

# 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

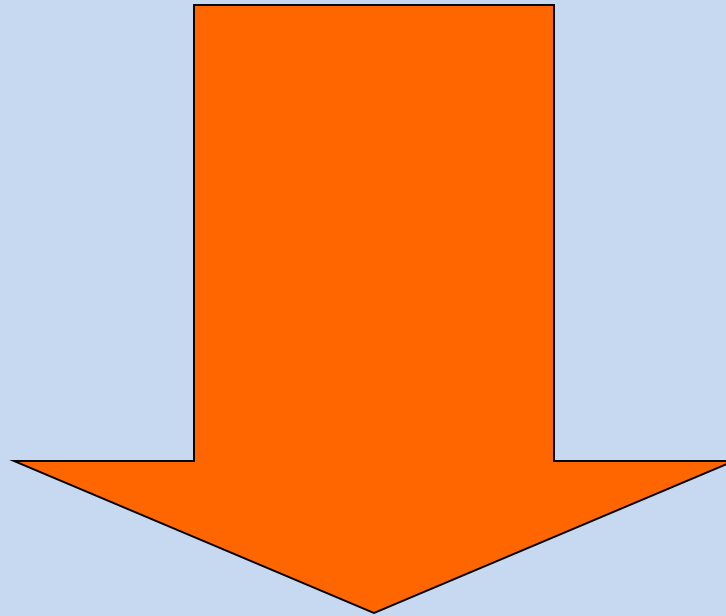




Duty to treat  
created by  
physician's **own**  
voluntary  
consent



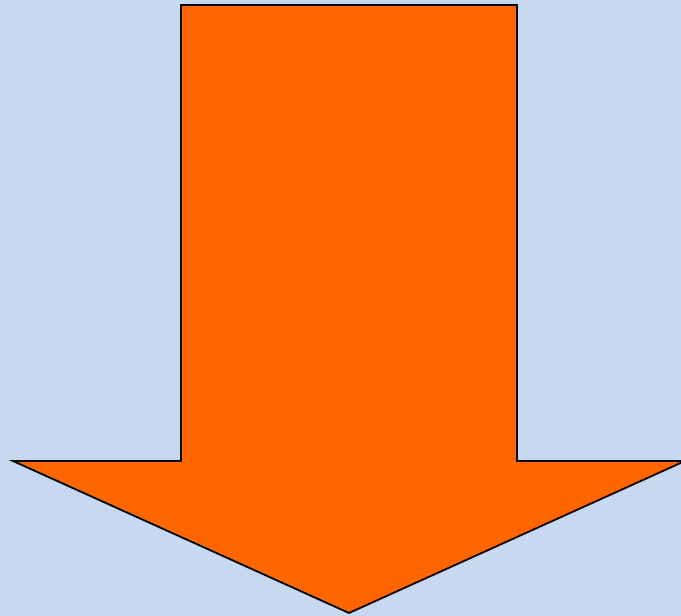
# No treatment relationship



May refuse to treat  
for **any** reason



No physician consent



No physician duty



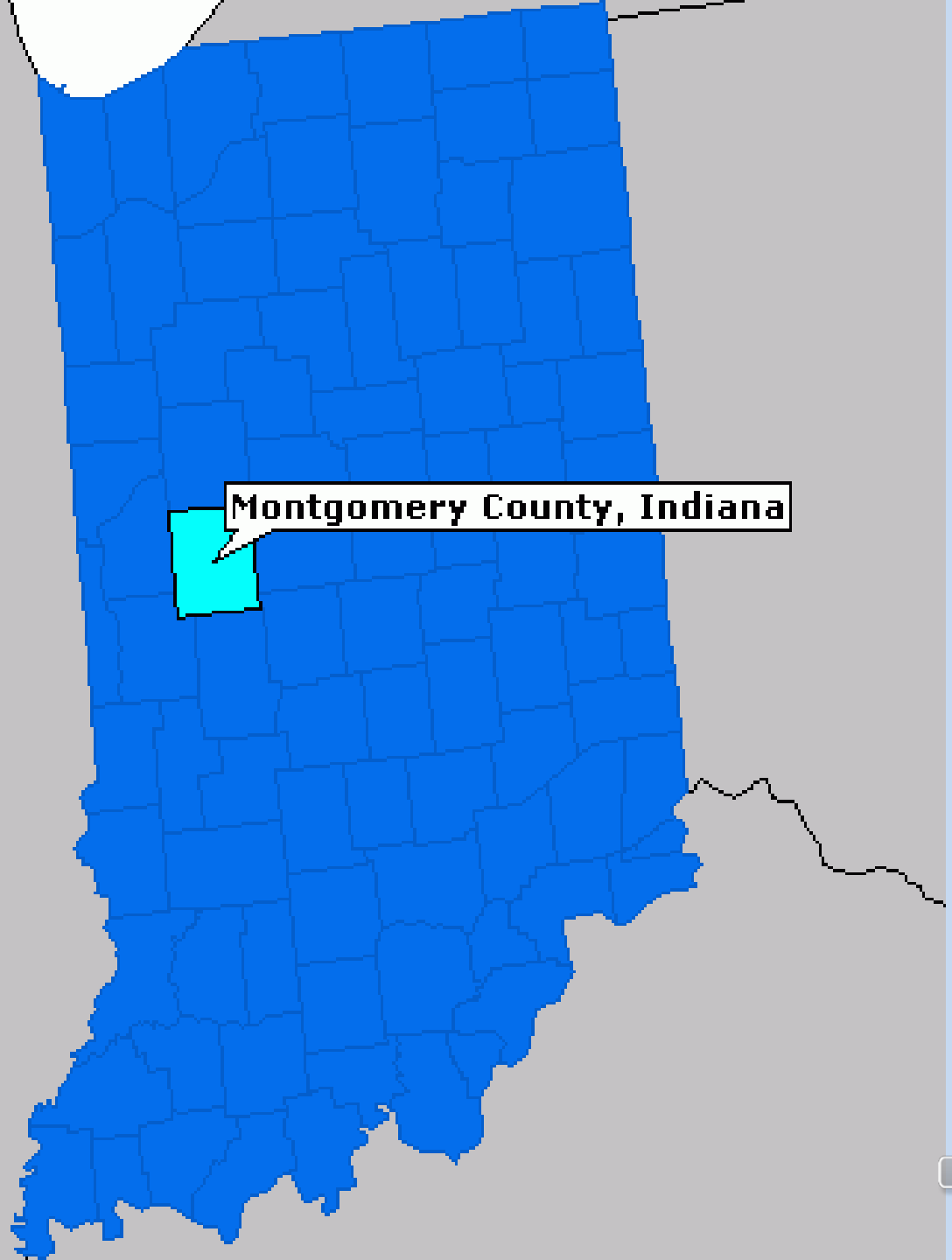
**Hurley**

**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**



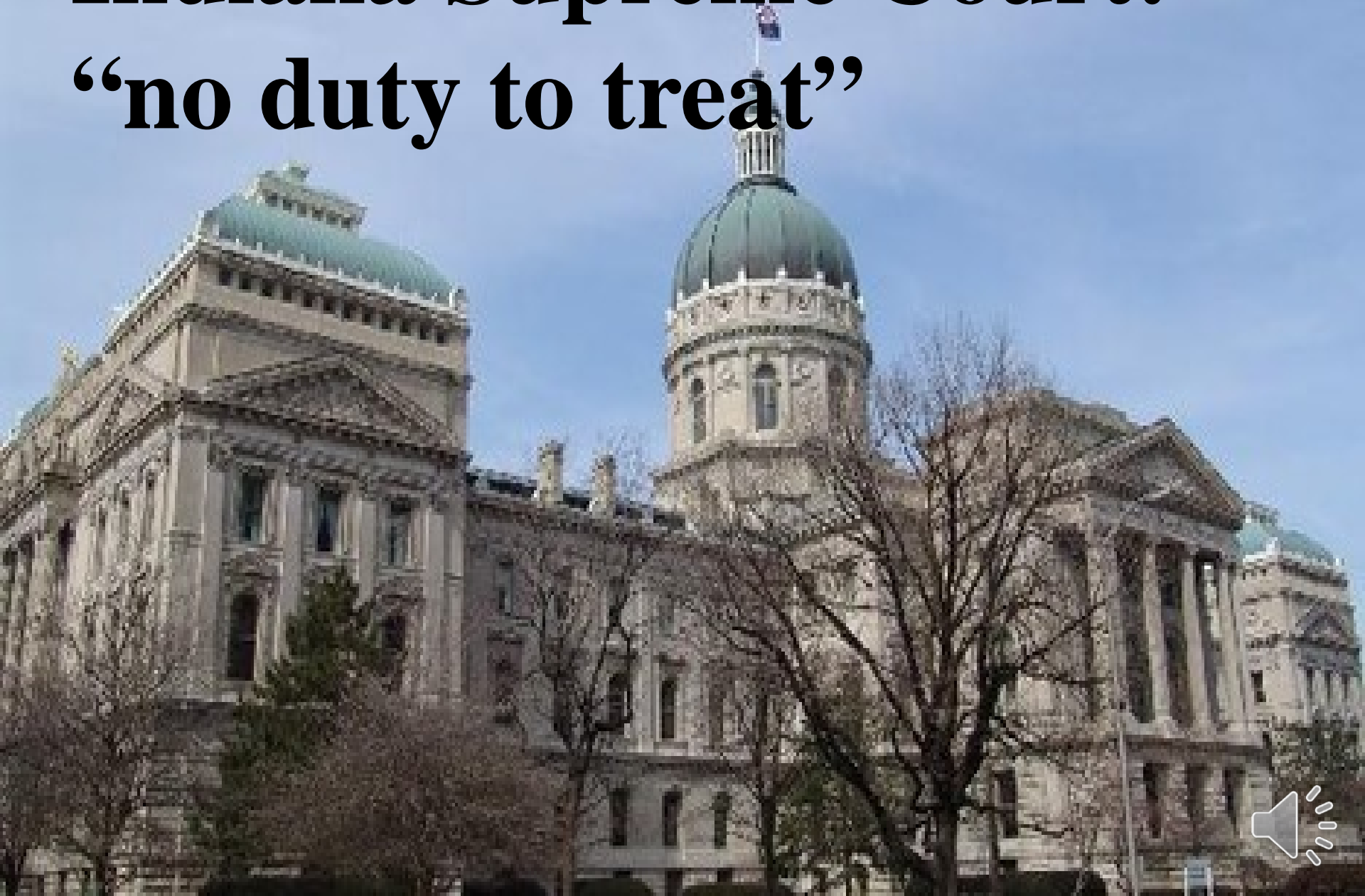
Patient dies

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





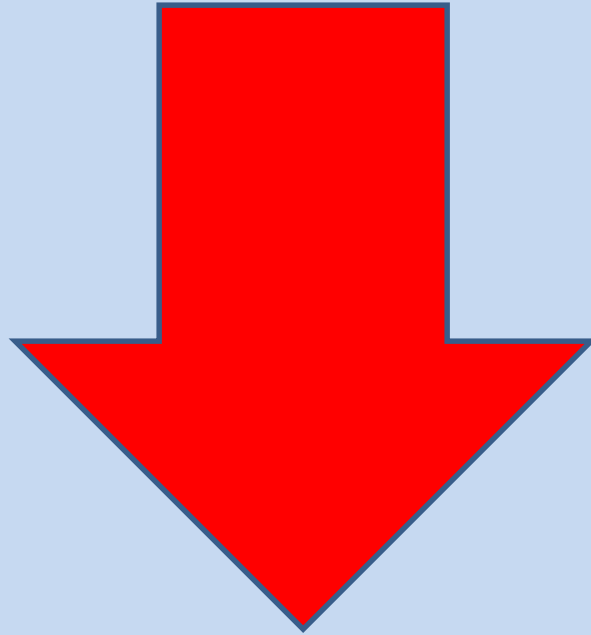
# Legal vs. ethical duties



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

