Legal Aspects of Patients Leaving Against Medical Advice
My name is Tim Reuschel, and I'm speaking on “Legal Aspects of Patients Leaving Against Medical Advice”. I work for Hannibal Regional Healthcare System, Inc. I have no relevant financial or nonfinancial relationships to disclose.
F/U Tim Reuschel
Pre-conference Questions
Against Medical Advice (AMA)

• In *Cruzan v. Director, Missouri Department of Health*, the United States Supreme Court determined that a *competent* person has a constitutionally protected liberty interest to refuse medical treatment.

• This treatment includes measures such as nutrition and hydration.

• This right is not absolute, however.
Risks to patients

- Readmission rates for patients discharged against medical advice are 4 times higher when compared to other patients.

- Patients relative risk of mortality may also be 10% higher.
WHY DO PATIENTS LEAVE AMA?
Why do patients leave AMA?

- PATIENT EXPECTATIONS
- LACK OF PATIENT SOPHISTICATION
- HOSPITAL/CLINIC ISSUES
- PHYSICIAN CONDUCT ISSUES
- MENTAL ILLNESS/SUBSTANCE ABUSE
PATIENT EXPECTATIONS

- HIGH EXPECTATIONS
  - Can be unrealistic
  - Low public understanding of how things work

- LOW EXPECTATIONS
 PATIENT EXPECTATIONS
Practical Suggestions

• Identify patient expectations early.

• Be direct and honest about capabilities and patient options.
LACK OF PATIENT SOPHISTICATION
LACK OF PATIENT SOPHISTICATION

DO YOU OFFER FREE ______________?

- CONSOLATIONS
- CONSOLIDATIONS
- CONSTELLATIONS
- CANCELTATIONS
- CONFRONTATIONS
CLIENT TO TIM:

“I’m sorry I’m late. I was at the heart doctor and he gave me an artopsy. It damn near killed me.”
LACK OF PATIENT SOPHISTICATION

Practical Suggestions

FIND A WAY TO COMMUNICATE SO THE PATIENT BEST UNDERSTANDS.
TIM: Do you get these Medicaid notices periodically?

CLIENT: No, I just get them every once in a while.
LACK OF PATIENT SOPHISTICATION

Practical Suggestions

- TRY TO AVOID MEDICAL TERMS OF ART

BAD – “You have a non-displaced fracture of your radius and ulna.”

GOOD – “You broke both of these bones in your arm.”
TRY TO USE FAMILY & FRIENDS TO HELP THE PATIENT UNDERSTAND
LACK OF PATIENT SOPHISTICATION
When people don’t understand, they get nervous and anxious, making them more inclined to leave.
TIM: So I see you are a native of Moberly?

CLIENT: No, I’ve lived there all my life.
HOSPITAL/CLINIC ISSUES
HOSPITAL/CLINIC ISSUES

- Wait times
- Hospital/Clinic policies
- Nursing Staff
**HOSPITAL/CLINIC ISSUES**

**Practical Suggestions**

- Engage with Medical Staff Leaders/Administration
  - Process Ideas
  - Discharge Instructions

- Test/Practice
  - Anticipate problems ahead of time

- Establish communication protocols for Doctors/Nurses/Support Staff
Common Complaints:

- Doctor rude
- Doctor in a hurry
- Doctor v. Nurses
- Doctor v. Doctors
DOCTOR ISSUES
Practical Suggestions

PICK THE RIGHT TIME TO TEACH

• Baseball Code
  - Don’t show up another person

• What is accomplished by correcting in a rude manner?
PATIENCE & PATIENTS

The more patience you show with your patient and other staff, the more confidence the patient will feel with the process.
DOCTOR ISSUES
Practical Suggestions

Explain Why

• Why the wait was long (without blaming others)

• Why these tests are necessary

• Why is this diagnosis reached
MENTAL ILLNESS/SUBSTANCE ABUSE
• A competent adult has the right to leave/refuse medical treatment

• Review and rely on your Hospital or Clinic’s policies & procedures
EMTALA: Requires that every patient be given a Medical Screening Examination (MSE)

Problem: Police drop off a person who is acting erratically – but is medically stable.

- Allow person to leave and hurt self/others?
  or
- Risk false imprisonment claim?
1. Assess patient’s physical/medical condition (MSE)

2. Does the patient present a risk of harm to self or others?
   - Consult Social Services
   - Must Determine CAPACITY
3. If patient presents a likelihood of serious risk of harm to self or others:
   - May apply for involuntary commitment under 632.035 “96 Hour Hold”
     • Remanded to Custody of a Peace Officer
     • Transport to a Designated Mental Health Facility
• Find out if Patient has issues/expectations

• Understand who your audience is

• Explain WHY

• Make sure to evaluate Patient’s capacity
If Patient leaves AMA, record every intervention you attempted.

- Conversations with patient
- Explanation of risks
- Conversations with family

* Does not necessarily involve medical record
• Provide the patient with a brief written summary of his/her diagnoses, treatments, medications, and follow-up plans.

• Immediately inform the patient’s primary medical team regarding discharge AMA and follow-up plans.

• Communicate with the patient’s primary care provider (if different from the inpatient medical team) regarding discharge AMA and follow-up plans.

• With the patient’s consent, communicate with the patient’s next-of-kin regarding discharge AMA and follow-up plans.
AMA FORMS

A signed form is not a free pass as to liability

- Try to get them to sign

- If they do not sign, then document
Parents do not have an absolute right to ignore medical advice for their children.

Sec 210.125.2
- Physician may remove if reasonable cause to believe:
  
  A. Child in *imminent danger* of suffering *serious physical harm* or a threat to life as a *result of abuse or neglect*. AND
  
  B. Harm or threat to life may occur before a Juvenile Court or Juvenile Officer can take custody.
FIRING PATIENTS
• Physician may withdraw from care of a patient provided that the patient has a reasonable opportunity to find replacement.

PROCESS

1. Explain serious nature of the medical situation
2. Document interactions and corrective suggestions
3. Check termination requirements of 3rd Party Payors
4. Give adequate notice to patient (fact/case specific)
   - Certified mail
Dear Mr. or Ms. ______________,

I find it necessary to inform you that I will no longer be able to serve as your provider.

As you may require medical attention in the future, I recommend you promptly find another physician to care for you.

I will be available to treat you on an emergency basis only until <insert date 30 days from letter>. This will give you time to find a new physician. Enclosed is an authorization form that permits me to send your new physician a copy of your medical records. Please complete this form and return it to me in the envelope provided.

Sincerely,

Provider Name & Credentials
THANK YOU!

References

6. Sec. 632.035 RSMo.