TERMINATING THE PHYSICIAN-PATIENT RELATIONSHIP

Goals, Objectives and Disclosures

Questions concerning how, when and whether to terminate the professional relationship with a patient are asked by numbers of physicians who find themselves unable to please, treat or work with certain patients. Fear of being involved in litigation alleging abandonment leads many physicians to continue an unsatisfactory professional relationship with a patient. This article addresses some of the reasons why termination of a professional relationship may or may not be appropriate and the steps that should be taken when it is decided to terminate the professional relationship. This article also highlights some of the issues that could make the journey a circuitous one.

Learning Objectives

After reading this article, physicians will be able to:

• Terminate a physician-patient relationship when appropriate, provided that at least one of seven different conditions are met
• Include five separate points in the termination letter sent to the patient
• Take five steps to avoid an allegation of abandonment

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Questions and concerns about terminating the physician-patient relationship are among the most numerous calls to the Coverys Risk Management Helpline. Some physicians ask whether they may end a professional relationship with a patient, while others ask how to end such a relationship. The reasons for terminating a professional relationship with a patient are several. The following is a list of the reasons expressed by physicians to Coverys (in descending order of frequency):

- Non-compliance with medical suggestions, treatments or therapies
- Failure to meet financial responsibilities
- Verbal abuse or threats of physical harm
- Drug seeking
- Repeated failure to keep appointments
- Personality conflicts
- Practice-related criminal activity (for example, theft of prescription pads)

Other reasons for terminating a professional relationship include retirement or relocation, unrealistic expectations on the part of the patient, stalking, sexual advances, a change in the patient’s insurance coverage, or the physician’s withdrawal from the provider panel of the patient’s healthcare insurer.

Some physicians believe they do not have a right to terminate their professional relationship with a patient. Others fear that termination may lead to litigation. Still others worry that terminating the professional relationship will merely exacerbate an already volatile situation.

Patients who have been dismissed from a practice may sue their physician. Abandonment is a common allegation brought by patients in this context. Such lawsuits are typically successful when a patient suffers an adverse patient outcome after a practitioner ends an established relationship without reasonable notice and without reasonable opportunity for the patient to arrange for medical care. Lawsuits of this kind are likely to end favorably for the physician if an appropriate termination process was carefully followed. Under the best of conditions, the process involves: 1) discussions with the patient, attempting to understand the problem(s), and, whenever possible, to eradicate the barriers that preclude an effective professional relationship; 2) written notification of the intent to terminate the relationship when termination has been decided upon; 3) the provision of resources to help the patient find a replacement provider to the patient; and 4) thorough documentation of the entire termination process.

This article is designed to review some of the most common issues encountered by physicians insured by Coverys as they grapple with the need or wish to terminate their relationship with a patient for reasons other than retirement or relocation. Some of the most general and straightforward concerns about the termination process are presented as frequently asked questions. The case studies that follow touch upon the kinds of issues that, although not inherently part of the termination process, may nonetheless need to be addressed for the sake of completeness.

The relationship between a physician and his or her patient exists until it is ended by mutual consent, termination of the need for services, dismissal of the physician by the patient, or dismissal of the patient by the physician. For the purposes of this article, termination of the professional relationship will refer only to dismissal of the patient by the physician.
Termination of the professional relationship with a patient should be a process, not an isolated event. The process may vary with individual circumstances. However, certain basics are — or at least should be — a part of almost every situation. Certain issues arise almost every time terminating a professional relationship with a patient is considered. These issues are presented below as questions, followed by the risk management rationale and recommendations which address the questions.

Q. When is it acceptable to end the professional relationship with a patient?

A. Termination of the professional relationship is appropriate whenever the physician’s trust of the patient has diminished to the extent that the physician’s ability to provide optimum patient care has been compromised. Some of the particular circumstances that give rise to the need or wish to terminate the professional relationship include patient noncompliance, failure to pay a bill, verbal abuse, physical threats or harm, personality conflict, and criminal activity.

Reasons that cannot be used for termination include the patient’s gender, race, religion, or sexual preference. Patients covered under the Americans with Disabilities Act (ADA) may be dismissed from the practice, but only for one or more of the reasons that a non-disabled person may be dismissed, not because of the patient’s disability.

Q. When is termination likely to be considered abandonment?

A. Terminating the professional relationship with patients in a medical crisis, with those undergoing or needing treatment for an acute problem, and with pregnant women who are at more than 20 weeks gestation may lead to allegations of abandonment. It is
suggested that termination not be initiated in any of these situations until the crisis has been resolved, the acute problem has passed, and/or delivery has taken place.

Abandonment might also be alleged if the professional relationship is terminated without apparent cause, if the physician does not give the patient adequate time to find another practitioner, and if the patient suffers injury as a result of the physician’s haste or carelessness in terminating the professional relationship.

Q. What is the best way to go about the process of termination?

A. The “best way” varies with the circumstances. In cases in which threatened or actual violence is directed toward the physician or a staff member, termination of the professional relationship may take place verbally and immediately. These verbal immediate terminations should be followed by written notification and reiteration. In most other situations, written notification of the patient is ideal. Include the following information in the letter terminating the professional relationship:

- Reason for terminating the professional relationship
- Effective date on which the professional relationship will be terminated, usually at least 30 days from the date of the letter
- Statement concerning the importance of the patient’s finding continuing medical care, if such care is required
- Notification that continuing care should be sought at a local emergency department if care is required after the 30-day period and a new provider has not been selected
- A referral resource the patient may use to find another physician in the community
- An offer to send the patient’s medical records to the new provider, upon receipt of a properly completed authorization form

When the letter is from a physician in a group practice, specify whether the professional relationship is being terminated only with the physician signing the letter, with several members of the group (all of whom should be named), or with the entire practice.

Send the letter by certified mail, return receipt requested. Retain a copy of the letter and the return receipt in the patient’s medical record.

In some situations, the physician may wish to precede sending written notification to the patient with a one-on-one conversation to determine if there are any extenuating circumstances that might help explain the behavior that prompted the physician to consider terminating the professional relationship. It may be possible to resolve the problem with a payment schedule, a mutually agreed-upon contract, or some other agreement that makes terminating the professional relationship unnecessary.

Q. What if the certified letter is returned unopened?

A. File the returned letter (and envelope) in the patient’s medical record. Send a duplicate letter in a plain white envelope showing no return address. Consider following up the second letter with a telephone call. Document the entire process.

Q. Is the 30-day notification of the patient a hard-and-fast rule?

A. The 30-day notification period is not a legal mandate. However, it is the generally accepted minimum period of time to allow the patient to find a new provider. The notification period does not need to be honored when the patient threatens or commits violence against the physician or an office staff member.

Health maintenance organizations (HMOs), state agencies and other insurers may have specific requirements concerning termination of a professional relationship with a patient. Prior to terminating a professional relationship, contact the patient’s third-party payer to determine whether any such requirements exist.
or when the patient commits a criminal act involving the practice, for example, stealing a prescription pad or selling narcotics that have been prescribed by a member of the practice. Consider the 30-day notification period to be a guideline, not a hard-and-fast rule, in all other situations.

Q. A colleague told me I don’t have to tell the patient the reason for termination. Is this in fact so?
A. While physicians are not obligated to tell the patient the reason for terminating the professional relationship, openness and honesty should be as much a part of the termination process as they are a part of the physician-patient relationship. Patients have a right to know not only why the professional relationship with the physician is being terminated, but also that the professional relationship is being terminated for an actual reason(s), not merely whim or bias.

Q. Many of the physicians in this area are not accepting new patients. May I give a patient I’m terminating from my practice the names of specific physicians who do have openings?
A. It is far better to offer a referral resource than to give specific names. The patient who has a negative experience with someone whose name you offer may blame you for that experience and, in a worst-case scenario, involve you in litigation. In addition, referring a problem patient to a colleague may be perceived negatively by that colleague and others.

Below are a few questions that are not necessarily part of every professional relationship termination process, but they are common and may be experienced by many physicians when they seek to terminate a professional relationship with a patient.

Q. Is there a rule about the number of times a patient can cancel an appointment before a physician considers terminating the professional relationship?
A. There is no rule. Physicians must decide for themselves the number that works most effectively for them. Coverys suggests that three consecutive missed appointments may be sufficient reason to consider terminating the professional relationship. However, extenuating circumstances, for example, lack of transportation or a pressing family situation, may point to a need for discussion rather than terminating the professional relationship.

Consider developing a policy on missed appointments and including the policy in a practice brochure. Advise patients that a missed appointment deprives another patient of an opportunity for an office visit and that a given number of missed appointments may be considered sufficient reason for terminating the professional relationship.

Q. A patient who is suing me has made another appointment. Do I have to see her or is the suit justification for terminating the professional relationship?
A. The physician-patient relationship is built upon trust. When a patient files a suit against a physician, that trust is often shattered. Understandably, the first reaction by many physicians is to terminate the professional relationship. However, the decision to terminate the professional relationship really depends on the individual circumstances of each patient. If the patient has made an appointment, then you should see her to determine if an acute condition exists. If the patient requires continuing treatment of an acute problem, the acute problem should be addressed prior to terminating the professional relationship. If the patient does not have an acute condition and is not in a medical crisis, you may begin the professional relationship...
termination process, explaining to her that given the circumstances, you believe another practitioner might be better able to meet her medical needs.

Q. I have a patient who hasn’t paid her bill within the past several months. Do I have the right to refuse to see her until her bill is paid?

A. The medical care of an active patient should not be contingent upon whether or not the patient’s bill is paid. However, a patient’s consistent failure to meet his or her financial obligations to the practice may be reason for terminating the professional relationship. Before the patient schedules another visit, either have a member of your staff call the patient or, if you know the patient well, take a few moments yourself to speak with the patient regarding your concerns about the status of her bill. Determine whether the patient is dealing with the loss of a job, a family illness, or some financial emergency that may be affecting her ability to pay her bills. Try to work out a payment schedule if appropriate. If the patient is unwilling to enter into such an agreement — or if he/she subsequently fails to meet its terms — consider terminating the professional relationship. When appropriate, follow-up the conversation with a letter terminating the professional relationship.

Q. A friend of our family is a non-compliant patient. She doesn’t keep appointments, follow screening recommendations, or take her medications. For personal reasons, I would prefer not to terminate my professional relationship with her. However, I feel that I need to do something. What are my options?

A. Patients have a right to refuse care; however, physicians are obligated to inform the patient of the risks, benefits and alternatives to refusing care. This is known as informed refusal. Should this patient suffer an untoward outcome because of refused treatment or screening that was not done earlier, she may allege that she was not aware of the risks involved for refusing the treatment and/or screening. In addition to having and documenting the informed refusal discussion, you may consider having the patient sign a summary informed refusal to acknowledge her refusal of care, including her refusal to undergo screening. Individual informed refusal forms may be signed if the patient informs you in advance that she will not take a particular medication or follow a particular therapy. At some point you may wish to have a discussion with this patient to determine what she expects of you or any other physician, and how you might be able to work together. If compromise seems unlikely, you may wish to reconsider terminating the professional relationship.

Q. I was the on-call urologist when a patient I had terminated from my practice for non-compliance came in to the hospital’s ED. I diagnosed a kidney stone that needs further treatment. What is my responsibility to this patient, given that I had an extremely difficult relationship with him in the past, and I do not wish to see him in my practice again?

A. When you care for a patient in the ED, consider seeing that patient at least once in the immediate post-ED period. In this situation, make sure you let the patient know that his visit to your office is a one-time event and because ongoing care is important, you will give him a resource to help him find another physician, assuming, that is, that he is not already under the care of another urologist. Given the acuity of the patient’s medical condition, do not assume the patient has found another provider, but rather follow-up and make sure the patient is under the care of another practitioner. After the appointment, give or send a letter advising the patient that the professional relationship is terminated. Include pertinent follow-up information.

Also, be sure to notify the patient’s primary care physician (PCP) of the ED visit and advise him or her, in writing, of the need for follow-up. Although the patient does not need to give his authorization to communicate personal health information to another physician
for purposes of treatment, there is no harm in letting the patient know of your plan to contact the PCP.

Sometimes termination involves a twist. The following scenarios are actual situations.

**Scenario 1:** A patient who suffered severe injuries in a motor vehicle accident was treated by his internist over a period of months with a number of different opioids. None brought the relief the patient was seeking. He sought increasingly higher doses of increasingly stronger medications, until he was ultimately requesting prescriptions for 100 tablets of oxycodone every four days. The physician, suspecting drug seeking, called Coverys to ask how to terminate his professional relationship with this patient.

The patient may have been a drug seeker and may have even sold the prescribed oxycodone on the street. However, termination of the professional relationship should not be initiated because of a suspicion, no matter how strong. At best, the patient was in pain and needed active pain management. Alternatively, he may have become addicted to oxycodone and needed referral to a detoxification program.

Unfortunately, this scenario is becoming more and more frequent as prescription pain medication abuse becomes a national epidemic. Three out of four drug overdose deaths are related to opioid analgesics. The risk of overdose is proportionately related to the increase in dosage of opioids. About 80 percent of patients who are prescribed opioids are prescribed low doses (<100 mg morphine equivalent per day) by a single practitioner; these patients account for about 20 percent of all prescription drug overdoses. About 10 percent of patients who are prescribed opioids are prescribed high doses (≥ 100 mg per day) by a single prescriber and they account for about 40 percent of prescription opioid overdoses. The remaining 10 percent of patients who are prescribed opioids seek care from multiple prescribers and receive high daily doses; they account for another 40 percent of prescription opioid overdoses. Patients in this last category are also more likely to divert their prescribed medication. In response to this national epidemic and to encourage cautious and appropriate prescribing, the Federation of State Medical Boards published *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*. This document is available at: http://www.fsmb.org/Media/Default/PDF/FSMB/Advocacy/pain_policy_july2013.pdf

Some key recommendations from this document include the following:

- When prescribing an opioid analgesic for the treatment of chronic pain, recognize the potential for misuse and abuse and provide ongoing monitoring.
- Adapt your treatment plan after carefully assessing the patient.
- Determine whether or not the medication should be continued, adjusted, or terminated, based on whether the patient is making progress toward treatment goals and the absence of risks such as overdose or diversion.
- If there is a substantial risk of overdose or diversion, consider terminating opioid therapy.

This example demonstrates the substantial risk of overdose and/or diversion. Accordingly, terminating the patient’s opioid therapy, rather than terminating the professional relationship with the patient, is the priority. Relay your concerns to the patient and discuss the need to discontinue opioid therapy. Before terminating opioid therapy,
When, as in this case, the patient specifically requests that the physician not release the record, that request should be honored, unless and until a request for release is accompanied by a court order, the patient later signs an authorization directing the surgeon to release records, or certain emergent situations are presented. In the above case, the patient, but not the internist, should be sent a copy of the patient’s record.

It is essential to determine if the patient is physically dependent or addicted to opioids. Recognize that patients who are physically dependent require safely structured tapering from the medication. Before prescribing chronic opioid therapy, become familiar with treatment options for opioid addiction, so that appropriate referrals can be made when necessary. For patients who have become addicted, consider referral to an addiction specialist and/or help the patient enroll in a licensed detoxification program.

In this example, termination of the professional relationship will become an option only after appropriate referrals have been offered and refused.

While suspicion of diversion alone is not enough to warrant termination of the professional relationship, having actual knowledge of criminal activity involving the practice is sufficient reason for immediately terminating the professional relationship. For example, the theft of your prescription pads or selling oxycodone prescribed by you would suffice.

**Scenario 2:** A 22-year-old male who had been referred by his internist to a surgeon was being terminated from the surgical practice because of non-compliance. Upon receipt of the professional relationship termination letter, the patient became irate and called the surgeon. He demanded that the surgeon send him a copy of his medical records and not release his medical records to anyone else. The surgeon believed it might be in the patient’s best medical interest to send a copy of the medical records to the patient’s internist and not to the patient himself. The surgeon called Coverys for guidance.

This patient, like all patients with the exception of some psychiatric patients who may be entitled only to a summary of their record, has a right to a copy of his medical records, but not the original records. In general, copies of a medical record that are needed for treatment may be sent to another healthcare provider without the patient’s written authorization. When, as in this case, the patient specifically requests that the physician not release the record, that request should be honored, unless and until a request for release is accompanied by a court order, the patient later signs an authorization directing the surgeon to release records, or certain emergent situations are presented. In the above case, the patient, but not the internist, should be sent a copy of the patient’s record.

This situation presents a couple of issues. First, it would be good to know whether the mother is also treating her daughter in an abusive manner. Questioning the patient in the absence of the mother might lead to disclosure of a pattern of abuse at home. That would make terminating the professional relationship unwise, at least until help is obtained for the daughter. Secondly, the pediatrician needs to consider discussing the situation with the mother, letting her know that she will be asked to seek medical care for her daughter at another location if the mistreatment of the medical office staff continues.

If terminating the professional relationship is decided upon, the letter should go to the mother. This is because the mother must consent to the daughter’s care, unless the daughter is considered emancipated or the particular treatment sought by the minor patient falls within an exception to needing...
parental consent (e.g., treating a sexually transmitted disease). Emancipation varies from state to state. In some states, a child who is married or serving in the armed forces is considered emancipated. In other areas, emancipation is not a factor of circumstances, but rather a declaration by a court. Some states do not address or recognize the emancipation of minors. Exceptions to needing parental consent to treat a minor also vary by state. Physicians must be familiar with the statutes in their state before treating a minor as emancipated or under an exception to needing parental consent. In this case, if the patient does not meet the criteria for emancipation in her state, has not been declared emancipated by a court order, or is not being treated for something that involves a recognized exception to needing parental consent, the letter should go to the mother.

Depending upon the maturity of the patient and the physician's relationship with her, the pediatrician may discuss the need to terminate the professional relationship with the patient, followed up by sending her a copy of the professional relationship termination letter sent to the parent.

Scenario 4: A 32-year-old female has had numerous cosmetic procedures performed by the same plastic surgeon. The patient expressed displeasure with the scar left by a procedure performed to remove a nevus in the periumbilical region. The physician revised the scar at his own expense. However, the new scar led to new complaints and the patient demanded monetary compensation. The physician called Coverys to ask if he had sufficient reason to terminate the professional relationship.

Unhappy patients are usually a benign presence in a practice. Occasionally, their unhappiness with the physician or an outcome may lead to anger, which may in turn lead to litigation. The patient who expresses unhappiness with the administration of the practice might help bring about needed procedural changes. A discussion with the patient who continually demands special attention (see Scenario 5) may—or may not—result in behavioral changes. Patients who are unhappy with the results of treatment, including surgical procedures, represent a different challenge. Some of these problems may be averted if the following are observed during the pre-procedure period:

- The physician does not promise more than he or she can deliver.
- The screening criteria for elective procedures enable the physician to identify and exclude patients with unrealistic expectations.
- The informed consent discussion and form address all likely risks.

When the patient is unhappy despite all the efforts of the physician, terminating the professional relationship may be the best course. The physician should let the patient know that he has done all within his professional power and, with the patient’s interests at heart, he feels that it would be in the patient’s best interest to continue care elsewhere. The procedures outlined earlier in this article should then be followed. If, as in this case, the patient insists on remaining in the practice, the physician must be firm and express concern at his or her inability to meet the patient’s expectations and then proceed to follow the professional relationship termination process. Whenever treatment is still underway, terminating the professional relationship should be deferred until there is little likelihood that abandonment would be an issue.

Returning all or part of a professional fee to an unhappy patient is a business decision that must be made by each practice on a case-by-case basis. Physicians seeking advice about whether and how to do so would be well advised to consult with an attorney or to call their medical professional liability insurance company.

Scenario 5: A 48-year-old female presented to the office of an internist for an initial visit. The patient was asymptomatic and offered no complaints. The physician spent 45 minutes with her. He found only mildly elevated blood
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pressure and asked the patient to schedule another blood pressure check in one month. At the second visit, the patient’s blood pressure was within normal limits. During this visit, the patient entered into a lengthy non-healthcare-related discussion with the physician. After 30 minutes, the physician indicated that he would have to postpone further discussion until another time because he had a number of other patients waiting to be seen. The patient flew into a rage at “being treated this way,” and slammed the door as she left the office. The physician called Coverys to ask if he had the right to terminate his relationship with this patient, about whom he had “a bad feeling.”

The answer is yes. This patient’s unrealistic expectations regarding the physician’s time and attention are indicators of potentially increasing difficulties with this relationship. Patients with excessive demands or unrealistic expectations may be terminated from the practice with the same written 30-day notification that any other patient would receive, assuming they are not in medical crisis or in the midst of treatment for an acute condition. Ideally, termination of the professional relationship should be preceded by a discussion to try and help the patient understand the impact of her behavior upon the practice. If and when terminating the professional relationship is decided upon, the physician may simply tell the patient that he believes another practitioner may be better able to meet the patient’s medical needs, given the fact that the two of them do not appear to share the same practice philosophy.

Some physicians may choose not to send a letter in this case, believing that the slammed door was an indication that the patient was terminating the relationship.

Unless the physician formally ends the relationship, however, the patient is free to schedule another appointment at any time. In this case, although the patient slammed the door, it is the physician’s responsibility to permanently close it.

Conclusion

Physicians have a right to work with their patients, not for them. They have a right to practice in an atmosphere that is safe, to be paid for their services, to have themselves and their staff members respected, to have their schedules honored, to have their professional ability valued, and to have their word trusted. When those rights are violated or irretrievably compromised by the patient’s actions or inactions, termination of the professional relationship may be the only viable option. This article has presented some of the basic steps that should be a part of the professional relationship termination process. Detailed risk management recommendations are included in our Risk Management Physician Manual chapter titled Terminating the Provider-Patient Relationship. For help with patient-specific or practice-specific issues involving terminating a professional relationship, physicians should contact their attorney or the risk management department of their medical professional liability insurance company.
References


6. Ibid (no secondary source citation).

For more information, consider accessing our online Physician Risk Management Manual. To access the manual, Coverys policyholders may log in to the Policyholder Online Services website at https://members.rmps.com/Website-RMPSI/Login.aspx, select My Index and then select Manual – Physicians and Practice Groups. Scroll down and click on the chapter titled Terminating the Provider-Patient Relationship. In addition to this chapter, the following three sample letters and sample form are available online:

- Permission Form to Send Medical Records
- Termination of the Doctor/Patient Relationship – Behavioral Issue
- Termination of the Doctor/Patient Relationship – Noncompliance
- Termination of the Doctor/Patient Relationship – Nonpayment of Bills

To access the sample letters and form, Coverys policyholders may log in to the Policyholder Online Services website at https://members.rmps.com/Website-RMPSI/Login.aspx, select My Index and then select Tool Chest – Physicians and Practice Groups. Scroll down to the section titled Terminating the Provider-Patient Relationship and click on each sample letter and form to access it.

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Please visit the Policyholder Online Services website to access tools and sample documents that may be tailored to meet the needs of your practice.