

DEALING WITH THE TOUGH STUFF

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DEALING WITH THE TOUGH STUFF

Patient Dismissals

- Legal and risk management considerations
- Ethical and practical considerations

Medication and Risk Behaviors

- Circumstances for action

Social Media Influence

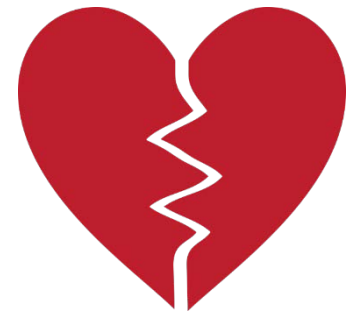
- Best practices
- Thoughtful responses

**NOTHING IN THIS PRESENTATION CONSTITUTES
LEGAL ADVICE.
CONSULT AN ATTORNEY FOR LEGAL OPINIONS.**

IT IS A RELATIONSHIP



“Breaking up is hard to do”



LEGAL CONSIDERATIONS

Avoid Patient Abandonment Claim

State's Medical, Nursing, or Physician Assistant Practice Act outlines reasons for disciplinary action, including **revocation, suspension, reprimand, fines**

Ethical Considerations

American Medical Association has published
“AMA Principles of Medical Ethics” 2016

LEGAL CONSIDERATIONS

Avoid Civil Penalties – Malpractice or Discrimination

Abandonment - unilateral termination of a physician-patient or health professional-patient relationship by the health care provider **without proper notice** to the patient when there is still the **necessity of continuing medical attention**

Lee v Dewbre, 362 S.W.2d 900 (Tex. Civ. App. 7th Dist. 1962)

Patient abandonment is a **form of medical malpractice** that occurs when a **physician terminates** the doctor-patient **relationship without reasonable notice or a reasonable excuse, and fails** to provide the patient with an opportunity to find a **qualified replacement** care provider

Chowdri, P., What is Patient Abandonment?

<https://www.nolo.com/legal-encyclopedia/what-patient-abandonment.html>

COMMON REASONS FOR DISMISSAL

RISK MANAGEMENT

- Medical Non-Compliance
- Other Non-Compliance
- Inappropriate Behavior
- Conflict of Interest
- Other Risk Management
- Non-Payment, if policy

DEVELOP POLICY AND PROCEDURE

- **Reasons for dismissal**
- **Notices and corrective action**
 - Keep to facts (objective)
 - Document verbal instructions (chart)
 - Send letter



DEVELOP POLICY AND PROCEDURE

- Reasons for dismissal
- **Notices and corrective action**
 - Tie to their health and well-being
 - Safe workplace for staff members
 - Warn of next step if continued
 - Repository of sample letters



DEVELOP POLICY AND PROCEDURE

- Reasons for dismissal
- Notices and corrective action
- **Attempt Reconciliation**
- **Case is outlined in chart regardless of outcome**
 - Protect the clinic



DEVELOP POLICY AND PROCEDURE

- Reasons for dismissal
- Notices and corrective action
- Attempt for reconciliation
- **Who will administer**
- **Provider consultation and approval**
- **Length of notice**
- **Outline or flow chart**

REFRAIN OR PAUSE DISMISSAL

Third party payer

- Managed Care



REFRAIN OR PAUSE DISMISSAL

Third party payer

Protected Class

Clinical Incident



**Consult liability insurance carrier
and/or healthcare attorney as needed**

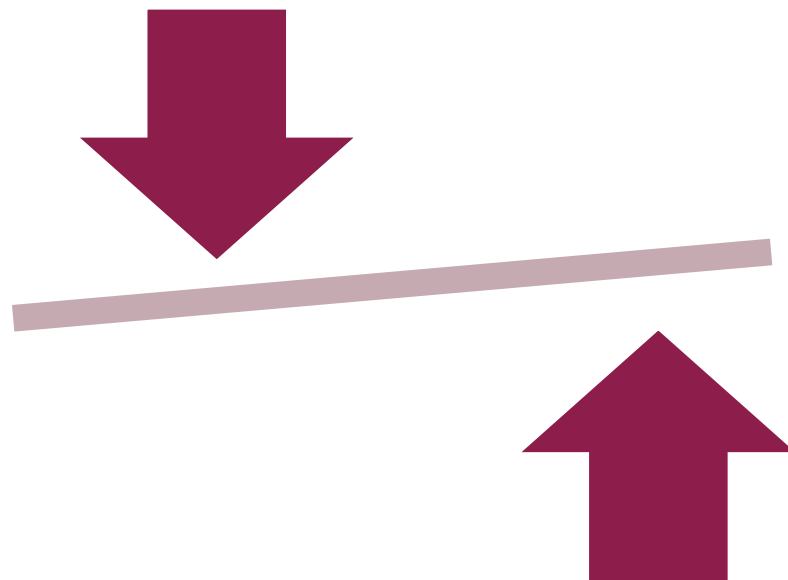
REFRAIN OR PAUSE DISMISSAL

- Third party payer
- Protected Class
- Clinical incident
- **Ongoing treatment**
- **Population Health/Ethical Considerations**



POPULATION HEALTH

Balancing Act



PATH TO DISMISSAL

If Patient...
Continues down
same path



**Then
Practice/Physician...**
Follows through and
helps patient
out of practice

REVIEW OF EACH PATIENT CASE

Each situation being considered on its own circumstances is essential



DECISION TO DISMISSAL

Follow Outline/Procedure Developed

Documented issue?

- Frequency, duration
- Education to patient?
 - *Time to correct behavior*
 - *Warning of consequences*
- Consultation with provider per policy



DECISION TO DISMISSAL

Follow Outline/Procedure Developed

Consider ability to transfer care

Consult legal or liability insurance company opinion, as case dictates

Select applicable dismissal template letter

Notify managed care, if applicable



LETTER COMPONENTS

- Decision
- Reason is helpful
- Effective date
- Instructions to patient
- Medical record transition
- Provider/Clinic options, State Medical Society

“DEAR MR./MS.”

Template Letter Components

Decision

“Physician/Practice will no longer serve your medical needs.”

Reason

“This decision came following two letters calling attention to repeated missed appointments...”

“This decision is due to a violation of our medication agreement, signed mm/dd/yyyy.”

“after two occasions calling your attention to inappropriate language that contradict our office policies in providing a safe environment for our care team”

“You disagree with the care plan”

“DEAR MR./MS.”

Template Letter Components

Care Transition

“Your health care is important. Please **select another [primary care provider/specialist]** right away, scheduling an appointment to establish care, **prior to** prescription needs or an unexpected illness.”

Medical Records

“To facilitate this transfer of care, enclosed is a Medical Records Release form. **Please complete** with your **new provider/clinic’s information.** The first record request is provided at no charge.”

“DEAR MR./MS.”

TEMPLATE LETTER COMPONENTS

Dismissal Date

“We will be available to treat your urgent health care needs through mm/dd/yyyy [Date of letter + 60-90 days.] Following that date, we will not provide care.” “Your appointment scheduled mm/dd/yyyy has been cancelled.”

“Certified, Return Receipt”

Provider Options

“Enclosed please find a list of area providers/clinics with addresses and phone numbers to help in your selection.” Or, “If you would like names and phone numbers of area providers/clinics, please contact Kentucky Medical Association.”

FINALIZING STEPS

- **Document notification** to managed care as applicable
- Copy of letter in chart
- **Notice in chart [nick name or alert]**
 - Date of last appointment
 - Change patient status/type
- Cancel appointments after date indicated

FINALIZING STEPS

- **Pend for return receipt**
- **Return receipt copy in chart**
 - If signature refused, document such; Send letter regular mail, handwritten address, updating the dates
- **Prepare for a phone call**
 - Refer to chart for case in support of decision

KEY TAKEAWAYS

Review Each Case

Proceed Per Policy

Medical Non-Compliance

Other Non-Compliance

Inappropriate Behavior

Non-Payment, if policy

Conflict of Interest

Other Risk Management

Refrain or Pause

Third party payer

Protected Class

Incident or Pending Suit

Ongoing treatment

Population Health considerations

Legal Advice

MEDICATION AND RISK BEHAVIORS

MEDICATION AND RISK BEHAVIORS

What does the patient look like with risk behaviors around prescription medication addiction or non-prescription drug use?

Could be anyone:



KENTUCKY NUMBERS

2016 Kentucky Justice & Public Safety Overdose Fatality Report

- Overdose fatalities **increased in 2016**
- **1,404 deaths** up from 1,248
- Kentucky ranked **third in fatalities** per 100,000 residents
- Age 35-44 largest demographic
- Ages 45-54 next largest

IN THE NEWS

“The state of Kentucky sued Johnson & Johnson and two subsidiaries, accusing the companies of using a ‘deceptive marketing scheme’ to flood the state with opioid-based prescription painkillers.”

“...J & J deliberately targeted elderly patients”

Source: Siemaszko, C. (2018 Apr 18). Kentucky sues Johnson & Johnson, subsidiaries over opioid epidemic. Retrieved from <https://www.nbcnews.com>

IN THE NEWS

“Drugs kill more Americans than guns and cars.”

- Dr. William Fannin, Prestonsburg, KY, interviewed, 31 years in practice

Source: Mitchell, J. and Ungar, L. (2018 Jan 28, updated 2018 Apr 19). Drugs kill more Americans than guns and cars. Kentucky was ground zero from the start. Retrieved from <https://www.courier-journal.com>

RISK BEHAVIORS

- **Early prescription renewal** requests
- **Stolen or lost** medication
- Inappropriate use of **ER for pain**
- Appointment **non-compliance**

RISK BEHAVIORS

- **Failure to follow** plan of care
- Use of **multiple pharmacies/providers**
- **Alternating cash payment and insurance payment** for controlled substance prescriptions
- **Refusal of referral/order for other types of pain relief**
 - Physical therapy
 - Pain management clinic

RESOURCES

- **KASPER** (Kentucky All Schedule Prescription Electronic Reporting System)
- Other state **prescription monitoring subscriptions**
- Pharmacists
- Concurrent care providers
- Transferred from providers

PAIN MANAGEMENT

Guidelines

Follow Rural Health Clinic's medical management guidelines

Follow State's Practice Act (Medical, Nursing, PA) in prescribing and collaboration agreement

General Categories

Acute

Chronic – lasting more than 3 to 6 months

Cancer-related/terminal illness

TOOLS

- Leverage trusted **provider-patient relationship**
- **Patient Education**
 - Risks and benefits of treatment options
 - Encourage family involvement, or support group
- **Social Services**, other resources
- **Documentation from clinical team**, including visit non-compliance

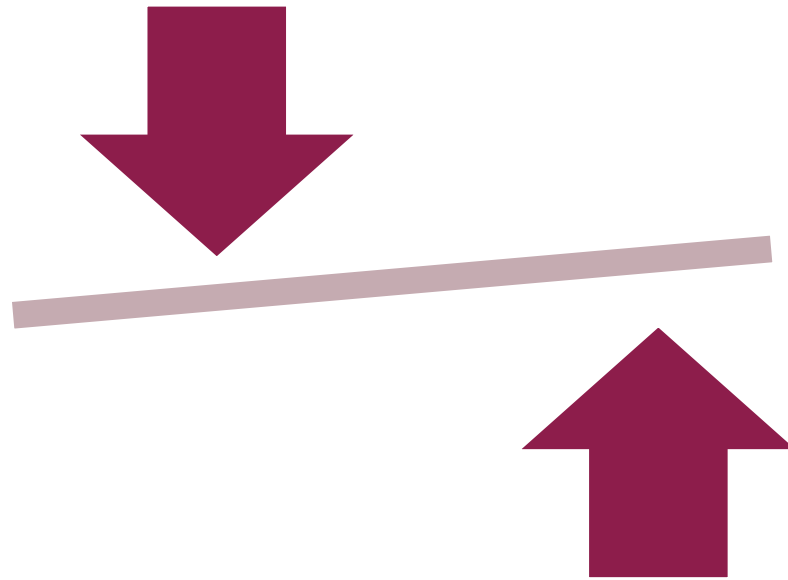
EXPAND SERVICES AVAILABLE

Add Pain Management service line

- Outside provider or employed
- Partner with other hospital/health system
- Partner with pain management group

DECIDING ON DISMISSAL

BALANCE THE INFORMATION AND OPTIONS



TOOLS

- Review **documentation**
- **Best help/treatment** for patient
- Led by **medical direction**, limit treatment/Rx
- **Follow Policy/procedure for dismissal**, as appropriate
 - Written letter(s)
 - Chronic pain management only (outside of scope of practice)

SOCIAL MEDIA

SOCIAL MEDIA



SOCIAL MEDIA

- **Develop a plan**
 - Target
 - Schedule
- **Consult AMA ethics guidelines**
- Fun



SOCIAL MEDIA

Benefits

Patient connection- some expectation

Highlight your mission

Community

Education

Seasonal

Reactive

Engaging

SOCIAL MEDIA

Best Practices

- **Personal vs. Professional**
- Use **licensure credentials** (MD, FNP, PA, etc.)
- **Guidelines**
 - Content approval
 - Security
- Employee **Training**

SCENARIO 1

A patient posts on their Facebook account their unhappiness with today's visit

“I went to Homecare RHC, so sick for the last three days with my head throbbing, congestion, and after waiting for thirty minutes, I got nothing. No antibiotic. Won't be back.”

SCENARIO 2

A person posts on their social media account,

“Today when I went to the doctor, after waiting two days to be seen, I didn’t even get the medicine I needed. Won’t be back.”

- **Clinic is not identified**
- **Provider is not identified**
- **Comments inquire as to which clinic and more stories are posted in support of the individual**

RESPONDING TO NEGATIVE POSTINGS

Don'ts

- Don't acknowledge a **patient relationship**
- Don't give a **medical opinion**
- Don't defend a **medical decision**
- Don't **overreact**

RESPONDING TO NEGATIVE POSTINGS

Options

General Statement

“At Home Care RHC, we have a policy to avoid public response to protect patients’ right to privacy. We do seek feedback for patient experiences, both positive and negative. Please share those experiences by contacting us at 123-4567 [completing on-line survey]”

RESPONDING TO NEGATIVE POSTINGS

Options

General statement

Call the patient/parent

“Do you have a moment to talk about your recent visit? We are interested in your feedback to help us improve our patients’ experience.”

RESPONDING TO NEGATIVE POSTINGS

Options

- General statement
- Call the patient/parent
- **Ignore**
- **Educate considerably after cooling off**

LEGAL ACTION

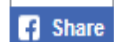
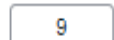
Option

New York City physician sues former patient for \$1M over negative Yelp review

Written by Ayla Ellison ([Twitter](#) | [Google+](#)) | [May 31, 2018](#) | [Print](#) | [Email](#)



Joon Song, MD, an OB-GYN in New York City, has filed a \$1 million lawsuit against a former patient who posted negative reviews of the physician online, according to [CBS New York](#).



The former patient, Michelle Levine, visited Dr. Song once in August for an annual exam. After the visit, Ms. Levine claims she was billed for an "ultrasound and a new patient visit" when she should have been billed for an annual exam. Ms. Levine said she did receive an ultrasound, but she did not learn until after her visit that an ultrasound is not part of an annual exam, according to [Newsweek](#).

Ms. Levine said she complained to Dr. Song's office, but the bill was not corrected. Ms. Levine then left critical reviews of the office's business practices on various websites, including Yelp, Zocdoc and Healthgrades. In her initial Yelp review, Ms. Levine said she was the victim of "medical billing fraud." She also referred to Dr. Song as a "crook" and "scam artist" in the reviews, according to [Newsweek](#).

PATIENT, PROVIDER, COMMUNITY RELATIONSHIP

- Treat it as a **relationship**
- **Communication**
 - Expectations
 - Consequences
- **Social media** used thoughtfully

REVIEW

**Scenario 1
Responses**

**Scenario 2
Responses**

REVIEW

Combine learning from

- Objective approach to patient dismissals
- Recognizing medication risk behaviors
- Adjusting and handling reactions to patients' social media comments

Thank You!

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