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How to divorce a difficult patient and live happily ever after

An orderly dismissal does not discriminate, does not abandon the patient—and does help avert legal problems

It's time to consider dismissal when patients...

...chronically skip key appointments

You know that Kimberly means well, but she has a history of failing to keep her appointments. Your last encounter was a consult at the hospital, where she left against medical advice, as reported to you by her admitting physician. A recent positive test result has you concerned, particularly because she did not show up for 3 visits you've scheduled to discuss her care.

...never pay

You've delivered 2 of Julie's babies, and now she's on the schedule for her preventive gynecological care this afternoon. While you're grabbing a bite of lunch, your manager comes in to let you know that Julie has never paid you a dime—for three years' running, despite dozens of statements, phone calls and requests for payments at the front office.

...verbally abuse your staff

Sally has verbally abused your staff on multiple occasions since she became your patient several years ago. She often brings her partner, whom you've observed to be ill-tempered with staff. Although they're pleasant to you when you walk into the room, their behavior is such that your staff refuses to provide nursing assistance any longer.

You need not despair if you're confronted with a patient who disrupts your practice. You have every right to discharge her. But once a physician-patient relationship is established, you must terminate the relationship officially, to end your obligation. An orderly dismissal does not abandon your patient, and minimizes potential for legal problems.

Although difficult patients may be uncommon in your practice, it is unwise to give no thought to the possibility, and to have no plan to handle the situation. Protect yourself and your practice by following a consistent path with difficult patients, and seek legal counsel when faced with an unusual situation.

Difficult patients aren't the only ones you may need to dismiss. You may have to dismiss patients because you are retiring or discontinuing your participation with an insurance company.

First, call your liability insurance carrier

Using your professional liability insurance carrier as an adviser is critical. In sensitive situations, such as a patient who displays disruptive behavior, and whom you believe may be litigious, consult the risk management department before a dismissal. Your carrier knows your

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state's laws on terminating the patient-physician relationship.

■ Check insurance contracts

Although most health insurance contracts do not state dismissal terms, they *can* stipulate anything. HMOs often require specific procedures. If you've signed such a contract, you'll need to be aware of and follow the rules before a situation comes up. Examples: Some payers require a period of time (eg, 90 days) before dismissal, and some require notification first, so that they can counsel the beneficiary.

In future contracting, negotiate for terms that are friendly to your practice, not just to the insurance company.

■ Warning signs

Difficult patients tend to:

- Fail to make payment arrangements according to normal practices
- Fail to comply with a recommended plan of care, including subsequent appointments
- Display disruptive or violent behavior in the practice (or the patient's partner is disruptive or violent)
- Leave the hospital against medical advice
- Threaten lawsuits
- Abuse drugs or controlled substances

■ Put your policy in writing and practice it consistently

Your dismissal policy—and the reasons and protocols your practice follows—must be in writing. Decide what constitutes a reason for dismissal and make sure you apply your own rules consistently.

Do not discriminate or appear to discriminate

As a physician, you have the right to terminate a difficult patient from your practice. Exceptions are dismissals based on ethnici-

ty, gender, religion, or age. If you apply your dismissal policy inconsistently, your actions could be considered discriminatory. For example, do not terminate one patient for failure to pay her \$500 debt while ignoring another patient's past-due balance.

Document, document, document

Document in the patient's medical record any verbal or written communication to and from the patient. This is especially important in the case of a noncompliant patient. Record every instance, for example, of a patient who fails to show up for her appointment. Record your attempts to contact her to reschedule, and notate the consequences of her failure to keep the appointment.

■ No-shows are dangerous

Although no-show abuse is rampant for many practices, be careful about continuing to treat these patients without taking some action. Let's say, for example, you notify a patient of a positive Pap smear and recommend a colposcopy. The patient cancels her first colposcopy and fails to show for the rescheduled procedure. You document your multiple attempts to contact the patient.

If the patient continues to schedule appointments and fails to show up for them, contact your malpractice carrier for advice. This patient will likely have a serious medical problem in the future, and you do not want to get tied up in a lawsuit claiming abandonment. Although it may be tedious, thorough documentation of your actions prior to dismissal will pay off in the long run. Include in the record when you communicated to the patient and what you told her regarding the consequences of her failure to present for her appointment.

■ Dismissal for nonpayment

In the case of nonpayment—the most common cause for dismissal—consider dismissal if the patient refuses to work out payment arrangements.

FAST TRACK

Document the details on no-shows—they may sue and claim abandonment when their medical condition becomes serious

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Sample letter of dismissal



DR. XYZ • 123 ANYSTREET, ANYTOWN 12345 • TELEPHONE NUMBER • FAX NUMBER

Date of Letter
[Patient Address]

Dear [Patient's Name]

Due to your consistent failure to come in for scheduled appointments [or insert other reason], Dr. XYZ can no longer continue as your treating physician. Dr. XYZ takes patient compliance very seriously, and your failure to abide by the terms of your treatment has caused him to decide against treating you in the future.

He shall continue to see you for any urgent medical care needs for the next 30 days. He will not be available to provide medical services to you after [insert day of week, month and day, 30 days from the dismissal notice]. After this date, there will be no further prescriptions filled from this office.

When you choose to seek additional medical care, I would encourage you to contact your health plan, local medical society [insert phone number], or local hospital referral service [insert phone number] for a list of physicians from whom you can choose.

Upon receipt of a signed release of medical records, we will be happy to forward your records on to your new physician. For your convenience, I am enclosing an authorization form that you may complete and sign to tell me where to forward a copy of your record.

Sincerely,
Dr. XYZ

NOTE: This is a sample letter only. Physicians should check with their malpractice carrier before establishing a dismissal letter template.
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Consider offering the option of continued treatment on the basis of payment of past debts and future payment prior to service. It is standard practice to offer to allow the patient to return if she abides by this arrangement.

■ Threats and violence

Call local authorities immediately if a patient makes a threat or displays violent physical behavior. Stop short of broadcasting the situation to other area ObGyns, because that is the responsibility of the police.

When you have dealt with a violent or abusive patient, ask authorities to advise

other physicians who may be affected.

You may immediately dismiss a patient when there is a threat or perceived threat of violence. Otherwise, follow the steps of a consistent process to terminate a patient.

■ Pre-dismissal strategy to avert allegations

The goal of the dismissal process is to terminate your patient-physician relationship while avoiding an allegation of abandonment or discrimination.

Consider alternatives

If the patient is in the course of treatment

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for a medical condition that requires physician supervision, such as an obstetrics patient or a postoperative gynecologic surgery patient, consider alternatives before dismissing her.

- **Can you treat her during the course** of the condition and dismiss her afterwards?
- **Can you contact a community agency** for assistance if, for example, the reason for her failure to show up for appointments is transportation or childcare challenges?

If you have no alternatives but still want to dismiss a patient during a specific course of treatment, seek counsel from your malpractice carrier.

Ask her about correcting the problem

Before dismissing a patient, attempt to communicate with her directly. Discuss your concerns. Document your conversation and her reactions. Proceed with the termination unless she assures you that she will alter her actions. This is optional, and certainly not recommended for a violent patient or one who has a violent partner. However, open communication is suggested because it can help avoid angering the patient. An angry patient may be more likely to sue, especially if she had been unaware of your intention or reasons to dismiss her.

If the cause for dismissal is noncompliance with your recommended treatment, document the recommendations and conversations in detail. Include the recommended treatment plan, her objections, and your statement of the consequences of her failure to comply. In the case of an adverse event, documentation may be crucial.

5 steps to a tidy dismissal

1. The letter of dismissal

(Sample letter, page 48.) Outline in the letter the reason(s) for the dismissal. Be objective. Stating subjective reasons for dismissal may open the door for a case of abandonment on the basis of discrimination.

2. How to handle the referral

Include a copy of your medical records

What about patients dismissed by other ObGyns?

You may receive a transfer of medical records that includes a dismissal letter for a reason that causes you concern. You are not obligated to treat that patient if you have not yet established a relationship. The establishment normally occurs at the first appointment.

All the same, it's wise to contact your malpractice carrier about any state laws that would impact the initiation of the patient-physician relationship and how you should handle refusing to treat a patient.

transfer request with your letter. When possible, include a referral source such as your medical society or hospital referral center. Do not refer her to a specific physician.

3. How to handle the mailing

Mail the letter with a return receipt requested. Patients may refuse a letter sent with receipt requested, so also send a copy by regular mail. Copy the letter and record the date and method by which the letters were sent. Keep the return receipt (or record of refusal) in the patient's record.

4. Consider 30-day continuance

Most physicians allow 30 days to establish a relationship with another provider, and limit care during this time to acute needs only—but sensitivity to the patient's situation is wise. Although 30 days typically suffice, check with your malpractice carrier if you are concerned about the patient's condition or availability of other ObGyns.

5. Specify termination of services

In your written communication, outline what services you will provide until she locates another provider.

Be sure to indicate a specific termination date—30 days following the date of the dismissal letter is recommended. ■

FAST TRACK

An angry patient is more likely to sue, especially if she was unaware of your reason for dismissal

A special thank you to Pam Hutcherson, RN, LNC, Risk Management Specialist, State Volunteer Mutual Insurance Company of Brentwood, Tennessee, who reviewed this article.