

Health Law: Quality & Liability

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Treatment Relationship:
Duty to Treat



Duty to Treat



We later address

when & how

such duties spring

into being



We later address

when & how

a treatment

relationship is

formed



First, we examine
when physician
must treat (even
if not want to)



Default
starting
point



No duty

to treat



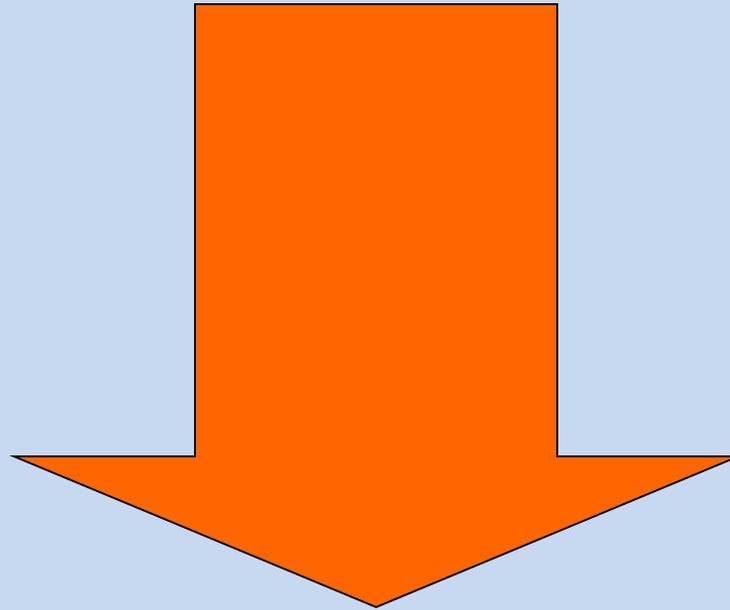
Providers **may**
refuse to treat
for any reason
or for no reason



Duty to treat
created by
physician's **own**
voluntary
consent



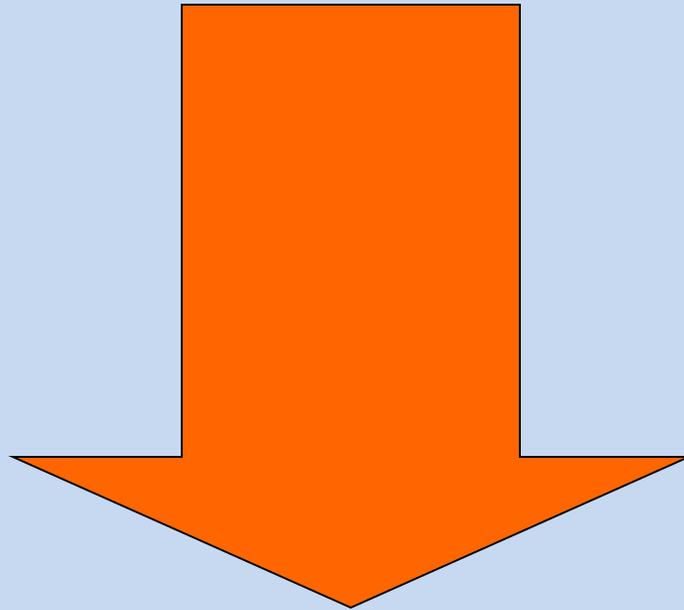
No treatment relationship



May refuse to treat
for **any** reason



No physician consent



No physician duty



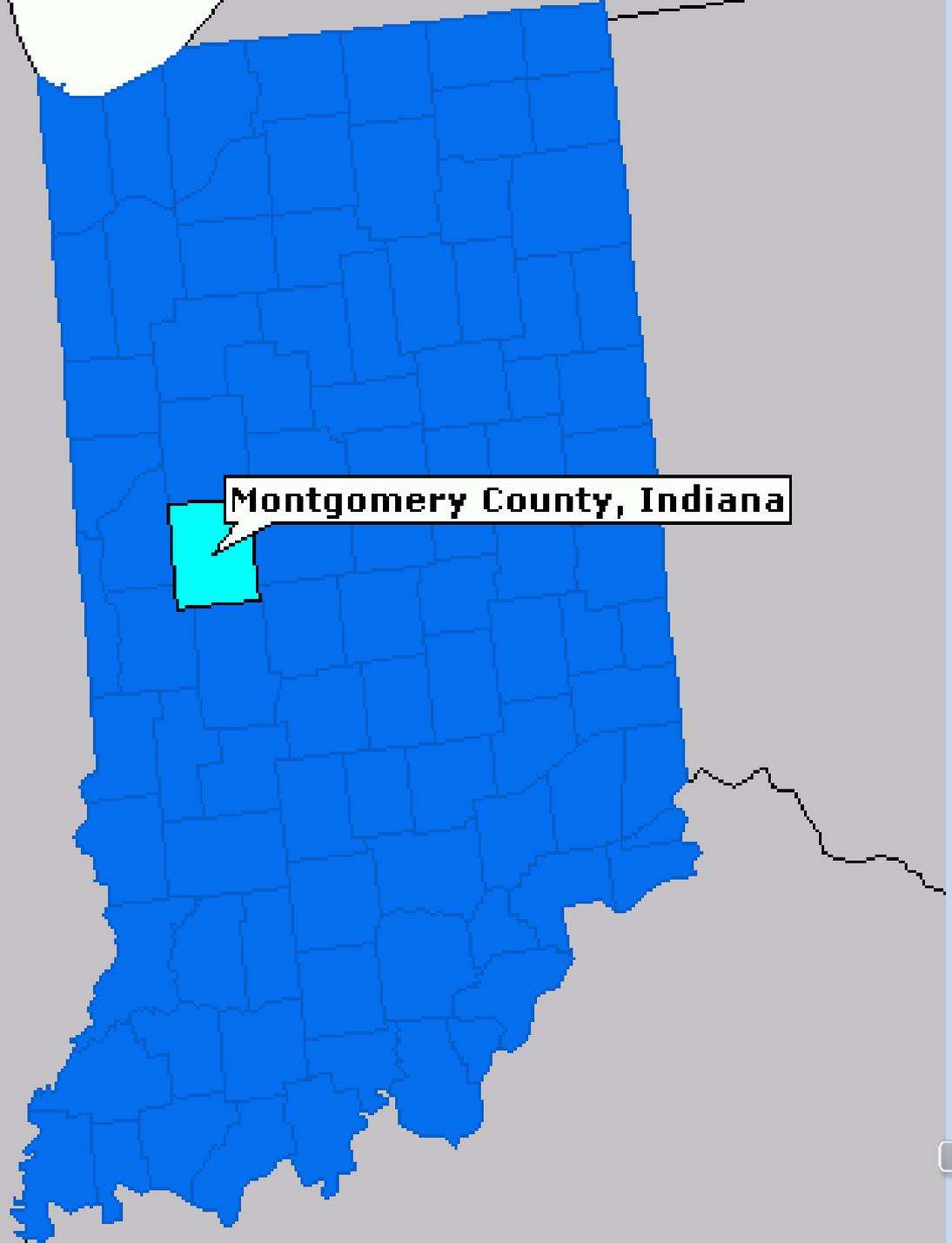
Hurley

v.

Eddingfield



1901



Montgomery County, Indiana



Medical need

is **not**

sufficient to

create a duty



Patient “dangerously ill”

Physician **only one** available

Physician treated this family
for years

Husband tendered fee

Physician had **no reason**

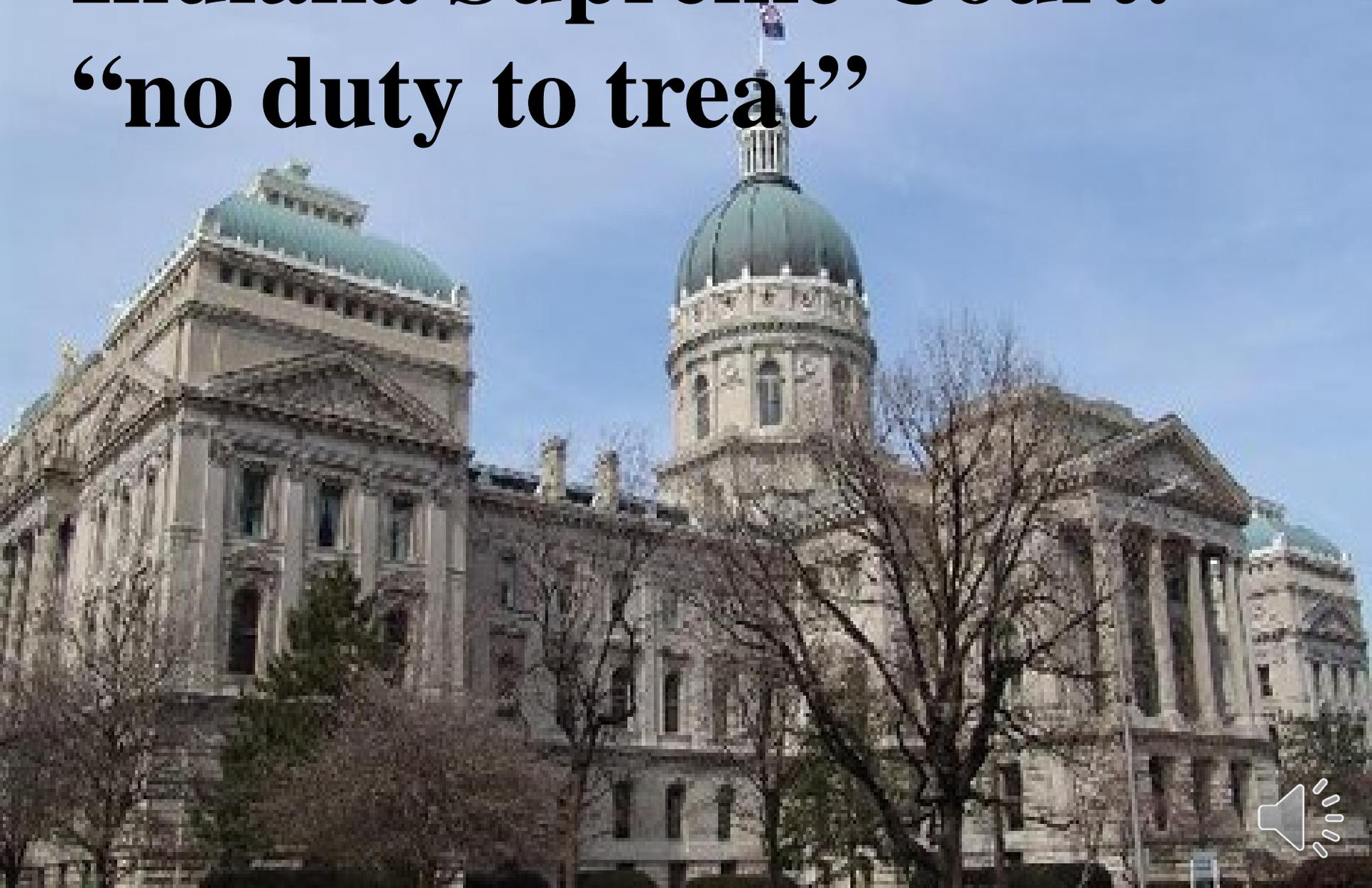


Patient dies

Family sues



Indiana Supreme Court: “no duty to treat”



Duty to treat
based on
consent,
contract



Dr. Eddingfield
did **not**
consent



PTF argued that
Dr. E delivered
prior babies



Irrelevant



Treatment
relationships are
specific to each
“episode of illness”



Dr. E has **no**
duty to deliver
this baby, unless
he agrees



Still the law
115 years
later



Takeaway rule



When **must**
physician treat
a patient?



Never



If not **already**
in treatment
relationship



Providers **may**
refuse to treat
for any reason
or for no reason



Big reason:
nonpayment



3 limits



Limit 1



Cannot refuse
for an **illegal**
reason



Invidious discrimination

Race

Disability

National origin

Gender

Others



Limit 2



Cannot refuse
if **already**
agreed



MCO contract

e.g. You agreed to be
listed in Blue Cross
network



Limit 3



Another type
of “prior”
agreement



On call

e.g. When get staff
privileges, you agreed
to treat ED patients



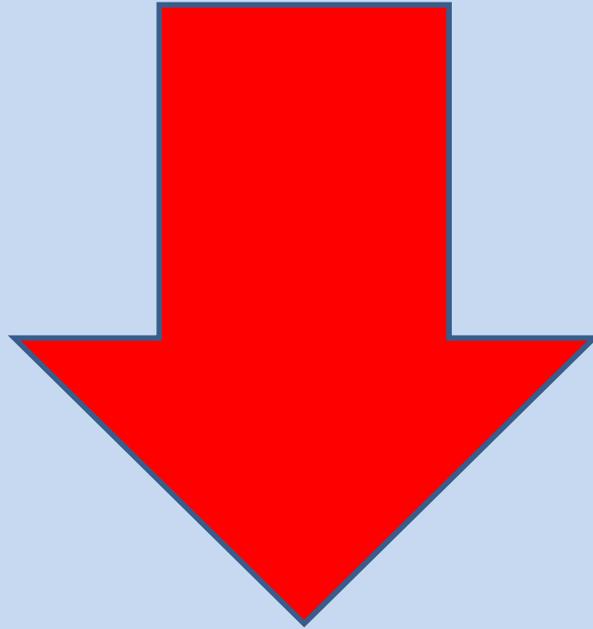
Legal vs. ethical duties



We focus on
legal duties
actionable by
patient



No contract



No tort



Standard of care

Non-abandonment

Informed consent

Confidentiality



No lawsuit



Ethical duties

may be broader



Code of Medical Ethics

of the American Medical Association

Council on Ethical and Judicial Affairs
Current Opinions with Annotations
2010-2011 Edition



VI. A physician shall . . .
be **free to choose** whom
to serve

. . . **except** in emergencies



In 2016, Hurley
still cannot sue Dr.
Eddingfield



But the Indiana
medical board
could **discipline**
Dr. Eddingfield



Let's leave now
when you **must**
form a treatment
relationship

