

Creating and Terminating Patient Relationships



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**Compliance
Bootcamp**

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Provider-Patient Relationship

Provider-Patient
Relations Created

Provider-Patient
Relation Terminated



- Express consent
- Implied from situations



- Liable for breach of duty of care, e.g.,
- Malpractice
 - Negligence
 - Lack of consent
 - Abandonment



Creating Relationship

- **General rule:**



patient seeks care from practitioner

+ practitioner consents to provide care

practitioner-patient relationship

Creating Patient Relationship

- Beware cases in which relationship may not be intended.
 - Phone calls or emails w/patient
 - Telemedicine
 - Social media
 - Call for appointments
 - Consultations with colleagues
 - Courtesy or favor
 - Emergency care
 - IME, employer physical, etc.
- * Each case depends on its own facts.



Creating Patient Relationship

To avoid creating unintended patient relationship—

- **Be careful what you say or do.**
- **Don't get involved or give advice.**
- **Define or limit your relationship.**
 - Explain non-existence or limits to your care.
 - Refer to another practitioner.
- **Document the parties' relationship.**
 - Policies, forms, consents
 - Discharge/referral instructions
 - Letters or emails
- **Check your insurance to ensure you have coverage.**

Refusing Patients

- In general, practitioners can legally refuse to treat anyone they want. (See IC 39-1391b and -1391c)
 - Ethics rules may differ...
- **Exceptions:**
 - EMTALA
 - Anti-discrimination laws
 - Contracts require care
 - Grant requirements
 - Charity care obligations
 - Cannot abandon patient



Dealing with Problem Patients

Provider-Patient
Relations Created

Provider-Patient
Relation Terminated

No duty to
provide care

Duty of Care

No duty to
provide care

- Liable for breach
of duty of care, e.g.,
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Dealing with Problem Patients

- *Do not do this...*
- Unless you want to risk liability for:
 - Malpractice.
 - Patient abandonment.
 - Civil penalties under EMTALA or COPs
 - Participation in third party payor programs.
 - Adverse licensure actions.



Dealing with Problem Patients

- ***Document, document, document!***
 - Medical record
 - May be subject to patient's right of access.
 - May be discoverable.
 - Be objective, use quotes, etc.
 - Incident report or other peer protected
- Documentation is critical in case we need to take additional corrective action.
- Remember: "If it's not in the chart, it didn't happen."

Dealing with Problem Patients

- **Patient responsibilities document**
 - Explain that patient's cooperation and appropriate conduct are essential to effective care.
 - Require, among other things,
 - Cooperation in developing treatment plan.
 - Compliance with treatment plan.
 - Ongoing communication and respect.
 - Professional, non-disruptive conduct.
 - Post in facility.
 - Use in communications with patient.

Dealing with Problem Patients

- **Patient Care Conference / Contract**
 - Refer to “Patient’s Rights and Responsibilities”.
 - Explain that inappropriate conduct interferes with our ability to provide effective care.
 - Require, among other things,
 - Cooperation in developing treatment plan
 - Compliance with treatment plan
 - Ongoing communication
 - Professional, non-disruptive conduct
 - Warn that we will need to end relationship if they fail to comply.
 - Advise them that they may go elsewhere.

Avoiding Patient Abandonment

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No duty to
provide care

Terminated by:

- Patient
- Provider
- Circumstances, e.g., passage of time, but be careful



Patient Abandonment

- **Abandonment =**
 - Leaving town without securing coverage for your patients.
 - Terminating relationship without giving patient sufficient:
 - Notice that you are ending relationship
 - Time to find a new practitioner
 - Care until the patient can transfer to a new practitioner
- **Penalties**
 - Lawsuit by patient for damages
 - Action against license (See IC 54-1814(15); IDAPA 22.01.03.037.02)

Avoiding Patient Abandonment

- Can terminate relationship for any legitimate reason or no reason, but not bad reason.
- Legitimate reasons
 - Failure or refusal to pay bills
 - Breakdown in relationship or communications
 - Disruptive conduct
 - Noncompliance with treatment
 - Missed appointments
 - Etc., etc., etc.
- Bad reasons
 - Discrimination

Avoiding Patient Abandonment

- **Factors to consider before ending patient relationship**
 - Patient's current health needs
 - Availability of alternative care
 - Basis for termination (e.g., legitimacy compared to patient's health care needs)
 - Whether patient is in protected class
 - Documentation supporting termination
 - Alternative actions
 - **Warnings**
 - **Patient care conference**
 - **Behavior contract**

Avoiding Patient Abandonment

- **If termination necessary and appropriate:**
 - Notify patient in writing and perhaps orally
 - Give sufficient time to transfer care
 - **Depends on patient's condition**
 - **Usually 30 days, but no hard and fast rule**
 - Provide necessary care in interim
 - Facilitate transfer of care
- *Retain letter in patient chart or elsewhere.*
- **Hospitals: remember EMTALA obligations.**

Avoiding Patient Abandonment

- **There may be situations that justify immediate termination without advance notice, e.g.,**
 - Danger to patient, staff or others
 - Criminal misconduct
- **Be careful before terminating without notice; consider:**
 - Patient care needs
 - Availability of alternative sources for treatment
 - Statutory obligations, e.g., EMTALA or state statutes
 - Contractual obligations
 - “What would a jury think?”

Questions?



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