Legal Pitfalls of Patient Termination
TMA Office of the General Counsel

The patient-physician relationship is grounded in the personal relationship that exists between the physician and the patient. The patient-physician relationship is the result of a contract between a physician and a patient that the doctor will treat the patient with proper professional skill. Although the relationship is contract-based, the contract need not be formal — it can be implied, which means the acts and conduct of the parties demonstrated there was a mutual intention to contract. When that relationship becomes untenable for either party, dissolution of the relationship may become necessary. While both the physician and the patient have the right to terminate the relationship, the requirements for termination are more complicated for physicians than for patients.

This white paper discusses the general legal and ethical issues related to termination of the patient-physician relationship.

Q: May a physician terminate his or her relationship with a patient for any reason?

A: No. Physicians may not terminate a patient relationship based on the patient’s membership in a protected class, like race, gender, or disability. Under the Americans with Disabilities Act (ADA), “disability” is defined as a physical or mental impairment that substantially limits one or more of the major life activities, a record of such an impairment, or being regarded as having such an impairment. A “physical or mental impairment” includes, but is not limited to, diseases and conditions like orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, ADHD, HIV, tuberculosis, drug addiction, and alcoholism.

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

A: Physicians have an ethical and legal duty to avoid abandoning their patients. The premature termination of medical treatment 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.” Said another way, there are times when a physician may not legally terminate the patient-physician relationship.

Proof of actionable abandonment requires a showing the physician failed to provide “an adequate medical attendant” or failed to give adequate notice. Finally, as in any negligence action, the plaintiff must prove this breach of duty was the cause of his or her injuries or damages.

Q: How should notice be given to the patient?

2 St. John v. Pope, 901 S.W.2d 420, 424 (Tex. 1995).
3 42 U.S.C. § 12102(1)
4 28 C.F.R. § 36.105(b)(2)
A: Documentation of proper and sufficient notice should afford the physician protection from possible civil liability. Hence, in addition to orally advising the patient and documenting that advice in the chart, the physician should send a letter to the patient (with return receipt requested) to ensure the patient is aware of the physician’s decision. A copy of the letter and the return receipt should be retained in the physician’s records. (A sample letter terminating the patient-physician 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. Many factors may affect this “reasonableness” determination. The time necessary for a patient to locate another physician in a large urban area may be less than that which would be considered 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 obstetrics-gynecology patient in her eighth month may not be able to locate another physician willing to assume responsibility for care. In this example, the physician who seeks to terminate the relationship may be delayed in 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 effective date of termination should be stated explicitly in the notification letter, taking into consideration the reasonableness of the notice. The physician may wish to suggest the names of other physicians for the patient to consider contacting. While it is not necessary to state reasons for the decision to terminate in the notice, the physician should make it clear the patient-physician relationship no longer exists. The physician should offer to forward copies of medical records to another physician, with proper patient 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. The physician may specify that any treatment during the notice period will be provided on a cash basis, unless there is a medical emergency. However, it may be prudent to treat the patient who cannot pay cash rather than possibly defending a lawsuit charging abandonment. The notification letter should remind patients that follow-up and continued medical care are now their responsibility, and that they should pursue both. Additionally, the notification letter may include a statement explaining that medications will only be provided up to the effective date of termination.

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 patient-physician 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 need treatment now for an emergency or urgent condition, the patient should be informed that you wish to terminate the relationship.

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 the physician. The act of leaving the hospital could have occurred because of facts unrelated to the patient-

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7 Texas Medical Board Rules §165.2(h); See also American Medical Association Code of Medical Ethics, 2016, Sec. 3.3.1, p. 57.
physician relationship or the medical treatment. If this is the case, the patient should be asked about his or her intentions regarding the relationship. Otherwise, if the patient-physician relationship may not have been terminated by the acts of either party, there is still an obligation to the patient.

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

**A:** A physician wishing to terminate the patient-physician relationship with a managed care patient should review the contract with the managed care plan. The contract may require the physician to inform the patient that he or she must select another physician from the managed care provider list; require that the physician send a copy of the termination letter to the managed care plan; or require the physician to notify the plan first, prior to termination.

**Q:** Suppose I treat a patient in the emergency department, 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. 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, that minimizes any risks to the patient’s health during transfer. The transferring hospital also is responsible for ensuring that proper transportation equipment, personnel, and life support measures are used during the transfer.

**AMA Code of Medical Ethics**

**1.1.5 Terminating a Patient-Physician Relationship**

Physicians’ fiduciary responsibility to patients entails an obligation to support continuity of care for their patients. At the beginning of a patient-physician relationship, the physician should alert the patient to any foreseeable impediments to continuity of care.

When considering withdrawing from a case, physicians must:

(a) Notify the patient (or authorized decision maker) long enough in advance to permit the patient to secure another physician.

(b) Facilitate transfer of care when appropriate.

**AMA Principles of Medical Ethics: I,VI**

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.
Dear Mr./Ms. __________________:

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 _____ 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,

________________________, MD

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: _________________________ Date: __________________________

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