



## “I Got Burned for Helping”

Edw. C. Lopez, PA-C

Its 3:00 O'clock in the afternoon and Provider Kildare is two patients behind when he looks down from the Nurse's station counter to see Nurse Ruby Tuesday looking quite concerned while speaking on the phone. After a couple of minutes Nurse Tuesday promptly hangs up noting that they're behind on the schedule while expressing a deep sigh and then stands up to face Provider Kildare who then asks her, "Hey...what's going on?" She reluctantly and quietly says, "That was Bob my husband who said he's been having increasing difficulty voiding and can't get in to see his PCP for another month, so I don't know what to do!" Nurse Tuesday then sighs and quietly asks, "Do you think you can give my Bob something that would help him until he sees his PCP?" Provider Kildare sensing the urgency and frustration in Nurse Tuesday's request as well as a sense of wanting to help his most trusted clinical partner, promptly reaches into his coat pocket and pulls out his prescription pad and says, "Here you go Ruby, this should help him! This is Tamsulosin 0.4mg. Have him take one each morning and he should start feeling better." Nurse Tuesday reaches for the prescription and thanks Provider Kildare for his thoughtful kindness and they both proceed with their day.

Two weeks go by, and Provider Kildare asks Nurse Tuesday how her husband Bob is doing, and she says he seems so much better and hasn't complained of any voiding issues so he decided to not see his PCP since he's so busy in his contracting business and has been working out of town in Spokane. Nurse Tuesday then asks Provider Kildare if he would call in a script for a 90-day supply of the Tamsulosin so he can continue it through the work season until he can come back to Seattle and have the time to see his PCP. Provider Kildare pauses and thinks about it a moment and agrees that a 90-day script would be fine and convenient for Bob to continue

it. So, he reaches for the phone and calls in a 90-day prescription for Bob for the medication at Bob's preferred pharmacy.

Three months go by, and Provider Kildare recognizes that Nurse Tuesday has been out of the office for over a week and asks the office manager what happened to Ruby. Management lets him know that she has taken a personal leave of absence for an undetermined amount of time.

Two weeks later as Provider Kildare opens his email, he recognizes that he has an email from the Washington Medical Commission. In it he reads with a sense of impending doom that a complaint has been filed against him by someone alleging "malpractice, negligence, neglect of care and treating a patient without ever examining or assessing the patient". As he reads further in the complaint, he determines that the complainant is the daughter of Nurse Ruby Tuesday & husband Bob. It turns out Bob ultimately did return home a few days sooner than expected due to a sudden onset of "bloody urination with pelvic and back pain" and did indeed get in to see his PCP and then was sent to a urologist who found stage IV bladder cancer.

While this is an amalgamation of fact and fiction, I will spare the reader the lengthy and emotional investigative and adjudicative process details that could involve a case such as this and instead would like to focus on what may have gone wrong here.

While we are all in this profession to provide help & healing to the sick and injured while relieving suffering, we are also bound by the adage to "...First do no harm!". And while many of us may have fallen into the trap of providing treatment to friends, family and even loved ones without ever establishing a proper patient relationship, we must be aware of the ethical and legal pitfalls of this seemingly "helpful" practice.

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## Physician Assistant News

### What is the legal definition of a physician-patient relationship?

“(Exceptions are made when emergency care is needed and when refusal to treat is based on discrimination). However, a patient-physician relationship is generally formed when a physician affirmatively acts in a patient’s case by examining, diagnosing, treating, or agreeing to do so.” AMA Journal of Ethics

According to legal scholars nationwide:

“The physician-patient relationship is regarded as a fiduciary relationship, in which mutual trust and confidence are essential. A physician or [Physician Assistant] is held to a standard of medical care defined by the accepted standards of practice in his or her area of practice. Some of the obligations of a physician’s [Physician Assistant’s] duty of due care include the obligation to fully inform the patient of his or her condition, to continue to provide for medical care once the physician-patient relationship has been established, to refer the patient to a specialist, if necessary, and to obtain the patient’s informed consent to the medical treatment or operation.” U.S. Legal.com

And while this Washington Administration Code refers to “Sexual Misconduct” it is pertinent to this topic of what defines a “patient”. [WAC 246-919-630 \(a\)](#)

“Patient” means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician [Physician Assistant] and the person.”

As you gathered by now there was no “professional relationship” here between Provider Kildare and Bob, the husband of Nurse Ruby Tuesday who had been the friend and colleague of Provider Kildare for several years. And this decision to “help” placed Provider Kildare in a clinically responsible place assuming care and treatment of a man whom he never saw, nor obtained any medical history or review of symptoms from and whom he never examined. And while this complaint would likely emotionally devastate most of us, Provider Kildare learned a painful but valuable lesson and never again prescribed or treated anyone again that he did not see personally nor was able to have a direct contact, conversation or “professional relationship” with. In the end Provider Kildare became a better and much more comprehensive medical provider serving his community with distinction but unfortunately with a very deep emotional cost that he wished he would have never experienced.

In conclusion, the Washington State Medical Commission is here to protect the citizens of Washington while “promoting patient safety and enhancing the integrity of the profession through licensing, discipline, rule making, and education” for both Physicians and Physician Assistants.

## Upcoming Meetings

WMC Policy Meeting	April 13th, 2023 4:00 PM PST	Virtual options available Capitol Event Center (ESD 113) 6005 Tye Drive SW, Tumwater, WA
WMC Business Meeting	April 14th, 2023 8:00 AM PST	Virtual options available Capitol Event Center (ESD 113) 6005 Tye Drive SW, Tumwater, WA
WMC Policy Meeting	May 25th, 2023 4:00 PM PST	Virtual Meeting
WMC Business Meeting	May 26th, 2023 8:00 AM PST	Virtual Meeting
WMC Policy Meeting	July 13th, 2023 4:00 PM PST	Virtual options available Capitol Event Center (ESD 113) 6005 Tye Drive SW, Tumwater, WA
WMC Business Meeting	July 14th, 2023 8:00 AM PST	Virtual options available Capitol Event Center (ESD 113) 6005 Tye Drive SW, Tumwater, WA