

It's Not Easy to Say Goodbye: Properly Discharging a Patient from Your Practice

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Once a physician has established a professional relationship with a patient, the physician has an on-going legal duty to care for that patient. The expected length of this relationship varies based on the type of care being provided. If a patient is referred to a surgeon for a single procedure, the professional relationship between the surgeon and the patient typically ends when the patient has fully recovered from the surgery. In contrast, in the family medicine context, the professional relationship between the primary care physician and the patient may last from cradle to grave.

As long as a professional relationship exists between a physician and a patient, there is a legal duty on the physician not to abandon the patient. Some situations arise, however, when it is in the physician's best interest to terminate a relationship with a patient before the expected end of the relationship. Obviously, missing multiple appointments in a row, persistently disagreeing with their physician's advice, disregarding care instructions outright, or even becoming confrontational with the physician or his/her staff, can be a sign of a problematic patient-physician relationship.

Breaking up is hard to do, and terminating a relationship with a patient in these circumstances is not without legal risks. Properly discharging a patient from a practice, however, is sometimes a necessary step. Despite the risk, there can be benefits to both the physician and the patient. In instances where there has been a breakdown in communication between a patient and a physician, it can allow the patient to seek care from another physician with whom the patient may be more compatible.

Improperly abandoning a patient can result in serious consequences. In today's customer-review driven world, a patient believing that he/she has been improperly abandoned can quickly pick up the social media megaphone and create a significant reputational problem for a physician. Improperly abandoning a patient that results in an adverse health event for the patient can give rise to serious legal liability.

Given the serious consequences of abandoning a patient, the decision to discharge a patient should be done with an articulable, and preferably well-documented, reason. Some

of these reasons include: repeated missed appointments after appropriate attempts to contact the patient have been made; complete disregard for a treatment plan; and violations of office policies. The better your documentation of these types of events, especially when they are not isolated occurrences, the better your defense will be that the discharge of the patient was not only justified, but necessary.

Notice of your decision to terminate your relationship with the patient should be given in the form of a letter, sent by both certified mail, return receipt requested, and regular mail with a copy of the letter placed in the patient's chart. The letter should be clear and concise, stating, unless inappropriate to do so, in general terms the reason for terminating the relationship and the effective date of the termination, typically 30 days from the date of the letter. The letter should also explain that medication refills will no longer be provided after the effective date of the termination, and it is the patient's responsibility to seek necessary follow-up care from another physician. Instead of providing a specific referral, patients should be referred to a local medical association or online directory of physicians in the area. The letter should also include a clear direction to seek care from another physician promptly but, in the interim, until the effective date of the termination, care will continue to be provided in true emergency situations. The letter needs to contain instructions advising the patient how to obtain a copy of his/her medical record from your office. The letter should not contain legalese or difficult terms but should be written in a manner that would not provide grounds for embarrassment for your practice, or worse, if the letter is posted online by the patient.

Even when circumstances become difficult—including if the patient stops paying for your services—there are some situations where a patient should not be discharged. These include: patients in an acute phase of treatment; lack of other physicians, particularly specialists, to whom the patient's care can be safely transferred; and third-trimester pregnancies or complicated second-trimester pregnancies.

Once a patient has been discharged from the practice, the scheduling system should be flagged and the staff informed accordingly so the patient is not permitted to schedule another appointment with the practice. This can be difficult in a multi-specialty, multi-office group but steps should be taken to avoid inadvertently re-establishing the relationship with a discharged patient.

Other factors to keep in mind include non-retaliation, non-discrimination and payer considerations. You should check with the patient's health insurance company, and in particular any prepaid health plans, about any guidelines or provisions on discharging a plan member before the decision is made to terminate the patient. A patient cannot be discharged for a discriminatory reason. Relatedly, a patient should never be discharged in retaliation for making a complaint under the Section 1557 regulations, other anti-discrimination laws, or HIPAA. Doing so could result in regulatory violations.

On the proactive front, while all possible scenarios for the justification to "fire" a patient cannot be anticipated, some of the more common reasons—failure to pay, missed appointments, and disruptive or deceptive behavior—may be addressed in a patient

discharge policy. While each situation is unique and the decision to discharge a patient must be made thoughtfully on a case-by-case basis, having a documented policy in place helps your practice handle these difficult situations more consistently. Additionally, if your practice provides notice of the grounds in the policy potentially leading to termination, it should reduce a claim of surprise or disbelief by a patient when he or she is discharged from the practice.

Hopefully, the vast majority of the relationships with patients are positive, if not harmonious. Circumstances may arise in your practice, however, when it becomes necessary to terminate a patient relationship. Discharging a patient carries significant risk but properly terminating a patient-physician relationship can certainly reduce the risk.

Sample termination letters are available [here](#).

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