

# Terminating the patient-physician relationship: breaking up is hard to do

By Tanya Babitch and Laura Hale Brockway, ELS

## Objectives

At the conclusion of this educational activity, the physician should be able to:

- recognize common reasons for termination of the patient-physician relationship;
- identify circumstances that may preclude or complicate termination of the patient-physician relationship; and
- develop strategies to terminate the patient-physician relationship when appropriate.



## Course authors

Tanya Babitch is a senior risk management representative with Texas Medical Liability Trust. Laura Hale Brockway is the communications and advertising manager at Texas Medical Liability Trust.

## Disclosure

The authors have no commercial affiliations/interests to disclose related to this activity.

## Target audience

This one-hour activity is intended for physicians of all specialties who are interested in practical ways to reduce the potential for malpractice liability.

## CME credit statement

Under AMA guidelines, physicians are required to complete and pass a test following a CME activity in order to earn CME credit. A passing score of 70% or better earns the physician 1 CME credit. Physicians will be allowed two attempts to pass the test.

TMLT is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians. TMLT designates this enduring material for a maximum of 1 *AMA PRA Category 1 Credit*™. Physicians should only claim credit commensurate with the extent of their participation in the activity.

## Pricing

Reporter CME content is available at no cost. The following fee will be assessed when CME credit is applied for.

Policyholders: free

Non-policyholders: \$75

*continued on next page*

## Ethics statement

This course has been designated by TMLT for 1 credit in medical ethics and/or professional responsibility.

## Instructions

You have two options to obtain CME credit from this activity.

### Option 1 – online

Complete *Reporter* CME test and evaluation forms online. After reading the article, go to [www.tmlt.org/reporterCME](http://www.tmlt.org/reporterCME). Click on “Earn CME” under “Terminating of the physician-patient relationship” (2012 Volume 5). Follow the instructions to complete the test and evaluation forms. Your CME certificate will be emailed to you. Please allow up to 4 weeks for delivery of your certificate.

### Option 2 – on paper

Please read the entire article and answer the CME test questions on the paper test forms on page 12. To receive credit, submit the completed test and evaluation forms to TMLT. All test questions must be completed. Please print your name and address clearly. Allow 4 to 6 weeks from receipt of test and evaluation form for delivery of the certificate.

Questions? Please call the TMLT Risk Management Department at 800-580-8658, ext. 5919.

## Estimated time to complete activity

It should take approximately 1 hour to read this article and complete the questions.

## Release/review date

This activity is released on October 1, 2012 and will expire on October 1, 2015. Please note that this CME activity does not meet TMLT’s discount criteria. Physicians completing this CME activity will not receive a premium discount.

## Introduction

One of the unique challenges of practicing medicine is deciding when the patient-physician relationship has reached the end of the road. Coming to the conclusion that it is time to part ways with a patient is never easy for physicians and is often accompanied by conflicted feelings. While medicine is a business, it is a business that comes with an ethical duty to patients. No physician is immune from the instinct to continue helping and caring for patients, even when it becomes difficult to do so.

Physicians vary a great deal in how they manage challenging patients — some choose to continue care and some find that they feel most comfortable ending the relationship. Neither is right or wrong, but physicians are within their rights to end a relationship that is no longer therapeutic. At the same time, however, physicians are obligated to “do no harm” to their patients. Prior to termination of the relationship, physicians should evaluate the case to ensure that the patient is not at a critical stage in treatment, will be given appropriate notice, and has the opportunity to find another physician.

Formal termination of a patient-physician relationship is only required if a relationship has actually been established. Once a relationship has been established, a physician owes the patient a duty of care. There may be some situations in which the formation of a relationship is nebulous. Physicians should assume that a relationship exists if they have offered any treatment — even if not in person. Advice given over the telephone or through electronic means is still medical advice and may establish a relationship. If in doubt, it is prudent to assume the relationship has been established and a duty to care for the patient exists.

Ending the relationship without appropriate notice could be considered a breach of this duty. “The patient-physician relationship is the result of a contract, express or implied, between a physician and patient that is voluntary and arises when a patient requests and is supplied medical information/treatment.”<sup>1</sup> While both physician and patient have the right to terminate the relationship, the requirements for ending the relationship are more complicated for physicians.

## Risks of failing to terminate the relationship appropriately

The Texas Medical Association’s Board of Councilors ethics opinion on termination of the patient-physician relationship states, “The patient-physician relationship is wholly voluntary in nature and therefore may be terminated by either party. However, physicians have an ethical obligation to support continuity of care for their patients. Thus, it is unethical for a physician to terminate the patient-physician relationship without first providing reasonable notice under existing circumstances of the physician’s intent to terminate the professional relationship. To terminate the patient-physician relationship without such notice may result in civil liability for abandonment.”<sup>2</sup> In addition, lack of appropriate notice to the patient may put the physician at risk for a patient complaint and possible disciplinary action from the Texas Medical Board.

## Reasons to end the relationship

Patient noncompliance with recommended treatment is a common reason physicians give for dismissing patients. Other reasons include failure to keep appointments, abusive or rude behavior to the physician or staff, or because the patient has an outstanding balance they do not attempt to pay. In addition, patient commitment of prescription fraud or failing to comply with the requirements of a pain management contract may be a cause for termination of the relationship. All of these reasons are acceptable, but some exceptions may apply. Physicians are encouraged to review possible termination on a case-by-case basis; one policy may not fit all when it comes to ending a relationship with a patient.

## Proceed with caution

Physician practices are subject to state and federal civil rights laws. “A physician may decline to undertake the care of a patient whose medical condition is not within the physician’s current competence. However, physicians who offer their services to the

public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, gender identity, or any other basis that would constitute invidious discrimination.”<sup>3-4</sup> Additionally, a patient cannot be dismissed because he or she has been diagnosed with HIV/AIDS.<sup>4</sup>

Discrimination against patients with disabilities is prohibited by the Americans with Disabilities Act, and termination of the relationship due to the patient’s disability would be considered discriminatory. “The ADA prohibits places of public accommodation, such as physician offices, from discriminating against disabled individuals in the provision of goods and services... a deaf patient successfully sued his physician for discrimination under the ADA after being discharged as a patient. The discharge occurred because the physician lost the only employee in his office who could communicate with the patient in sign language. The court held that instead of firing the patient, the physician should have made a reasonable effort to accommodate him by furnishing him written materials or using other methods to facilitate communication.”<sup>5</sup> (For more on ADA requirements for physicians, please see article on page 1.)

Insurance providers may require that physicians either contact them or get permission to terminate the relationship before ending the relationship. Contracts with providers may require that physicians provide care to all covered patients, and may have requirements about “firing” a patient. Physicians should review contracts so that they are aware of any limitations or restrictions about ending the patient-physician relationship.

Hospital call requirements generally do not allow an on-call physician to refuse care to a patient — even if the patient has previously been dismissed from the on-call physician’s outpatient practice. If a physician is taking formal call for a hospital, bylaws or hospital contracts generally require that the physician care for the patient.

Physicians should review hospital call requirements so that they are familiar with what they have agreed to. If an on-call physician treats a patient that he or she has previously terminated, it may be prudent to inform the patient that the hospital care does not re-establish the relationship once the patient has been discharged.

### Termination for nonpayment

Physicians are entitled to end relationships with patients who refuse to pay their bills. However, physicians are discouraged from setting up blanket policies that allow staff to terminate relationships for nonpayment without physician review of the case. There may be circumstances in which the physician is aware but the staff is not. For example, a physician may know that a patient is undergoing a financial hardship, that a patient was not satisfied with his or her care, or that there was an outcome that was less than desirable. Careful review of the patient’s record before sending a termination letter may mitigate patient complaints, and could ward off a Texas Medical Board complaint. There are times that physicians may review the case and determine that they are willing to work with the patient on payment.

While it is reasonable to terminate the relationship for nonpayment, physicians should not refuse appointments to existing patients for nonpayment. “A physician should not deny an established patient an appointment or cancel an appointment because of an unpaid balance. This results in a person being considered a patient one day and not another, depending on how the office staff feel about the size of the unpaid balance. As long as the patient-physician relationship is established and not definitively terminated, a physician owes the patient the same duty of care, otherwise there is a danger of abandonment.”<sup>6</sup>

Physicians are encouraged to offer counseling and payment plans to patients before dismissal for nonpayment. These efforts should be documented in the billing portion of the patient’s record. If efforts to collect are unsuccessful, practices may wish to send a warning letter that explains failure to pay the outstanding balance may result in termination of the patient-physician relationship. (Please see sample letter on page 10.)

If the patient does not contact the office in response to the first letter, send a second letter stating that the patient-physician relationship has been terminated. (Please see sample letter on page 10.) If the patient does contact the office and requests copies of the medical records, be aware that the patient’s medical record cannot be withheld from another physician or from the patient because of an overdue account.

### Difficult situations

Terminating the patient-physician relationship while the patient is in the **postoperative period or in an acute medical episode** is generally not recommended. Physicians should, whenever possible, care for the patient until they are safely through the postoperative period or acute episode — unless they can find another physician who will accept the patient and can facilitate a seamless transfer of care.

It may also be difficult to discharge **a patient in the last trimester of pregnancy**. It may not be feasible for these patients to find another physician who will accept them past 28 weeks. If a transfer of care is arranged, the physician should document the name of the new physician, that the records were sent, and that the patient has an appointment with the new physician.

If a transfer of care cannot be arranged, it is likely that a physician will need to continue treating the patient through the postpartum period. Additionally, before terminating the relationship with a pregnant patient, physicians should consider that their call duties may eventually require them to deliver a baby for a patient who has been dismissed from the practice.

Termination of the relationship with **pediatric patients** presents a challenge for physicians. Noncompliance and nonpayment are not generally the patients’ fault or responsibility. If it is possible to work with the parents to improve compliance, physicians are encouraged to try. Noncompliance should be well documented in the chart. If parents are noncompliant with treatment recommendations to an extent that the patient may be harmed, it may require a call to Child Protective Services instead of simply

terminating the relationship. If the physician's relationship with parents is untenable, it is reasonable to dismiss the patient from the practice.

**Patients with mental health issues** may require extra patience on the part of the physician. Physicians should avoid terminating the relationship with a patient in a psychiatric crisis or with suicidal thoughts. If the treating physician is a psychiatrist, the physician "should also discuss why he does or does not believe it is important for the patient to continue in treatment, and the potential risks of not continuing treatment. This is particularly important when discussing continuing medications: for example, abruptly stopping some psychiatric medications can carry significant medical risks. The psychiatrist should be wary of prescribing large amounts of medications around the time of termination. If the patient experiences an adverse reaction to the medication but is not yet under the care of another psychiatrist, the original psychiatrist may be found liable even if the proper termination process was followed.

The most conservative approach is not to prescribe beyond the termination date. It is important to remember, however, that this process must be tailored to the needs of the individual patient. So, in a case where the psychiatrist makes a medical decision to prescribe or refill after termination, the implications for the termination process should be clear to the psychiatrist and communicated to the patient. The termination date may need to be extended or, possibly, the entire termination process begun again."<sup>7</sup>

**Rural providers** may find it more difficult to dismiss patients due to a lack of available specialists. If a patient needs continued care and there are no other physicians to provide it, physicians may need to be flexible. Offering payment plans to patients facing financial hardship and continuing to treat noncompliant patients may be necessary.

If a **patient has filed a lawsuit or a complaint with the Texas Medical Board** against a physician, the physician cannot assume that the relationship has automatically ended. Physicians are not required to end the relationship with a patient who has sued them or filed a complaint — although many wish to do so as soon as possible. If a physician feels he or she can offer the patient quality care without bias, the physician may decide to continue the relationship. If a physician wants to dismiss a patient (and there is indication that a patient plans to return to the practice), ending the relationship will still require formal termination via letter, with appropriate notice.

### Steps for appropriate termination

Risk managers recommend that physicians develop a standardized process for dismissing patients. "Our process provides patients with plenty of opportunities to reconsider their behavior and re-engage in the relationship, when appropriate, and it provides the physician and staff the assurance that comes with following a reasoned, consistent approach when difficult circumstances arise."<sup>8</sup>

Prior to termination, physicians may wish to try counseling the patient to improve noncompliant or disruptive behavior. Any counseling should be documented in the patient's record. In addition, a warning that the continued behavior may mean an end to the patient-physician relationship may be a surprise to the patient.

Physicians who are tempted to forego the counseling process may be missing an opportunity to understand the cause of the patient's noncompliance. "Taking time to sit down with the patient with the goal of better understanding expectations or needs that are driving his or her behavior can be valuable. Some patients have unreasonable expectations, but for others, understanding the point they're trying to make can go a long way in repairing the relationship. Learning about the root cause of their dissatisfaction can help us improve the delivery of care to all our patients."<sup>8</sup>

A similar counseling process should be employed for patients who miss appointments or who exhibit rude behavior. "Direct statements such as, 'If you do this again, we will no longer care for you, and you will have to go to another practice,' can be quite eye-opening for some patients."<sup>8</sup> Again, document these discussions in the medical record.

If the counseling process is not effective and the physician decides to dismiss the patient, the next step is to send a dismissal letter to the patient. The letter should be printed on office letterhead and sent by first-class mail and by certified mail with a return receipt requested. The dismissal letter should include the following elements.

- It should include a statement that the patient-physician relationship will terminate in a specified time period and a recommendation that the patient find another physician. The time limit given in the letter will depend on several factors such as physician specialty, size of community, and availability of other physicians. The patient should be given a reasonable amount of time to find a new physician. The current physician should remain available for care until the specified time period elapses.
- While the American Medical Association suggests "providing the patient with a brief explanation for terminating the relationship,"<sup>9</sup> physicians are not required to state a reason for the termination. Any potentially inflammatory remarks should be left out of termination letters. Angry words to a patient — especially in writing — could be damaging to a physician. It may be more advantageous to exclude specific reasons or to include only neutral statements. While composing termination letters, physicians may wish to consider whether they would be comfortable with the wording of the termination letter if it were later reviewed by the Texas Medical Board, an attorney, or a jury.
- Describe in general terms how the patient can locate a new physician. It is not advisable to name a specific physician, clinic, or group. Refer the patient to their insurance company's list of providers, county medical society, or a physician-referral service.



### Patient termination — frequently asked questions

**Q:** I saw a patient for prenatal care, but she was noncompliant in keeping her appointments. I formally ended the relationship with her (with appropriate notice) during the second trimester of pregnancy. She began seeing another local obstetrician whom I share call with. She is now at the hospital, and I have been called to deliver her baby. Am I required to do so, since I ended our relationship?

**A:** Your call agreement probably requires that you do so. Although you ended the relationship, if you share call with her current physician, you assume the duty to care for his patients when needed. Unless you have worked out special coverage with the other physician in these types of cases, you are most likely obligated to respond. However, it is reasonable to ask the patient to return to her physician for postpartum care; she is still his patient.

**Q:** I am a pediatrician and I see a child whose parents are divorced. The parents have joint custody and disagree on almost all aspects of care. We receive angry calls from one parent or the other after almost every appointment. It is not the patient's fault, but the situation has become unpleasant for my staff and I. May I terminate the relationship?

**A:** You may wish to try to discuss the issues with each of the parents to improve the situation. But if a resolution cannot be reached, it is acceptable to terminate the relationship. It is recommended that you wait until the child is well and does not have a scheduled appointment to send dismissal letters to the parents.

**Q:** I am an internist and have been seeing a patient for several years for chronic health issues. Recently, I received a written request that the record be sent to another local internist. The records request indicated that it was for a "transfer of care." Since it appears that the patient has decided to change physicians, do I need to send a termination letter?

**A:** If it seems clear that the patient has chosen to see another physician, consider sending a confirmation that the patient has ended the relationship with you. (Please see sample letter on page 10). If you would rather not give the patient the option of coming back to you, sending a letter that confirms the termination of the patient-physician relationship "closes the loop." If you would be willing to see the patient again, ask staff to call the patient and confirm that the patient has transferred care to another physician. This clarifies that the patient is receiving care elsewhere and that follow-up care has not been neglected. Any communication regarding the patient's transfer (by telephone or by letter) should be documented in the chart.

- Include an authorization for the release of the medical record and advise the patient to designate the new physician as soon as determined, sign the form, and send it to your office promptly. Indicate in the letter that the record will be copied and forwarded to the physician as soon as possible. Since you are ending the relationship with the patient, you may choose to forego copying charges for the medical record to avoid engendering additional bad feelings.
- Additionally, physicians may not withhold a copy of the patient's medical record because of an outstanding account balance.

Keep a copy of the dismissal letter and the return receipt in the patient's medical record. Once the time period specified in the letter has passed, the physician no longer has to treat the patient.

### You are not required to dismiss noncompliant or difficult patients

Physicians with nonpaying or noncompliant patients may sometimes choose to keep a patient. Patients may have financial or social limitations that the physician sympathizes with. In these cases, there is no requirement to end the relationship. However, if continuing treatment with a noncompliant patient, documentation is extremely important. In the event of a poor medical outcome, the medical record will become a physician's best defense against allegations of inadequate care.

The patient's repeated noncompliance should be documented in detail, and all the physician's recommendations and steps taken to assist the patient in his or her treatment should be included in the record. In particular, physicians should carefully document that they repeated the treatment recommendations, that the patient was unwilling or unable to comply, and that they discussed the risks of noncompliance at length.

### Confirming when the PATIENT ends the relationship with YOU

When a patient notifies the physician or staff that the patient does not intend to return to the practice, confirm it by sending a letter to the patient. Since it is likely that you share the patient's desire that they not return, it may be beneficial to formally close any loopholes. TMLT's risk management department receives numerous calls about patients who have angrily stated that they will never come back to a practice — and then they call for another appointment. If a patient orally ends a relationship and the physician is certain that they would also like to end the relationship, formal written confirmation is recommended.

If physicians are part of a group practice, consider formally terminating the patient's relationship with the group — not just one physician. If other physicians in the group would prefer not to see the patient, the termination letter should clearly state that the relationship with both the physician and the group are ending.

*continued on page 11*

### Sample termination letters

When a physician decides to dismiss a patient, the patient should be notified in writing. The letter should be printed on office letterhead and sent by first-class mail and by certified mail with a return receipt requested. A blank authorization to release medical records should be enclosed.

#### Termination of the physician-patient relationship

Date \_\_\_\_\_ Certified receipt # \_\_\_\_\_  
[patient address] Also sent first-class mail.

Dear [patient name]:  
Please be advised that I (and/or \_\_\_\_\_ Group) will no longer be able to treat you as a patient. The termination of our physician-patient relationship will be effective in 30 days from the date of this letter. Your medical condition requires continuing physician supervision, and it is important for you to select another physician as soon as possible.

Contact your insurance plan or the county medical society for names of other physicians. Upon written authorization, a copy of your medical record will be sent to your new physician. A release form is enclosed.

Sincerely,  
[physician name]

#### Confirmation of patient-terminated relationship

Date \_\_\_\_\_ Certified receipt # \_\_\_\_\_  
[patient address] Also sent first-class mail.

Dear [patient name]:  
This letter is sent to confirm your decision to discontinue care with me. Your medical condition requires physician supervision, and it is important for you to select another physician as soon as possible. I will be available to you until [30 days from date of letter].

Please contact your insurance plan or the county medical society for names of other physicians. Upon written authorization, I will provide a copy of your medical record to your new physician. A release form is enclosed to expedite the process.

Sincerely,  
[physician name]

#### Non-payment notice/warning

Date \_\_\_\_\_ Certified receipt # \_\_\_\_\_  
[patient address] Also sent first-class mail.

Dear [patient name]:

It has come to my attention that you have received several letters regarding your outstanding account. If there has been a problem or if you are unhappy with the care that you have received in this practice, please contact me to discuss the situation. You are important to us, and I hope we can resolve any issues you have.

My business manager is also available to discuss payment of your account or to implement payment arrangements if they are needed. Should we not hear from you within 30 days, I believe that it would be mutually beneficial to terminate the physician/patient relationship so that you may locate a new physician.

I hope that we will hear from you in the near future.

Sincerely,  
[physician name]

#### Termination for non-payment

Date \_\_\_\_\_ Certified receipt # \_\_\_\_\_  
[patient address] Also sent first-class mail.

Dear [patient name]:

On [date], I sent you a letter requesting that you contact the business manager or me regarding any problems that may have occurred resulting in non-payment of your account. In the letter, I stated that it would be necessary to terminate our physician/patient relationship if we did not hear from you.

Since we have not heard from you, please be advised that I will no longer be able to treat you as a patient. The termination of our relationship will be effective in 30 days from the date of this letter.

A release form is enclosed for your written authorization. Please contact us with the name of your new physician so we may forward your records to his or her office. At that time, your account will be closed.

Sincerely,  
[physician name]

*continued from page 9*

Make sure staff is not left at a disadvantage. Keep staff informed and update systems appropriately. If your scheduling software allows alerts, use them! If a formally dismissed patient calls for an appointment, staff will immediately see that the relationship has been terminated and can act accordingly. In the alert screen, note the date that the termination letter was sent so staff can judge whether the patient is calling within the 30-day “window.” If they are within the 30 days, staff should offer an appointment, but may wish to discuss the situation with the physician.

In summary, if done judiciously and with appropriate notice, termination of the patient-physician relationship need not be detrimental to either party. Careful review of each case by the physician is key — patients should not be terminated from the practice “automatically” or as a matter of policy. While physicians must be cautious when ending relationships with patients, it is generally within physicians’ rights to do so.

### Sources

1. Fullbright and Jaworski. *Texas Medical Jurisprudence*. Part 5, page 198. Eighteenth Edition. 2010.
2. Texas Medical Association Board of Councilors. Current Opinions. Available at <http://www.texmed.org/template.aspx?id=392#Termination>. Accessed July 25, 2012.
3. American Medical Association Council on Ethical and Judicial Affairs. E-9.12 Patient-physician relationship: respect for law and human rights. Code of Medical Ethics. Updated June 2008. Available at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion912.page>. Accessed on July 25, 2012.
4. American Medical Association Council on Ethical and Judicial Affairs. E-9.131 HIV-infected patients and physicians. Code of Medical Ethics. Updated June 1998. Available at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion9131.page>. Accessed on July 25, 2012.
5. Henderson SM, Oklahoma Board of Medical Licensure and Supervision. Advice on abandonment. Issues and Answers. 9(2). April 1998. Available at <http://www.okmedicalboard.org/download/344/19980401MD.htm>. Accessed July 25, 2012.
6. Texas Medical Association Office of General Counsel. Termination of the patient-physician relationship. Revised July 12, 2012. Available at <http://www.texmed.org/Template.aspx?id=2104> (Requires member log-in). Accessed July 25, 2012.
7. Klumpp E. Terminating the treatment relationship. *Psychiatry MMC*. 7(1):40-42. January 2010. Available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2848460/>. Accessed on July 31, 2012.
8. Willis DR, Zerr A. Terminating a patient: is it time to part ways? *Fam Pract Manag*. 2005 Sep; 12(8):34-8.9.
9. American Medical Association. Ending the patient-physician relationship. Patient Physician Relationship Topics. Available at <http://www.ama-assn.org/ama/pub/physician-resources/legal-topics/patient-physician-relationship-topics/ending-patient-physician-relationship.page>. Accessed July 25, 2012.

*Tanya Babitch can be reached at [tanya-babitch@tmlt.org](mailto:tanya-babitch@tmlt.org). Laura Hale Brockway can be reached at [laura-brockway@tmlt.org](mailto:laura-brockway@tmlt.org).*

TMLT has allocated \$100,000,000 to policyholders this year but you need to **enroll by December 31, 2012** for your account to be funded for the entire year.

Don't miss out on this one-of-a-kind opportunity. All you have to do is sign up at [www.tmlt.org/trustrewards](http://www.tmlt.org/trustrewards).

If you haven't signed up yet, be sure to check your mail. You'll be receiving a statement showing how much your allocation will be when you enroll.

To enroll online:  
[www.tmlt.org/trustrewards](http://www.tmlt.org/trustrewards)

Questions?  
Call 800-580-8658 ext. 5050



# Time is running out!

