication of notice of closure and where records can be obtained
 - Terminating relationship without giving patient sufficient:
 - Thirty (30) days notice that you are ending relationship
 - Time to find a new practitioner
 - Care until the patient can transfer to a new practitioner
- Penalties
 - Lawsuit by patient for damages
 - Action against license (WY Board of Medicine Regulations)

HOLLAND&HART

- Can terminate relationship for any legitimate reason or no reason, but not bad reason
- Legitimate reasons
 - Failure or refusal to pay bills
 - Breakdown in relationship or communications
 - Disruptive conduct
 - Noncompliance with treatment
 - Missed appointments
 - Etc., etc., etc.
- Bad reasons
 - Discrimination



- Factors to consider before ending patient relationship
 - Patient's current health needs
 - Availability of alternative care
 - Basis for termination (e.g., legitimacy compared to patient's health care needs)
 - Whether patient is in protected class
 - Documentation supporting termination
 - Alternative actions
 - Warnings
 - Patient care conference
 - Behavior contract



- If termination necessary and appropriate:
 - Notify patient in writing and perhaps orally
 - Certified mail, return receipt requested
 - Give sufficient time to transfer care
 - Depends on patient's condition
 - At least 30 days, but no hard and fast rule
 - Provide necessary care in interim
 - Facilitate transfer of care
- Retain letter in patient chart or elsewhere.



- There may be situations that justify immediate termination without advance notice, e.g.,
 - Danger to patient, staff or others
 - Criminal misconduct
- Be careful before terminating without notice; consider:
 - Patient care needs
 - Availability of alternative sources for treatment
 - Statutory obligations, e.g., EMTALA or state statutes
 - Contractual obligations
 - "What would a jury think?"



Questions?



