Health Law: Quality & Liability

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Treatment Relationship: Recap

Treatment relationship RECAP

We answered
4 key questions

Question 1

When **must** a HCP enter a treatment relationship

Never, except through **consent**

Consent can be **prior** (e.g. assumption of on-call duties, MCO listing)

Limits on right to refuse

ADA

Race

Gender . . .

Question 2

When is a treatment relationship formed

Conduct by physician that evidences consent to treat

Words or action

Interpret from **patient** perspective (do they **think** they are being treated)

Formation often evidenced by patient **reliance**

Physicians who provide only **informal, curbside consults** are **not** in a treatment relationship with patient, even if treating physician relies on consultant's advice

IME physician

Never in regular treatment relationship

Question 3

When is a treatment relationship terminated

1. Patient consent
   (e.g. patient fires doc)
2. End of medical need
   (e.g. cure, recovery)
3. Doc fires patient

Doc can fire patient for **any** non-illegal reason (e.g. ADA)

But must give sufficient **notice** (to get new doc)

Failure to provide sufficient notice = **abandonment**

Question 4

What **duties** arise on formation of treatment relationship

There are 4

Non-abandonment

Duty not to prematurely terminate treatment relationship (makes sense only if one already exists)

We will examine the next 3 in upcoming sessions

Informed consent

Exercise reasonable judgment/skill

(i.e. be non-negligent, avoid malpractice)

Standard of Care

Judgment & skill of reasonably prudent physician under the circumstances

Confidentiality

Do not reveal PHI when not permitted