Patient Dismissal: The When, Why, and How

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Got a patient who's abusing your staff, ignoring your advice, failing to pay his bill? When you realize it just isn't going to work, it's usually best to let the patient go. Here's how to do it correctly.

The prescription abuser, the never-payer, the no-shower, the surly swearer, the stubborn self-diagnoser — when these problem patients show up at your practice, they grate on your nerves, bring out the worst in you, and ruin your day.

What can you do? Patient dismissal is a drastic step that most doctors are loath to take. But some patients go beyond "difficult," to abusive; some physician-patient relationships fray beyond repair; some patients just will not follow their treatment plan; and some patients do not pay their bills. Internist Toni Brayer, the regional chief medical officer at Sutter Health, a large network of physicians and hospitals in Northern California, says that while dealing with tough patient problems is part of being a good doctor, there are some things that physicians and practices should not tolerate. One physician Brayer knows, for instance, recently discharged a patient who repeatedly demanded a specific treatment for his thyroid condition. Not only did the physician disagree with the treatment requested, the patient failed to take his prescribed medication, neglected to follow up with testing, and repeatedly missed appointments. "It creates a really unsafe environment for the patient and frankly, great [legal] risk for the physician," Brayer says. "The doctor cannot in good conscience go against good medical practice."

Yet instead of discharging patients like this, many physicians suffer through unpleasant encounter after unpleasant encounter without taking any action, often to no one's benefit. If you're one of them, consider this: Not only will failing to discharge the patient cause you stress and potentially endanger the patient, it could also cause some serious legal issues for you down the road. "I can hardly think of a time where a [malpractice] case went to trial and the physician did not say to me, 'I knew that this patient was bad news,' or 'I hoped that she would go away on her own,' or 'I didn't take the time to figure out how I could terminate the patient;',' says Susan Keane Baker, a consultant in risk management and patient relations based in New Canaan, Conn. "It's not the patient who's terminated that keeps the doctor up at night. It's the one who should have been terminated but wasn't."

Before you dismiss a patient, you should take all reasonable steps to make the relationship work. But if those good-faith efforts fail, don't be afraid to take action to discharge the patient. Just be sure you do it in the right way.

Before you discharge

Some of the key scenarios in which discharging the patient may be necessary are when a patient:
- Is dangerous, threatening, or abusive;
- Fraudulently uses controlled substances;
- Files a lawsuit against you;
- Refuses to follow recommended medical treatment;
- Frequently misses appointments without notice;
- Repeatedly fails to pay bills despite his ability to pay and/or your efforts to provide him with a suitable payment plan.

But there is no universal legal standard for determining the appropriateness of patient dismissal in different scenarios, says Steven Kabler, attorney at Denver-based Jones & Keller. "From a malpractice and medical board standpoint, a physician can basically discharge a patient for any reason he wants, as long as it is nondiscriminatory and doesn't violate [the Emergency Medical Treatment and Labor Act] or other laws, or puts the patient's health, safety, and welfare at risk," says Kabler.

But those are big qualifiers, requiring a working understanding of different areas of the law. It's best to have a patient-dismissal policy in place that your attorney has reviewed. Keep in mind that dismissal should be a "last resort," says James Saxton, attorney and chair of the
healthcare litigation and risk management group at Stevens & Lee, a law firm based in Lancaster, Pa. Prior to dismissal, it is critical to first take steps to attempt to remedy the situation, and carefully document those steps in the patient's chart. For instance, if you are contemplating discharging a patient for nonpayment, consider offering additional payment options, such as payment by credit card or a mutually agreed upon payment plan. Or if you suspect that a patient is abusing prescriptions, the basis for the suspicion (if not hard evidence) should be discussed with the patient and documented, says Saxton. Following that discussion, if the patient's behavior continues to support suspicion of abuse, the patient may then be discharged from the practice, he says. Beyond the legal implications of discharge are the ethical considerations. "The physician-patient relationship is extraordinarily important," Saxton says. "It's important to the patient, it's something that they rely on, it's something that's special in the law. We tell physicians all the time they're going to have challenging patients, they're going to have personality conflicts, but they're an important part of it ... and they should work hard to try to make it fit."

*Visit our patient dismissal topic center for tips and tools on properly ending the doctor-patient relationship.

**Dismissal time**

When a patient's behavior does not change despite your efforts and warnings, then severing ties may be your last option. But tread lightly. There are guidelines on the timing and process of patient dismissal, as well as simple best practices for any professional who deals with the public, especially one vulnerable to lawsuits.

If you do not follow them, you could be in trouble. A disgruntled discharged patient, for instance, may attempt to sue you for abandonment. A "good relationship between the patient and physician often is what protects the physician from professional liability claims," Saxton says. "If you terminated them in sort of the 'wrong way' — you've left a bad taste in their mouth — you might be exposing yourself to a claim."

Dismissed patients may also issue complaints to your state medical board, says Kabler. If the board were to determine that in treating the patient you did not meet "the generally accepted standards of medical practice," penalties could range from a letter of concern to public admonition to a revoked medical license. "Keep in mind that the relationship between a physician and patient is for the benefit of the patient, and regulatory bodies regularly view it that way," says Kabler, who formerly served as general counsel to the Colorado Board of Medical Examiners.

That's why it's essential to ensure that you are familiar with all of your state's requirements related to dismissal before beginning the process, says Robin Diamond, an attorney and registered nurse who serves as senior vice president of patient safety and risk management at The Doctors Company, a nationwide malpractice insurer.

If you do not have a dismissal policy at your practice, Saxton recommends seeking counsel with an attorney to help you develop one. "It's not a big expensive project, but a good healthcare attorney can unemotionally set the stage for the physician and keep them out of the potential pitfalls," he says. Once a policy is in place, it's not necessary to contact the attorney each time you decide to discharge a patient, but Saxton does advise seeking counsel when less common or difficult dismissal situations arise.

Baker says it's also a good idea to contact your professional liability carrier to determine what its policies and recommendations are for patient dismissal. Again, you do not need to contact the carrier every time you choose to discharge a patient, but you should ask the carrier to inform you if it makes changes to its policy or sample letter. That way "you will have the correct information about what exactly is involved with terminating a patient," she says.

Finally, check your contract with the patient's insurer to be certain you are complying with it, says Diamond.

**Inform and document**

Next, document in the patient's chart the reason for dismissal as comprehensively as possible, says Kabler. In the event that the patient makes a complaint or claim, thorough documentation will help prove to a third party that you had a "valid reason" for patient dismissal, that the reason was not discriminatory, and not in violation of any laws. The documentation should also be straightforward and objective, says Saxton.

In addition, notify all of your staff members of your decision to discharge the patient and instruct them how to handle any contact initiated by him, says Baker. "You don't want a staff member to inadvertently reopen the physician-patient relationship if a patient calls and says, 'I would like an appointment,'" she says. Remember that the rules of patient confidentiality still apply:Staffers should be told only what they need to know to do their jobs.
Another good policy is to identify one staff member to handle all of the discharged patients’ questions, requests, and complaints, says Kabler. That way, as soon as the patient contacts the office, your staff will forward his inquiry to the employee who knows how to handle the situation appropriately and calmly.

**The break up**

Finally, notify the patient of his dismissal by providing him with a dismissal letter. This letter should reflect your concern for the patient and your hope that he will find a new physician who will better meet his needs, says Saxton. "Take a little extra time to make sure if a third party looked at your letter that they would say, 'This doctor is professional and is compassionate about terminating this relationship with the patient.'"

In the letter, include:

- **The reason for dismissal.** If the reason is supported by objective data (for instance, the patient repeatedly failed to fill prescriptions, evidence he was not complying with his treatment plan), include it in the letter. If the reason is more subjective (for instance, the patient is rude to staff members), use a more "general" approach, says Diamond. For instance, she suggests writing, "My concern is that you and I no longer have a therapeutic relationship, and I can't treat you and do for you what I need to do as your physician."

- **Record release information.** You must provide the patient with a copy of his medical record, says Kabler. In the dismissal letter, state how the patient can request a copy and/or how he can request it to be sent to another provider. If he asks you to forward it, have him sign a release indicating that he wishes you to do so, says Diamond. If you normally have a fee for copying and sending the record, it's best to waive it. "Absorbing that [cost] as a matter of good will is probably good strategically," says Saxton.

- **Referral guidance.** Instruct the patient to find a new physician and provide him with contact information for nearby hospital or medical society referral services, says Baker. Do not specifically recommend another physician, as the patient may claim that in following your advice, he visited the physician and his health suffered as a result, she says.

State laws vary regarding the required method of delivery for dismissal letters, says Saxton. Make sure you send the letter using the appropriate method. If the letter is sent via first class mail, in addition to the required method, the letter is presumed received.

Finally, save the delivery confirmation, put a copy of the letter in the patient’s record, and send a copy of the letter to your professional liability carrier, if it requests it, says Baker. "If you should need it, you want to be able to access it quickly."

* For a [sample patient dismissal letter](http://www.physicianspractice.com), click here.

**In limbo**

Your dismissal letter must also include information regarding the notice period. This is the amount of time you will continue to provide the patient medical care after sending him the termination letter, to give him time to find another provider. States usually have statutes or recommendations for physicians regarding the duration of this period, usually ranging from 15 days to 30 days, says Diamond.

In Colorado, for instance, the medical board's policy is that physicians should provide emergency or necessary care to patients for 30 days after termination, says Kabler. During the 30-day period, Colorado physicians may refuse the patient's requests for nonemergency treatment, and may cancel any of his previously scheduled non-emergent appointments.

Though such policies are usually nonbinding, they are smart to follow, says Kabler. Medical boards will likely use those policies to determine whether you followed the standard of care, should a question or complaint arise, and in the event of a malpractice lawsuit, you don't want to seem callous. But if it is not practical for the physician to provide the patient with the recommended notice period — for instance, if the patient is dangerous — the board will likely take that into account, Kabler says.

Also, if it's likely that the patient will encounter difficulty finding a new physician — for example, if he requires highly specialized care or lives in a rural location — it's smart to provide him with a longer notice period than required, says Diamond.

Be sure to include the final termination date in the dismissal letter.

**Complications**

In general, the dismissal process and the dismissal letter should remain consistent regardless of the reason for termination, says Baker. Still, there are a few variations to consider:

**When closing your doors or cutting back.** Follow the standard termination process. However, consider providing patients with notice sooner than required, says Kabler. This will make the process
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Also, consider creating a website or altering your current website to provide patients with discharge information and a link or e-mail address to which they can send medical record requests. If you encounter a record for a patient you have not treated in a significant amount of time, follow the standard termination process, says Diamond. "Never assume that ... the patient doesn't still believe they're in a relationship with [you]," she says.

When a patient is "difficult." Follow the standard termination process. If the patient is having a problem with a staff member, remove the employee from the patient's care during the termination period, says Kabler. If the conflict is with the physician, another physician at the practice may treat the patient during the notice period. If the patient requests the primary physician specifically, "it's OK for the physician to say no, unless the replacement physician can't provide the care that's necessary," says Kabler.

Finally, send a copy of the patient's medical record directly to him at the very beginning of the termination process through certified mail. "Be proactive," says Kabler. "Difficult patients always present difficult issues later."

When a patient sues. Just because a patient makes a claim against you doesn't mean the physician-patient relationship is terminated. Though it may be difficult, follow the standard termination process and continue providing the patient with emergent care until the final termination date, says Kabler.

When a patient doesn't pay. Follow the standard termination process. Do not withhold the patient's medical record pending payment, says Baker. You will also need to determine how to deal with the patient's unpaid bills. Think twice before sending a collection agent after him. It might push the patient to make a claim or complaint, she says. "Sometimes you make decisions, and if you considered the bigger picture, you just wouldn't make the same decisions."{C}

In Summary
If you're convinced you must sever the physician-patient relationship, follow these steps:
• Ensure your practice has patient-dismissal policies in place that comply with your state's laws.
• Thoroughly document the reason for the patient's dismissal in the medical record.
• Send the patient a letter of dismissal, providing an adequate notice period.
• Inform staff members of the patient's dismissal and instruct them how to handle any contact from the patient.

More Guidance
Before you decide to terminate a difficult patient — give him the benefit of the doubt and try these techniques to mend the breach: Read "Four Ways to Salvage the Physician-Patient Relationship."

Looking for more guidance on discharging a patient from your practice?
• Visit our patient dismissal topic center for tips and tools on properly ending the doctor-patient relationship.
• Read "Ending the doctor-patient relationship"
• Download a sample patient dismissal letter to customize for your specific situation
• Download a sample patient dismissal policy to utilize in your office

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