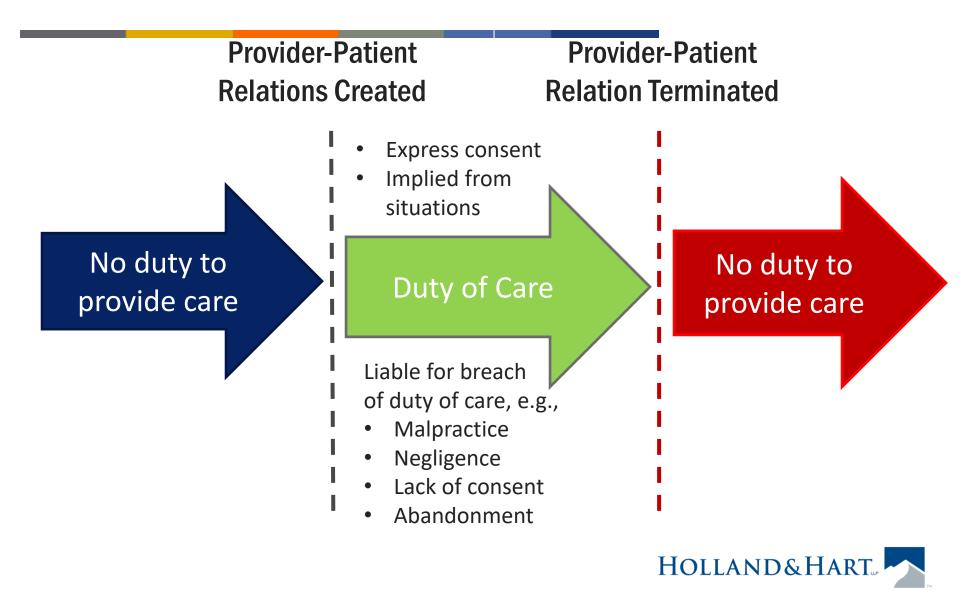
# Creating and Terminating Patient Relationships

#### **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.

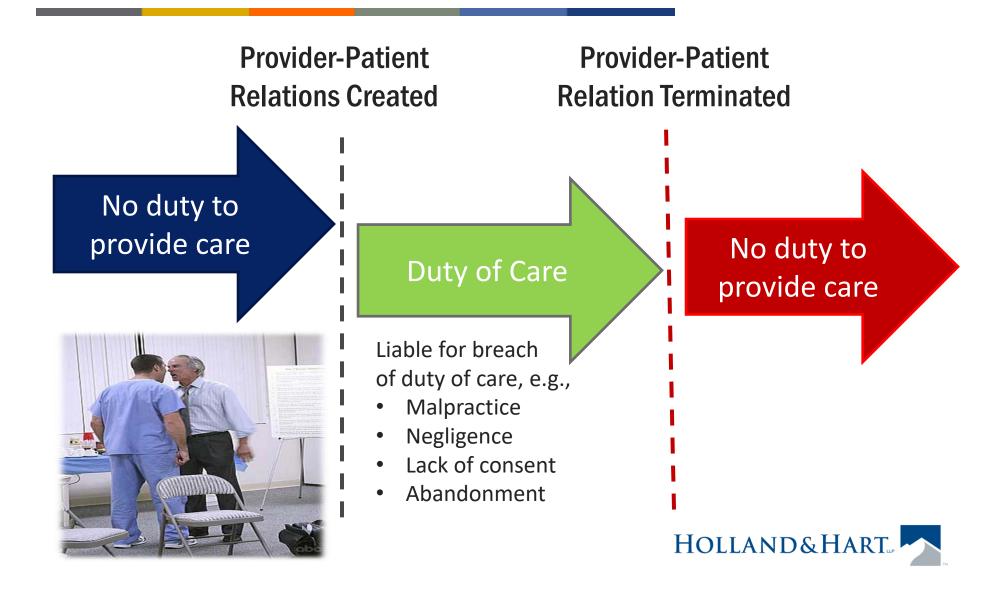


## **Refusing Patients**

- 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."

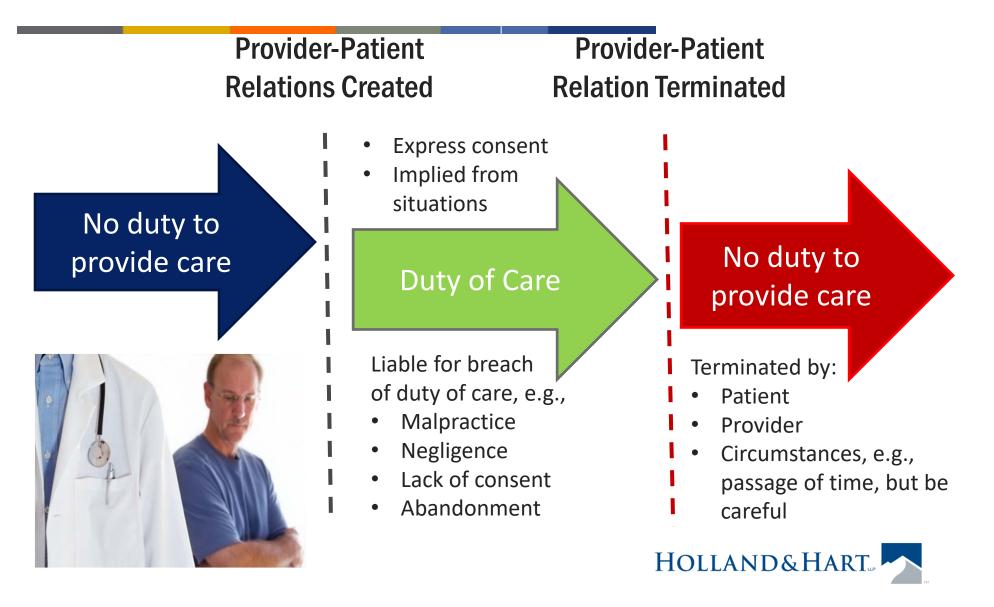


- Patient responsibilities document
  - Explain that patient's cooperation and appropriate conduct are essential to effective care.
  - Require, among other things,
    - Cooperation in developing treatment plan.
    - Compliance with treatment plan.
    - Ongoing communication and respect.
    - Professional,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

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- 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?**



