

Tales from the Terminations!



By Tim Behan, JD

In March of this year Jeff Woods wrote a Sentinel article entitled *Termination of Challenging Patients*. In the article, he gave a road map of how to properly terminate patients, as well as the traps and pitfalls to be wary of when ending the physician- patient relationship. As Jeff noted in his article, there has been an increase in challenging patients since Covid. Prior to March 2020, I may have taken two or three calls a month from physicians or group administrators dealing with difficult patients and whether they should be terminated. Since that time, it seems like two or three times a week. Other claims attorneys are experiencing the same phenomenon. The situations described below will no doubt be familiar. In reviewing my notes on the termination calls I've taken since 2020, I am reminded of a show from my younger days called *Tales from the Crypt*. Hence, the title of my article: *Tales from the Terminations!*

1. Two years ago, a dermatologist was treating a middle-aged woman with a history of melanoma. Of her last seven appointments, the patient had no- showed for three

and cancelled two others. The physician was concerned not only about the patient but the potential liability if the patient had a new melanoma that went untreated. We spoke, and I agreed with the physician that potential liability needed to be extinguished by terminating the patient. That should have been the end of the story, but the certified termination letter came back to the physician as undeliverable. The patient wouldn't answer her phone, and her voicemail inbox was full. To prevent a potential abandonment claim, I advised the physician to send the letter through the USPS, send a message through the portal regarding the termination, and document three phone call attempts. I also emphasized that, in cases of non-compliance, the specific details of the non-compliant behavior should be clearly documented, along with the potential consequences of continued non-compliance. This approach was implemented, and the patient did not make further contact.

2. A man in his late 60's was being seen by his female primary care physician for his annual exam. He had been a patient for a few years and behaved oddly during his last visit. But he took it to a new level on this occasion. The patient began saying inappropriate things to the physician. He became more aggressive the more he spoke. The physician finished the exam as quickly as she could. Thankfully, there were no areas of concern regarding his health. The physician called me shortly thereafter asking if she should terminate the patient. I said yes. We discussed the requirement to be available for 30 days while the patient searched for a new PCP. I advised that if the physician felt like this patient might resort to physical violence if seen again, that this language should not be included. I advised that if the patient pursued an abandonment claim that we should have enough evidence to defend it. This was one of those rare occasions where caution overtook compliance.
3. There are times when a patient fires the physician. A gastroenterologist was treating an elderly female patient for a multitude of GI issues. The treatment was always in the hospital as the patient was a frequent flier. This patient was not only medically complicated, but she also had a difficult personality. She was verbally abusive to everyone who was involved in her care and complained about everything. On one occasion, the patient became extremely agitated with this physician during an examination. The patient screamed out that she wanted another doctor, and this gastroenterologist was never to touch her again. The physician called asking me about sending a termination letter and being available for 30 days from the date of the firing. I advised that it was not necessary to add the 30-day language. The patient fired the physician, so the relationship is immediately over. I did advise sending a letter confirming the termination as well as noting it in the chart. The twist to this tale is that on the patient's next visit to the hospital she demanded to see this physician. When the patient was reminded that she had terminated the relationship, she claimed that it was a lie; she never said that. But not only was it documented by the physician; a hospitalist had also documented that encounter. Thankfully, the gastroenterologist was free from this very difficult patient.
4. This next tale will no doubt resonate with many readers. Our physician had a longstanding relationship with a 50-year-old male patient who recently sought a second opinion regarding a surgery performed elsewhere. The physician was understandably hesitant to get involved with another physician's treatment. This

patient, however, had already been challenging for the practice. On multiple occasions the physician had called in pain medication the day before surgery so it would be available post-op, but the patient twice collected the medication and then canceled the surgery. The second opinion request was the final straw, and the patient was terminated from the practice. I mentioned above that in situations of non-compliant patients that more language in the termination letter is better. But I advised this surgeon to keep the language to a minimum and avoid referencing drug-seeking behaviors. Such language could aggravate the patient further, and termination letters travel with the patient's record. A subsequent would-be provider may have an idea why the patient is seeking a new physician due to the silence of the letter.

5. A few years ago, I spoke with an obstetrician about a patient who came in armed with knowledge obtained from the internet. The 28-year-old female presented for an initial visit. She had traveled some distance for the visit so that was a red flag for me. The patient was 10-12 weeks pregnant and had a history of three prior c-sections. The patient was adamant that this birth was going to be a VBAC delivery. She also would not consent to having the records from her prior deliveries or OB visits released to this physician. Another red flag to me. She also refused a vaginal exam. The OB suspected an ectopic pregnancy but could not confirm it. The patient did admit to having a history of high BP. The doctor wanted to know if she could terminate the relationship with the patient this early in the process. I said absolutely. It was too dangerous for her to fly blind with a suspected high-risk pregnancy...or any pregnancy for that matter. There was something going on and not knowing could prove to be very detrimental. The patient was terminated, and I suspect that it wasn't the first time she had been let go from a medical practice due to this type of behavior.

These five tales are examples of some of the most common difficult patient encounters that have generated calls about whether a physician should terminate the relationship. The most common by far is the non-compliant patient. Non-compliance is not limited to failing to follow medical advice. It also manifests in missing or cancelling appointments and refusing to pay outstanding bills. The second most common situation that is unfortunately growing is the aggressive/abusive patient. There is a noticeable rise in calls where patients are cursing and screaming in waiting and/or exam rooms, treating physicians and their staff poorly, and in the rare instance threatening or committing violence. An offshoot of this is when a patient becomes fixated on a physician or staff member and starts stalking or harassing that person. Thankfully, this doesn't happen often. Negative online reviews are on the rise. And three other categories I have dealt with more than once are patients in bankruptcy, patients who forge notes to get out of school or work, and patients with psychiatric or advanced memory loss conditions. If any of these types of tales show up in your practice, give the SVMIC claims team a call so that we can discuss the details of the particular situation. Ending a professional relationship is never a pleasant experience, but with appropriate communication and handling of the situation, you can prevent it from being a scary tale.

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