

AVOIDING ABANDONMENT CLAIMS

By Cliff Rapp, L.H.R.M.
Vice President, Risk Management

Terminating the Physician-Patient Relationship

The physician-patient relationship is one which is based on the law of contracts. This relationship obligates the physician to continue treating the patient until the patient's condition no longer warrants treatment; the patient discharges the physician; or the physician unilaterally withdraws from treatment providing that the patient is given appropriate notice of the physician's intent to withdraw and afforded an opportunity to obtain a suitable replacement. Improperly severing the physician-patient relationship (*contract*) exposes the physician to a potential claim of abandonment.

While a physician has the right to withdraw from the care of a patient, appropriate measures must be taken to avoid an allegation of abandonment. The more commonly encountered situations are non-payment of a bill by the patient, failure of the patient to keep follow-up appointments or follow medical advice, or the threat of a legal action by the patient. Under these circumstances, it may be prudent for the physician to terminate the relationship.

Avoid Abandonment

Abandonment may be defined as the unilateral severance of the physician-patient relationship by the physician at a time when there is still a need for treatment. *Actionable* abandonment occurs only in the absence of notice to withdraw or a failure to provide adequate medical attention. Generally, there is no legal cause of action when evidence that adequate medical treatment was available within a reasonable time frame after the physician has withdrawn from care or if no injury or damage resulted. Before severing the physician-patient relationship, first consider the patient's medical condition and if the severance will result in a break in the continuity of care which in and of itself could unfavorably impact the patient's condition. Depending on the medical condition and treatment requirements, terminating the physician-patient relationship could be unwise from a liability standpoint. If the patient requires treatment at the time, the physician should render care, stabilize the patient, and only then consider withdrawal. To withdraw from a patient who needs immediate care risks not only injury to the patient, but also a suit for abandonment and possible disciplinary action.

If the patient is in a non-emergency condition, the physician should provide the patient with notice of intent to withdraw. The notice must inform the patient of the need for follow-up care, provide sufficient time to obtain the care, and the potential consequences of foregoing such care. The length of time will vary according to the circumstances. In the interim, the physician should remain available to treat the patient should the condition deteriorate.

The notice to withdraw should always be documented. The best method is to discuss it with the patient verbally and follow-up with a certified letter.

If it is not possible to discuss the matter with the patient, then the letter should provide sufficient protection. Review the provider contract or the patient's managed care plan for any limitations or prohibitions for discharging the patient.

The following elements need to be addressed in the letter to the patient:

1. A statement of intent to withdraw from treatment.
2. A designated time frame and date for the withdrawal.
3. An agreement that the physician will continue treatment through the withdrawal date.
4. The potential consequences to the patient of foregoing continued care and treatment, when necessary.
5. An offer to refer the patient to an appropriate source where the patient can find a new physician.
6. An offer to furnish a copy of the medical record upon patient authorization.

The letter should be sent by certified mail, return receipt requested as well as via regular mail, indicating, "copy sent via regular mail." If the patient refuses the certified letter, the regular mail letter will then serve as proper notice. A copy of the letter and return receipt should be filed in the patient's chart.



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- Properly terminating the physician-patient relationship may require more than sending a termination letter. Situations vary.
- Sample termination letters are intended for reference only and should be revised to fit specific issues.
- Send the letter certified mail, return receipt requested and also by regular mail and indicate in the letter "copy sent via regular mail." File a copy of the letter in the patient's chart.
- Consult your professional liability carrier or personal attorney should uncertainty arise.

PATIENT WHO FAILS TO KEEP APPOINTMENT

Dear _____:

On mm/dd/yy, you failed to keep your appointment at my office. In my opinion your condition requires continued medical treatment. Please call my office for another appointment. If you prefer to have another physician attend you, I suggest you arrange to do so without delay. With your authorization, I will provide a copy of your medical records to the physician of your choice.

Please understand that my purpose in writing this letter is out of concern for your health and well-being.

TO CONFIRM DISCHARGE BY PATIENT

Dear _____:

This will confirm that you discharged me as your physician on _____. In my opinion your condition requires continued medical treatment by a physician. If you have not already done so, I suggest that you employ another physician without delay. At your request, I will provide your new physician with information regarding the treatment which you have received from me and a copy of your medical records.

TO ANNOUNCE WITHDRAWAL FROM CASE

Dear _____:

Please be advised that I am withdrawing from further professional attendance upon you because of your refusal to follow my medical advice and treatment. Since your condition requires medical attention, I suggest that you place yourself under the care of another physician without delay. I will remain available to attend you for (specify # of days and calendar date) from the date of this letter, but no event beyond that point.

This will allow you ample time to select a physician of your choice from the many competent practitioners in this area. With your authorization, I will make available to the physician your case history and a copy of your medical records.

STATEMENT OF PATIENT LEAVING HOSPITAL AGAINST ADVICE

This is to certify that I am leaving _____ Hospital at my own insistence and against the advice of the hospital authorities and my attending physician. I have been informed by them of the dangers of my leaving the hospital at this time. I release the hospital, it's employees and officers, and my attending physician from all liability for any adverse results caused by my leaving the hospital prematurely.

Signed _____ 1

I agree to hold harmless _____ Hospital, its employees and officers, and the attending physician from all liability, with reference to the discharge of the patient named above.

(Husband, wife, parent, etc.)

1 If the patient refuses to sign such a statement, he cannot be forced to do so nor may his release be withheld until he signs. If this occurs, the form should be filled out, witnessed by hospital personnel present, and "Signature Refused," written on the form.

TO ANNOUNCE DEPARTURE FROM HEALTH PLAN

Dear _____:

Please be advised that effective _____, I will no longer be a physician-provider for (HMO, PPO, IPA). I will be available to you and will continue to provide you treatment until this date, however, after this date I will be unable to participate in your medical care and treatment provided through this managed care plan.

Please contact (HMO, PPO, IPA) to make the necessary arrangements for another physician of the Plan to assume your continued medical management and thus prevent any break in the continuity of care you have received.

Rest assured that, at your request, I will make available to you or your new physician information regarding the medical treatment which I have provided.

TO PATIENT WHO FAILS TO FOLLOW ADVICE

Dear _____:

This will confirm our conversation on mm/dd/yy wherein I informed you that I was unable to determine without X-rays whether you sustained a fracture in your injured right arm. I strongly urge you to permit me or some other physician of your choice to obtain the necessary X-rays without further delay.

Your failure in not permitting a proper X-ray examination may result in serious consequences if in fact a fracture does exist.



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