

Pitfalls of Withdrawing From A Physician-Patient Relationship

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When handling difficult patients, such as patients who repeatedly miss scheduled appointments, refuse to comply with treatment advice, or fail to make required bill payments, it may become necessary for the physician to terminate the physician-patient relationship. If the physician has addressed with the patient the issues that are becoming detrimental to the physician-patient relationship and the physician decides that withdrawing from the patient's case is necessary, a physician should proceed carefully to avoid liability for abandoning the patient.

Once a physician renders care and treatment and a physician-patient relationship is created, the physician is generally under a duty to provide treatment to that patient until treatment is no longer needed. As such, the relationship of physician and patient continues until the physician's services are no longer needed, the patient revokes the relationship by dismissing the physician, both parties consent to terminate the relationship, or the physician withdraws from the patient's case.

Kansas courts have explained that while a physician has a right to withdraw from a patient's case, if the physician seeks to withdraw before the need for her or his services is at an end, the physician must give "due notice to the patient" and afford the patient "ample opportunity to secure other medical attendance" of the patient's choice.¹ A physician's failure to give a patient notice of his or her withdrawal from the case and the opportunity to secure other medical treatment from another physician subjects the withdrawing physician to liability for abandonment.² If a physician is found to have abandoned a patient, he or she is liable for the consequences resulting from such abandonment.

Whether a physician's termination of the physician-patient relationship constitutes abandonment depends on the facts of each case. By way of example, a Kansas court concluded that a patient could maintain an abandonment claim based on evidence that the physician discharged his patient, allegedly telling him that he should go home and get help the best way he could, even though the patient was able to find treatment from a different physician within just a few days.³

An Oklahoma court, on the other hand, concluded that a physician did not abandon a patient where the physician refused further involvement with the patient after the patient's son

¹ *Capps v. Valk*, 189 Kan. 287, 290, 369 P.2d 238 (1962).

² *Id.*

³ *Collins v. Meeker*, 198 Kan. 390, 392, 424 P.2d 488 (1967).

became upset and confronted the physician's nurse about the physician's decision to postpone surgery on the patient's herniated disk. In that case, the physician produced documentation to show that he had given the patient the names of several physicians who practiced in the relevant area of medicine and that the physician had contacted those physicians on the patient's behalf. The court concluded that the physician gave reasonable notice of his termination of the relationship, that the patient had ample opportunity to procure the services of other physicians, and that the physician did not abandon the patient at a critical point in the patient's treatment, as the evidence showed that the surgery had been postponed one week.⁴ Finally, although Kansas courts do not appear to have addressed this issue, other state courts have stated that a physician may be liable if he or she withdraws from a patient's care during a critical stage in treatment without providing sufficient notice to enable the patient secure proper treatment from another physician.⁵

When withdrawing from a patient's case, physicians should follow established policies and procedures for doing so. Generally, the physician should be certain to document the notice given of his or her withdrawal. This includes documenting any discussions with the patient about withdrawing from the case. The withdrawing physician should also provide the patient with names of other physicians who could provide care.

In addition, a physician should send a letter to the patient, notifying the patient that the physician will cease to provide the patient with medical care and advising the patient to secure another physician for medical care immediately. Further, it is advisable that the physician provide the patient with medical care for a certain period of time, such as 30 days, while the patient secures another physician. The withdrawing physician should also advise the patient that the patient's medical records will be readily available to the patient's new physician. Ultimately, physicians should take careful steps to ensure that, when withdrawing from a patient's case, the patient has been provided ample notice of the intent to withdraw and opportunity to secure proper medical care from another physician, and that the physician's efforts in doing so are documented.

⁴ *Sparks v. Hicks*, 912 P.2d 331 (Okla. 1996).

⁵ See e.g., *Overstreet v. Nickelson*, 170 Ga. App. 539, 317 S.E.2d 583 (1984); *Jackson v. Oklahoma Memorial Hospital*, 909 P.2d 765 (Okla. 1995).