Termination of the Physician-Patient Relationship

The physician-patient relationship is grounded upon the personal relationship which exists between physician and patient. When that relationship becomes untenable for either party, dissolution of the relationship may become necessary. This article discusses the general legal and ethical issues related to termination of the physician-patient relationship.

Q: May a physician lawfully terminate his or her relationship with a patient at any time?

A: Abandonment of a patient may result in civil liability for the physician. Abandonment is usually defined as "the unilateral severance of the professional relationship without reasonable notice at a time when there is still the necessity of continuing medical attention." ¹ Proof of actionable abandonment requires a showing that the physician failed to provide "an adequate medical attendant" and also failed to give adequate notice.² Finally, as in any negligence action, the plaintiff must prove that this breach of duty was the cause of his or her injuries or damages.

Q: How should notice be given to the patient?

A: Proper documentation of the notice should afford the physician protection from possible civil liability. In addition to orally advising the patient and documenting that advice in the chart, the physician should send a letter to the patient, return receipt requested, to ensure that the patient is aware of the physician's decision. A copy of the letter and the return receipt should be retained. (A sample letter terminating the physician patient relationship is attached).

Q: How much notice is required?

A: Reasonable notice is required. In a lawsuit alleging abandonment, one issue may be whether the notice period was "reasonable" under existing circumstances. The time period necessary for a patient to locate another physician in a large urban area may be less than that which would be reasonable in more isolated rural areas where fewer physicians practice. Also, the nature and severity of the patient's condition may affect the time required to find another physician. For example, an OB patient in her eighth month may not be able to locate another physician willing to assume responsibility for care. The physician who seeks to terminate his relationship may be delayed doing so until after providing delivery and postpartum care.
**Q: What other considerations are relevant in composing the notification letter to the patient?**

A: The physician may suggest the names of other physicians the patient may contact but is not required to do so. It is not necessary to state reasons for the decision to terminate. The physician should offer to forward copies of medical records to another physician, with proper authorization. However, physicians may not legally or ethically withhold a copy, narrative or summary of the patient's medical record from another physician (or the patient) because of an outstanding account balance.³ The physician may specify that any treatment during the notice period will be provided on a cash basis unless an emergency. However, it may be prudent to treat even the patient who cannot pay cash rather than possibly be required to defend a lawsuit charging abandonment.

**Q: What should the physician do when the patient terminates the relationship?**

A: The law recognizes that the physician-patient relationship is different from the arm's length dealings between buyers and sellers of commercial products. Physicians have a fiduciary or trust responsibility to act only in the best interests of their patients. The physician is judged to have superior knowledge, must keep information about patient confidential, and must provide patients with relevant information and alternatives before asking them to consent to treatment.

However, the fiduciary treatment is not reciprocal. The patient is free at any time, for any or no reason, and with no "notice" to decide that he or she wished to be treated by a particular physician. When the patient discharges the physician orally, the physician may wish to send the patient a short letter confirming the patient's decision, and to retain a copy for the files. Significant conditions requiring treatment should be described.

**Q: I lost contact with a patient I treated several years ago. If the patient calls for an appointment, am I still obligated to see the patient?**

A: If no formal termination of the physician-patient relationship has ever occurred, then the patient may have a reasonable expectation of continued care. However, if you do not want to resume treating the patient, and if the patient does not now need treatment for an emergency or urgent condition, the patient should be informed that you have not agreed to continue as their physician.

**Q: A patient will not pay an outstanding balance for services rendered. Does that mean the physician-patient relationship has been terminated?**

A: No. The essence of the physician-patient relationship is the physician's agreement, in response to an overt or implied request, to become responsible for the patient's care. The relationship is not dependent on the fact of whether the patient pays the physician money for services rendered. If that were true, then no charity care rendered to a person would result in the formation of a physician-patient relationship. The same is true for unpaid fees: failure to pay does not automatically terminate the relationship.
However, it may be the case that the patient’s persistent refusal to pay for services rendered has the effect of interfering with the physician's ability to render appropriate medical care. One cannot expect the physician to continue providing uncompensated care and believe that his attitude towards the patient will remain unaffected, unless one has chosen to regard a particular patient as a charity case. In that case it may be justifiable to terminate the physician-patient relationship so long as the other steps outlined here are followed.

As a corollary, a physician should not deny an established patient an appointment or cancel an appointment because of an unpaid balance. This results in a person being considered a patient one day and not another, depending on how the office staff feel about the size of the unpaid balance. So long as the physician-patient relationship is established and not definitively terminated, a physician owes the patient the same duty of care, otherwise there is a danger of abandonment (or at least a successful liability claim based on delay in treatment). Remember that medical malpractice law holds physicians to a higher standard of care than an ordinary business person, because physicians have historically held themselves to a higher level of conduct. Thus a person is a patient for all purposes regardless of their pay status until the relationship is terminated. It is, of course, appropriate to warn a patient with an unpaid balance that termination is possible if the matter is not rectified.

Q: A patient of mine left the hospital "against medical advice." Later the patient wants to make an appointment with my office. Am I obliged to treat the patient?

A: There is a question of whether the patient, by leaving "against medical advice" intended to discharge their physician. The leaving of the hospital could have occurred due to facts unrelated to the physician-patient relationship or medical treatment. If this is the case, the patient should be asked about their intentions. Otherwise, if the physician-patient relationship has not been terminated by the acts of either party, there is still an obligation to the patient.

Q: I discharged a patient from my practice for non-compliance. Later I saw him in the emergency room, but he needed follow-up in the office. Is it now necessary to "re-terminate" the patient if I do not wish to provide further care?

A: Yes. By treating the patient in the emergency room without advising the patient of the limits on that relationship, then a new physician-patient relationship has been established. All of the factors listed above pertaining to proper termination of the physician-patient relationship are applicable.

Q: A patient filed a medical malpractice suit against me. Now the patient wants to make an appointment. Am I still obligated to take care of the patient?

A: There is no legal authority for the idea that the filing of a medical malpractice suit (or a grievance with the Texas State Board of Medical Examiners) automatically terminates a physician-patient relationship. Thus one is still obligated to take care of the patient until such time as the relationship is properly terminated. However, one might well regard the filing of a lawsuit (or grievance) as being untenable for maintaining the relationship.
Q: A woman arrived for her initial appointment. She was rude and abusive because she felt she had waited too long, so I decided not to take care of her. Do I have to send her a termination letter?

A: No, because a physician-patient relationship was not formed. However, it is the policy of some offices to regard all persons as "patients" at the time the first appointment is scheduled. In that case the physician may have voluntarily assumed a duty that the law has not yet imposed. A letter reciting that you have not agreed to be her physician may be advisable.

Q: I need to terminate my relationship with a managed care patient. What considerations apply?

A: First review your contract with the managed care plan. The contract may require that you inform the patient that he or she must select another physician from the managed care provider list, or may require that you send a copy of the termination letter to the managed care plan, or may require you to notify the plan first, prior to termination.

Q: I was "deselected" by a managed care plan. Do I still have to provide care to managed care plan enrollees even though I may not be reimbursed for that care?

A: Insurance status has no bearing on whether abandonment has occurred, so enrollees are still patients until the physician-patient relationship is properly terminated. Also, the managed care plan contract may require that care be continued until a particular course of treatment is completed or the plan finds the patient another physician.4

Q: I want to close my practice. What problems can arise if I do not give proper notice?

A: Physicians who close their medical practice without sufficient notice can encounter legal problems. For example, in Korn v Ohio State Medical Board, a physician disappeared from his medical practice for more than two months. The medical board disciplined him because "he was unable to practice medicine according to acceptable and prevailing standards of care," and placed him on five years probation. On appeal, the court found that the evidence supported a finding that he was irresponsible in the manner in which he left his practice and patients. Violations of his duties were not excused by the fact that "others picked up the pieces."5

Also, Texas State Board of Medical Examiners Rule 165.5, which is printed below and can be found on the Internet at http://www.tsbme.state.tx.us/rules/rules/165.htm#1655, imposes certain requirements on physicians who relocate or close their practices:

165.5. Transfer and Disposal of Medical Records.

(a) Required Notification of Discontinuance of Practice. When a physician retires, terminates employment or otherwise leaves a medical practice, he or she is responsible for:

(1) ensuring that patients receive reasonable notification and are given the opportunity to obtain copies of their records or arrange for the transfer of their medical records to another physician; and
(2) notifying the board when they are terminating practice, retiring, or relocating, and no longer available to patients, specifying who has custodianship of the records, and how the medical records may be obtained.

(3) Employers of the departing physician as described in §165.1(b)(6) of this chapter are not required to provide notification, however, the departing physician remains responsible for providing notification consistent with this section.

(b) Method of Notification.

(1) When a physician retires, terminates employment, or otherwise leaves a medical practice, he or she shall provide notice to patients of when the physician intends to terminate the practice, retire or relocate, and will no longer be available to patients, and offer patients the opportunity to obtain a copy of their medical records.

(2) Notification shall be accomplished by:

(A) publishing notice in the newspaper of greatest general circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area;

(B) placing written notice in the physician's office; and

(C) sending letters to patients seen in the last two years notifying them of discontinuance of practice.

(3) A copy of the notice shall be submitted to the Board within 30 days from the date of termination, sale, or relocation of the practice.

(4) Notices placed in the physician's office shall be placed in a conspicuous location in or on the facade of the physician's office, a sign, announcing the termination, sale, or relocation of the practice. The sign shall be placed at least thirty days prior to the termination, sale or relocation of practice and shall remain until the date of termination, sale or relocation.

(c) Prohibition Against Interference.

(1) Other licensed physicians remaining in the practice may not prevent the departing physician from posting notice and the sign.

(2) A physician or physician group should not withhold information from a departing physician that is necessary for notification of patients.

(d) Voluntary Surrender or Revocation of Physician's License.

(1) Physicians who have voluntarily surrendered their licenses in lieu of disciplinary action or have had their licenses revoked by the board must notify their patients, consistent with subsection (b), within 30 days of the effective date of the voluntary surrender or revocation.

(2) Physicians who have voluntarily surrendered their licenses in lieu of disciplinary action or have had their licenses revoked by the board must obtain a custodian for their records to be approved by the board within 30 days of the effective date of the voluntary surrender or revocation.

(e) Criminal Violation. A person who violates any provision of this chapter is subject to criminal penalties pursuant to §165.151 of the Act.
Q: Can a physician be liable for abandonment when a patient fails to return for treatment?

A: Ignoring a physician's advice to return for treatment may be negligence on the part of the patient that would defeat a professional liability action. Further, there is no abandonment if a patient terminates the physician-patient relationship by voluntarily choosing not to return for treatment. Thus, a patient who ignores advice to receive needed treatment at some point constructively terminates the physician-patient relationship and no abandonment occurs.

Q: Suppose I treat a patient in the emergency room, and that patient needs to be transferred to another hospital. Another hospital and treating physician are found, and the patient is loaded into the ambulance for transport. Am I discharged from that patient's care when the patient leaves the hospital?

A: No. In order for a transfer to be "appropriate" under the federal Emergency Medical Treatment and Active Labor Act, the transferring hospital and physician are responsible for providing medical treatment within its capacity which minimizes any risks to the patient's health during transfer. They are also responsible for ensuring that proper transportation equipment, personnel and life support measures are used during the transfer. However, the transferring physician's responsibility ends once the transferred patient is received by the receiving hospital.

REFERENCES

5. Korn v. Ohio State Medical Board, 573 NE2d 1100 (Ohio Court of Appeals, 1988).
8. 42 USC 1395dd(c)(3).

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NOTICE:

PLEASE CHECK THE TEXAS MEDICAL BOARD WEBSITE (www.tmb.state.tx.us) FOR CURRENT UPDATES ON ITS RULES AND POLICIES WITH RESPECT TO THIS ISSUE.
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Sample letter terminating physician-patient relationship

Dear Mr/Mrs:

Please be advised that I will no longer be able to treat you as a patient. I find it necessary to conclude our relationship because [specify reason[s], if desired].

Since your condition [describe condition] may/will require further medical attention, I suggest that you select another physician without delay. As I indicated, I will be available to treat you for only [number] days following your receipt of this letter.

I will be glad to forward information from your medical records to any physician or other person you designate. Please complete and sign the enclosed authorization form.

Thank you and best wishes.

Sincerely,

, M.D.

Authorization to release medical records

Dear Dr. :

This letter will authorize you to provide a copy, summary, or narrative of my medical records (as indicated by the checkmark below)

- Complete record
- Records of care from ___ to ___ only
- Records of care concerning the following condition(s)

[ ] to the following person:

Name

Street

City    State    Zip

The reasons or purposes of this release of information are as follows:

I understand that you will provide this information within fifteen (15) days, and that a reasonable fee for furnishing this information may be charged.

Signed:

Patient (or person legally authorized to consent on patient's behalf)

Date: