Terminating the Physician-Patient Relationship
Overview and Suggestions for Hospital/Clinic Policy

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Terminating the physician-patient relationship is appropriate in certain situations but it must be done cautiously. The patient must not be “abandoned.” In Missouri, the courts have said:

“The duty to attend the patient continues so long as required unless the physician-patient relationship is ended by (1) the mutual consent of the parties, (2) the physician's withdrawal after reasonable notice, (3) the dismissal of the physician by the patient, or (4) the cessation of the necessity that gave rise to the relationship. Absent good cause to the contrary, where the doctor knows or should know that a condition exists that requires further medical attention to prevent injurious consequences, the doctor must render such attention or must see to it that some other competent person [347 S.W.3d 615] does so until the termination of the physician-patient relationship.” Weiss v. Rojanasathit, 975 S.W.2d 113, 119–120 (Mo. banc 1998) (citations omitted).

In some States, if the patient is undergoing a course of treatment (i.e., chemo, dialysis or treatment of a chronic condition), there is a higher burden on the physician to continue treatment or find the patient another physician to continue the treatment. The case law from these States makes it clear simply providing a list of physicians accepting new patients is not sufficient, but the cases are not clear as to what must be done specifically.

Missouri does not have any cases directly addressing this scenario, but as Weiss indicates, the courts are likely to require more effort to maintain the continuity of care if the doctor knows or should have known a condition requires further medical care. The more involved the doctor-patient relationship or if the patient is “medically unstable”, the expectation is that the physician will do more to maintain the doctor-patient relationship. However, if the relationship must be terminated, the expectation is that the physician will
do more during the transition than simply provide a list of physicians accepting new patients to ensure the patient’s medical needs are met.

Also, patients cannot be terminated based on gender, race, religion and disability – HIV status is a disability. Sexual orientation should also not be reason for termination.

Patients can be terminated for: (1) non-compliance with physician’s directives and treatment plans; (2) threatening behavior toward staff, healthcare providers or other patients; (3) drug-seeking; and (4) failure to pay.

**Terminating for Non-Compliance**

As outlined above, terminating the physician-patient relationship is a drastic step and should be undertaken prudently. A standardized policy and procedure provides protection, minimizes opportunity for the patient to claim he/she was terminated for inappropriate or personal motives and provides consistency on this sensitive issue.

It is important to document specifically the behaviors the patient exhibits while refusing to follow the treatment plan. It should be documented that the physician explored why the patient was non-compliant. Basically, the physician must document that he/she explored why the patient is non-compliant, the steps the physician took to overcome those obstacles such as discussing consequences of failure to comply and the patient’s reaction.

The litigation trend indicates that if the physician could have helped navigate the roadblocks to achieve compliance, such as locating free testing/screening, reduced medication costs by contacting the pharmaceutical manufacturer or other available community resources, the physician is encouraged to share those resources with the patient. It is important to document the physician’s efforts to mitigate the compliance obstacles.

As a final precautionary step, it is prudent to send the patient a warning letter explaining the health consequences of his/her non-compliance and telling the patient this is the last straw – “straighten-up or else”. The letter must also outline that continued non-compliance will lead to termination of the doctor-patient relationship. The purpose of this warning letter is to clearly provide the patient notice that his/her continued non-compliance may result in termination.

Before terminating a patient it is important to determine if the physician has contractual obligations with a third party payer (i.e., health insurance company) to follow specific steps before the patient can be terminated.
Assuming the non-compliance continues after the warning letter, the patient should be sent a termination letter, via certified mail, outlining the non-compliant behavior. The letter provides sufficient notice for the patient to arrange for alternative care and that the relationship will terminate in 30 days. Please note that 30 days to find another physician is a generally accepted length of time, but the relationship may be terminated sooner or even immediately if circumstances dictate (e.g., physical aggression, assault). The letter should include a medical records release as well.

The return receipt and a copy of the letter must be placed in the patient’s file. Please note that if the certified letter is not accepted and the address is correct, place the letter in the file and mail the patient the same letter via regular mail. Because practices frequently extend across multiple locations and physicians, there must be a system that flags the file informing other staff the patient is terminated.

**Terminating for Threatening Behavior**

Terminating a patient for threatening, violent or abusive behavior is truncated compared to termination for non-compliance. Depending on the type of behavior displayed – verbal aggression and inappropriate language vs. physical gestures or offensive touching – a warning letter (i.e., “straighten-up or else”) may not be warranted.

As with the termination for non-compliance, creating a standardized office policy is important to avoid allegations that people are treated different. The termination letter, sent certified mail, must state the specific reason for the termination, provide a period for the patient to find another physician (e.g., immediately, 30 days depending on the underlying behavior) and a records release form. The documentation must be put in the patient’s record and the file flagged.

**Terminating a Drug-seeker**

Terminating a patient for drug-seeking can be as swift as termination for threatening, violent or abusive behavior. Depending on the type of behavior displayed – stealing scripts, forging signature, altering written scripts – a warning letter may not be warranted.

It is recommended the physician explore the drug-seeking behavior and attempt to determine its origin. For example, is the drug-seeking caused by an underlying pseudoaddiction, a condition resulting from inadequate pain management which manifests the same behaviors as drug-seeking but the behaviors stop once the pain is under control? With a little counseling does the patient recognize the addiction and want treatment? In these situations, it would not appear that terminating the relationship is appropriate. On the other hand, when the patient is diverting the medications or
displaying other criminal behavior (e.g., stealing, forgery) swift termination is appropriate.

As with the termination for non-compliance, creating a standardized office policy is important to avoid allegations that people are treated different. The termination letter, sent certified mail, must state the specific reason for the termination (e.g., violation of the Narcotics Management Contract), provide a period for the patient to find another physician (e.g., 30 days) and a records release form. The documentation must be put in the patient’s records and the file flagged.

**Terminating for Failure to Pay**

It is permissible to terminate a patient for failure to pay for services. However, Missouri statutes and case law do not provide specific criteria outlining when it is appropriate to terminate for failure to pay or what steps should be followed in these situations.

The only regulations or statutes related to termination for failure to pay are found in the Code of State Regulations (CSR) related to Medicaid recipients in general and copays. Of particular interest is the following: 13 CSR 70-4.050

(8) **Providers are responsible for collecting the copayment or coinsurance amounts from individuals**…A provider shall collect a copayment from a recipient at the time each service is provided or at a later date. Providers of services as described in this rule and as subject to a copayment or coinsurance requirement may not deny or reduce services otherwise eligible for Medicaid benefits on the basis of the recipient’s inability to pay the due copayment or coinsurance amount when charged.

(9) A recipient’s inability to pay a required coinsurance or copayment amount, as due and charged when a service is delivered, in no way shall extinguish the recipient liability to pay the due amount or prevent a provider from attempting to collect a copayment…

(11) Providers of services in the program areas named must charge copayment or coinsurance as specified at the time the service is provided to retain their participation privileges in the Missouri Medicaid program.
(12) Providers must maintain records of copayment or coinsurance amounts for five (5) years and must make those records available to the Department of Social Services upon request.

(13) **If it is the routine business practice of a provider to discontinue future services to an individual with uncollected debt**, the provider may include uncollected copayments under this practice.

(14) A provider shall give a Medicaid recipient a **reasonable opportunity to pay an uncollected copayment**.

(15) A provider shall give a Medicaid recipient with uncollected debt **advanced notice and a reasonable opportunity to arrange care with a different provider before services can be discontinued**.

(16) If a provider is not willing to provide services to a recipient with uncollected copayments and the requirements of this regulation have been met, the provider may discontinue future services to an individual with uncollected copayments.

Based on these State Regulations, it would be appropriate to create a policy for terminating patients for failure to pay that reflects these requirements as well as taking into account the case law related to severing the doctor-patient relationship.

Using the Medicaid rules as a guide is a prudent approach to establishing a process for terminating all patients, regardless of whether they are self-pay or insured, for failure to pay. First, it must be the “routine business practice” to terminate patients for failure to pay. Second, the policy should lay out steps to provide a patient “reasonable opportunity” to set up a payment plan. Third, it must explain to him/her that failure to set up such a plan will lead to termination of the doctor-patient relationship.

Finally, if the patient fails to take advantage of the “reasonable opportunity” to set up a repayment plan, he/she should receive a standardized termination letter clearly terminating the doctor-patient relationship after 30 days. The letter should also indicate the practice’s willingness to provide the new physician a copy of the medical records after appropriate releases and authorizations are provided.

It is likely that many patients who ignored the first letter inviting them to set up a “reasonable repayment plan” will set up the plan after receiving the termination letter. It
is prudent to assume that even after the termination notice is sent and the patient arranges a payment plan before the end of the 30 day period, there is an expectation the termination process should cease.

However, it is appropriate to enter into a repayment plan with the patient that is strict in terms of making timely payments and that failure to pay on time will lead to an expedited termination. Please note that the repayment terms should consider the patient’s financial situation when determining monthly payments. If the clinic provides services in an underserved, lower socioeconomic area, implicitly people will have a harder time paying their copay. It can be assumed the clinic will be expected to provide these individuals more latitude in establishing a payment plan. However, if the patient has the means to pay and refuses, the Board of Healing Arts and the courts are likely to be less sympathetic about higher monthly payments. Everyone must be offered the same opportunity to set up a payment plan per office policy but the repayment terms should reflect the individual’s financial situation.

Documenting these steps will be critical if the terminated patient complains to the Board of Healing Arts about patient abandonment.