

## **Patient Abandonment**

A health care provider may decide or be forced to terminate services to a patient for any one of a variety of reasons. Although terminating services to a patient is certainly a significant and undesirable event, it is legally permissible if the provider carefully follows certain steps before discontinuing services. If the provider fails to follow these steps, it may find itself liable to the patient based on the theory “abandonment” if the patient alleges he or she suffered injury because the provider terminated services without sufficient notice.

This article will discuss the steps a health care provider should take to terminate services to a patient without committing patient abandonment.

### **PATIENT ABANDONMENT**

A provider may want to quit providing services to a patient for many reasons, including:

- The patient refuses to cooperate with the provider and its staff.
- The patient will not pay his or her bills.
- The patient is unruly and obnoxious to the point where it is in the best interests of all concerned for the provider to quit providing services.
- Reimbursement for services has been denied or the provider has ceased to be a Medicare or Medicaid provider.
- Environmental factors exist which endanger the provider’s staff (*e.g.*, physical threats, a dangerous dog, sexual harassment).

What a provider must not do, however, is “abandon” a patient. Abandonment generally means a unilateral severance of the professional relationship between a health care provider and a patient without reasonable notice at a time when there is still a need or continuing health care.

Court decisions involving patient abandonment generally deal with abandonment by physicians. Still, the legal principles established by those cases are instructive for other providers. For example, in interpreting Ohio law in 1965, the United States District Court for the Northern District of Ohio quoted an earlier Ohio decision which stated:

“...although a patient may, in the absence of an agreement to the contrary, discharge a physician at any time, before a physician or surgeon can withdraw from the case, it is necessary for him to give reasonable notice to the patient in order that another physician may be procured, the character of the services of the physician and his relation to the patient being such that he is not permitted under the law to arbitrarily

quit the services at any time without any cause, and leave his patient without medical attendants.”

Three elements must exist for patient abandonment to occur:

1. The termination of services must be unilateral, *i.e.*, not by mutual agreement.
2. The termination must occur without reasonable notice, meaning notice adequate to give the patient a sufficient opportunity to secure alternative care; and
3. The termination must occur when there is still the necessity of continuing care.

## **WHAT TO DO**

Because the issue of patient abandonment arises in a situation in which the health care provider, itself, desires to unilaterally terminate services at a time when there is a need for continuing care, the key to avoiding patient abandonment is to give reasonable notice of the termination of services. The underlying rationale is that reasonable notice affords the patient time to secure alternate care and the patient therefore is not “abandoned”. If reasonable notice is given, that critical second element for patient abandonment does not exist.

Given this background, the following steps are generally expedient when a health care provider feels compelled to discontinue services to a patient:

### **(1) Examine the Patient’s Records**

*First*, the patient’s records should be carefully examined to determine the degree of need, if any, for continuing care and the availability of other sources of care, *i.e.*, other providers. If a patient is in the midst of ongoing care by the provider and is unable to find comparable care or has not been given adequate notice of the provider’s intention to discontinue services, then the provider should not discontinue services without pursuing the remainder of these steps.

### **(2) Notify Attending Physician**

*Second*, assuming the provider is not the patient’s physician, the patient’s attending physician should be notified in writing of the problems the provider is experiencing with the patient and that it is the provider’s intention to stop providing services. The physician may be able to intervene to correct the problem or to assist the patient in finding another provider that will provide services comparable to those provided by the provider terminating services.

### **(3) Giving Reasonable Notice to the Patient**

*Third*, the patient, or those responsible for the patient’s care, should be notified in writing as to the date the services will end, the reason or reasons for the action and the ways in which the provider will assist the patient in securing appropriate services elsewhere.

The letter should advise the patient that the provider will make available to the patient, and other providers retained by the patient, copies of all medical records and other information relating to the patient. This helps in maintaining continuity of care for the patient.

It also could be useful for the letter to give the names, addresses and telephone numbers of other providers in the area which would be available to provide services to the patient.

Generally, the letter should be sent by certified mail, return receipt requested, so the provider can prove the letter was received by the patient or the responsible party. A copy of the letter should be sent to the patient's physician as well. A copy of the letter and the return receipt should be kept in the patient's records.

This notice must be received by the patient far enough in advance of the date services will terminate to give the patient sufficient time to secure alternate care, *i.e.*, it must be "reasonable". How far in advance will be held to reasonable will depend upon the facts of each case including the patient's condition, the availability of other providers, the ramifications if alternate care is not secured, and the reason for termination of services.

### **Exact Steps Depend Upon the Situation**

The foregoing steps are a basic approach concerning discontinuing services to a patient. Remember, however, the key step is the third one – giving reasonable notice to the patient.

Because each situation can be unique, it can be very helpful for a provider to have a written policy stating the steps to be followed and who within the provider makes the final decision as to whether or not services will be terminated, the policy can assist in avoiding inadvertent liability through patient abandonment.

It must be emphasized, however, that the appropriate resolution of a specific case depends upon the particular facts surrounding it. Before choosing a specific course of action, therefore, a provider should consult with its attorney to discuss the situation and to obtain advice based upon the specific facts involved.

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