

Health Law: Quality & Liability

Prof. Thaddeus Pope

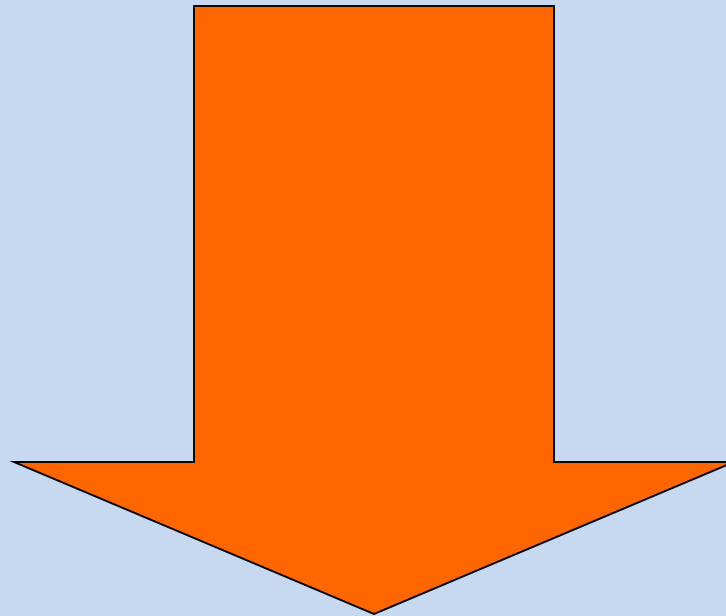
Treatment Relationship:
Termination



How to terminate the relationship



No treatment relationship



May refuse to treat
for **any** reason



Unless

Invidious discrimination
(e.g. race, disability)

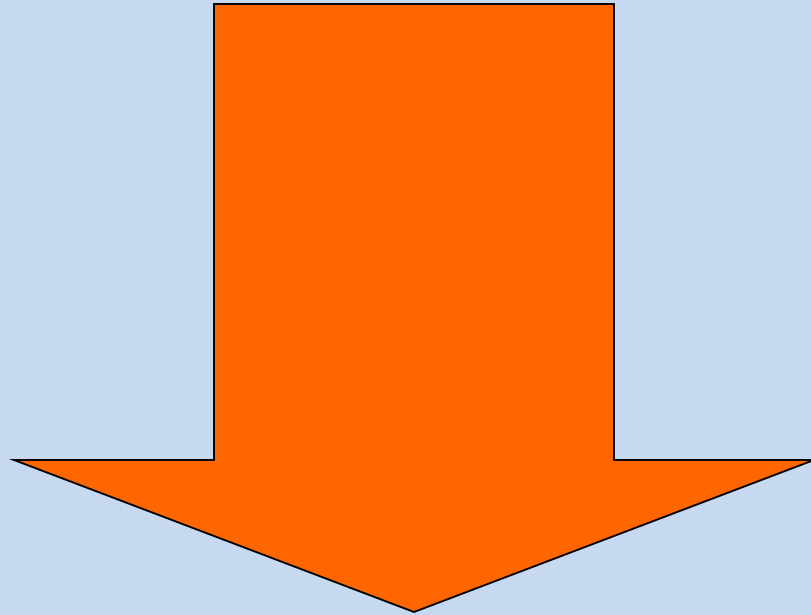
Prior agreement to treat
(e.g. MCO, on-call)



Contrast



Existing treatment
relationship



Must **continue** to treat



Until

Termination of
relationship
(in 1 of 4 valid ways)



Otherwise,
termination is

Tortuous
abandonment



3 easy ways
to terminate



1. Mutual consent
2. Patient dismisses physician
3. Medical services no longer needed



4th way

to terminate

is trickier



Physician
unilateral
withdrawal



Once treatment relationship is formed, **limits** on physician ability to terminate



Lots of
reasons to
“fire” a patient



Noncompliance

Failure to pay

Verbal abuse, threats

Drug seeking

Fail keep appointments



Violate policies

CBO

Lack skills for adequate Tx

Lack resources

Others ??



Reason for
terminating
does **not**
matter



Paul Simon

50 Ways To Leave Your Lover



some folks lives roll easy

Shirley



LIVE

Only ONE way
to “fire” your
patient



Unilateral physician
withdrawal is
permitted **with**
sufficient notice



Sufficient notice =
amount of time
required for patient to
get another provider



Otherwise,
physician termination is

**Tortuous
abandonment**



Physician **may** terminate

Physician **may not**

abandon (i.e. terminate
with insufficient notice)



Abandonment



Intentional,
purposeful,
deliberate decision

Non-medical reason



Contrast misdiagnosis



“You’re cured
and no longer
need my
services”



Mistake, if
negligent, is
medical
malpractice



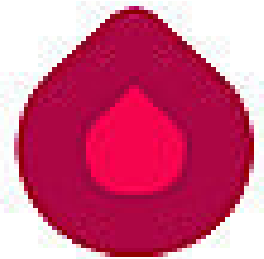
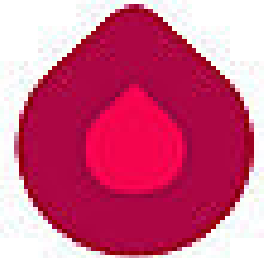
Ricks

v.

Budge



Farmer cuts
finger on
barbed wire



Mar. 8	R finger on wire
Mar. 11	Budge treats R
Mar. 12-15	R in hospital
Mar. 15	R leaves hospital
	AMA
	Dr. B instructs R



Mar. 16

Gets worse

Mar. 17

R to Dr. B office

Mar. 17

Dr. B. “go to
hospital” ASAP



Mar. 17

Dr. B arrives at
hospital but
**refuses to
treat (unpaid)**

Mar. 17

R to another
hospital



Contrast with the
following case



Payton

v.

Weaver





1975-1978

Dialysis w/ Dr. Weaver

Drugs & alcohol

Not following rules

Antisocial

12-12-78 Dr. Weaver notice



04-23-79 Dr. Weaver notice

1979 Writ of mandate
settlement: Dr. Weaver
will treat, if Payton
complies with 6
conditions



1980

Brenda fails to
comply with **any** of
the 6 conditions

03-03-80

Dr. Weaver 3d
notice + offer to
help



All the (bad) facts
about Ms. Payton
make no difference to
the abandonment
analysis



Proper termination

Lots of **notice**

(opportunity to find
new provider)



Law

parallels

ethics



Code of Medical Ethics

of the American Medical Association

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



AMA Opinion 8.115 

“Physicians have an obligation to support **continuity of care** for their patients.”



“While physicians have the option of withdrawing from a case, they cannot do so without giving **notice** . . . sufficiently long **in advance** . . . to permit another medical attendant to be secured.”



Abandonment

Not just a tort

Licensure too



Abandonment is
not just one type
of medical
malpractice



Licensure codes
and regulations
also define the
duty



E.g. New Jersey
requirements for
terminating a
licensee-patient
relationship



1. Notify the patient, in writing, . . . no less than **30 days prior** to the date on which care is to be terminated, and shall be made by certified mail...



“Notwithstanding . . .
a licensee **shall not**
terminate a . . .
relationship . . .
circumstances”



“Where to do so
would be for any
discriminatory
purpose”



“Where . . . **no other licensee** is currently able to provide the type of care or services . . .”



Want to refuse →
try transfer

No transfer →
must comply

