

'Firing' a patient: May a psychiatrist unilaterally terminate care?



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DO YOU HAVE A QUESTION ABOUT POSSIBLE LIABILITY?

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■ Include your name, address, and practice location. If your question is chosen for publication, your name can be withheld by request.

Dear Dr. Mossman:

One of my patients, Ms. A, keeps calling in to refill her prescription, but will not come in for an appointment; she needs the medication, but I really shouldn't keep prescribing it without seeing her. Another patient, Mr. B, has an open chart, but he stopped seeing me last year after I treated him for an acute depressive episode. May I "fire" these patients? If so, what should I do?

Submitted by "Dr. C"

All physicians occasionally encounter patients whom we'd like to stop treating, but because we feel devoted to those we treat, the idea of "firing" a patient makes us uncomfortable. Sometimes, however, ending a treatment relationship is the right choice for the doctor and patient.¹

To know why, how, and when you may terminate your professional relationship with a patient, you need to:

- understand the legal and ethical status of a doctor-patient relationship
- know the proper way to end treatment relationships
- decide whether ending your care of the patient is the right medical and ethical choice.

After exploring these points, we'll return to the cases of Ms. A and Mr. B and consider what Dr. C might do.

Doctor-patient relationships

Legal and medical authorities characterize the treatment relationship as an implicit

contract that imposes certain obligations on the doctor and the patient.^{2,3} Doctors are compelled to conduct themselves in accordance with the prevailing "standard of care." Patients' obligations include being honest and cooperating with care once they have agreed to a treatment plan (*Table 1, page 20*).³

Patients may stop seeing their doctors at any time, but a physician usually must continue to provide all necessary medical attention until either the treatment episode has concluded or both parties agree to end the doctor-patient relationship.² If a physician wishes to withdraw from a case before the need for services has ended, the physician must either make arrangements for another competent physician to assume care or give the patient ample notice and opportunity to obtain treatment elsewhere.² If a doctor fails to do this and harm to the patient results, the doctor is guilty of "abandonment," legally defined as termination of the physician-patient relationship "at an unreasonable time or without affording the patient the opportunity to procure an equally qualified replacement."² Physician abandonment can lead to malpractice liability,⁴ complaints to state licensing authorities,⁵ and ethical condemnation.⁶

Terminating without abandoning

Doctors commonly terminate care of their patients when they decide to move or close their practices. Accusations of abandon-

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Table 1

A patient's responsibilities

Being truthful
Providing a complete medical history
Cooperating with agreed-upon treatment and keeping appointments
Meeting financial obligations for medical care
Health-enhancing behavior
Not participating in fraudulent health care

Source: Reference 3

Table 2

Common reasons to consider terminating a patient's care

Failing to pay bills
Repeatedly cancelling or missing appointments
Repeatedly failing to follow the agreed-upon treatment plan
Overly demanding, rude, disruptive, threatening, or violent behavior toward staff or other patients
Patient is very dissatisfied with care
Needing specialized services that the physician cannot provide
Filing a complaint or legal action against the physician
Dishonesty that compromises safety or legality of treatment
Physician feels treatment is ineffective
Conflict of interest (eg, physician's religious beliefs preclude providing certain treatments that might be indicated)
Developing and acting upon an inappropriate personal interest in the physician
Inappropriate response by physician to feelings about the patient (eg, physician feels tempted to act upon an attraction)

Source: References 7,8

ment may arise if such career decisions are executed improperly, but these matters are not as emotionally troubling for physicians as a decision to "fire" a patient because of the patient's behavior. Common, legitimate reasons a doctor may consider unilateral termination appear in **Table 2**.^{7,8}

Certain circumstances are not valid grounds for terminating a doctor-patient relationship. You cannot ethically decline

to treat a patient whose problem lies within your areas of clinical competence solely because the patient is seropositive for human immunodeficiency virus,⁹ nor because of a patient's race, religion, or other reasons that would constitute illegal discrimination.³ Doctors who practice in rural areas must be especially cautious about terminating care because their patients may have limited access to alternate care sources.¹⁰

Meeting with or verbally informing a patient of a termination may be reasonable in some cases, but appropriate unilateral termination of a patient usually requires providing written notification to the patient or person responsible for the patient's care. Attorneys who specialize in risk management advise doctors to seek legal consultation when preparing a termination-of-care letter and to send it by certified mail. The letter should conform to any applicable rules or regulations where you practice. Typically, required content includes:

- notification that the physician-patient relationship is terminated
- a statement of willingness to provide emergency treatment and access to services for up to 30 days from the mailing date to allow the patient to arrange care from another provider
- an offer to transfer records to the new provider upon receiving the patient's signed authorization to do so.¹¹

More discussion of the possible contents of termination letters appears in **Table 3** (page 22).^{7,12-14}

Deciding to 'fire' a patient

Physicians in all specialties encounter patients whose actions generate intensely negative feelings—resentment, anger, even hate.¹⁵ But "firing" a patient should be a rare circumstance that's not undertaken lightly. Many different circumstances can make it reasonable for a physician to *consider* terminating a patient's care, so it's difficult to provide general advice about when firing

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Unilateral termination requires providing written notification to the patient or person responsible for the patient's care

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Table 3

Potential elements of termination letters

Element	Comment
Reason for termination	Giving a reason is not required. If an explanation seems necessary, offer a general statement (eg, 'I have determined it would be best ...')
Adequate time to seek care elsewhere	Typically, at least 30 days. Courts have described appropriate time frames in general terms, such as 'ample,' 'sufficient,' or 'reasonable'
Interim care provisions	Offer interim care for urgent problems until the time limit stated above
Continued care provisions	1. If the patient will need further care, state this clearly 2. For patients who have been noncompliant, state clearly the possible consequences of not obtaining treatment 3. Offer suggestions concerning places to seek evaluation for continued care
Medical record copies	Offer to provide a summary of treatment or copy of the record to a new provider. Consider enclosing a 'release of information' authorization to be returned to the office with the patient's signature
Sending the letter	Regular and certified mail (return receipt requested). Place a copy of this letter in the patient's medical record, along with the original certified mail receipt and, if received, the original return receipt
Source: References 7,12-14	

Clinical Point

Before 'firing' a patient consult a respected colleague; he or she may think of solutions that you haven't considered

a patient *really is* the right thing to do. But 1 "prescription" seems clear: consult a respected colleague first. According to psychiatrist Robert Michels, "Any physician who is thinking of firing a patient should first speak to a colleague ... This is an enormous decision and, while it might even be right at times, the physician is probably having a countertransference reaction to his patient and should really understand that before taking action."¹

Having an anonymous consultation with a colleague offers several potential benefits, such as:

- If you're thinking about firing a patient, you're probably very upset. A colleague who isn't emotionally involved can help you assess the matter more dispassionately.
- You may be feeling guilty about disliking the patient. A colleague's empathy ("Of course you're angry!") can help you avoid disowning your feelings, which may make it easier to figure out how to use those feelings to help the patient.^{15,16}
- A colleague may think of solutions

that you haven't considered, which might help you feel less frustrated about how treatment is going.

- A colleague may help you see ways that you're actually helping the patient, despite feeling that your work is futile.
- If a thoughtful colleague confirms your view that terminating care is appropriate, you'll feel better about the decision. If you document the anonymous consultation in the patient's chart, you'll create a record of your reasonableness and prudence—which will be helpful if you have to defend your action in court.¹²

Revisiting the case patients

With these thoughts in mind, we return to Dr. C's clinical dilemmas.

Ms. A. In retrospect, Dr. C might wish he had been clearer with Ms. A about how often she would need to see him for medication monitoring. At this point, however, Dr. C still has options besides firing Ms. A:

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- Dr. C can call Ms. A to ask how she's doing and to explain his medical responsibility to see and reassess her if he is to continue prescribing her medication. He can then follow up with a letter summarizing the conversation.

- Dr. C might ask whether some problem is preventing Ms. A from making an appointment. If, for example, Ms. A has lost her job and health insurance coverage for office visits, Dr. C might suggest options (such as seeing Ms. A once at no charge) or help Ms. A find other ways to obtain follow-up care.

Mr. B. Concerning Mr. B, we wonder, "Why not just leave the chart open?" As is the case with care provided by other specialists—including internists, obstetricians, or dermatologists—psychiatric treatment may occur in discrete episodes over many years. Patients regard a previous care provider as "their doctor" for decades after a treatment episode, and it's comforting and valuable for former patients to know they can see their "shrink" again if they need to.

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Related Resource

- Henderson SM. Advice on abandonment. Oklahoma Board of Medical Licensure and Supervision. www.okmedicalboard.org/download/19980401MD.htm.

Disclosure

The authors report no financial relationship with any company whose products are mentioned in this article or with manufacturers of competing products.

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Clinical Point

In a termination letter offer to provide a summary of treatment or copy of the record to a new provider

Bottom Line

It's ethically and legally permissible to terminate a patient's care if you do so properly. But medically speaking, it's usually not the best choice for the patient or the treatment relationship. Before you 'fire' a patient, consult a colleague to help you figure out whether another option might be wiser.