



CNA HealthPro

Proper Termination Procedures Reduce Abandonment Risks

The standard of care for dentists includes the legal duty to continue caring for patients of record. If an irreconcilable doctor-patient conflict results in a determination that you cannot continue to care for the patient at or above the required standard of care, you have an obligation to end the relationship in an appropriate manner. Improper termination of the dentist-patient relationship may lead to allegations of abandonment, failure to recall or failure to treat.

There are many reasons for severing your relationship with a patient, including

- unreasonable patient demands or expectations
- failure to pay bills
- numerous missed or canceled appointments
- unwillingness to follow your treatment recommendation
- persistently rude or difficult behavior toward you or your staff

Regardless of the reason, termination of care is a serious step that may adversely affect your patient's dental health and leave you vulnerable to a claim. You can minimize the risk by taking the proper steps to inform and assist patients during the termination process. In most situations, the dentist is legally obligated to help the patient during this period, even if it is the patient who is ending the relationship.

The dentist-patient relationship does not simply end when the patient leaves your office or your care. It continues until one party properly terminates the relationship. *Unless a relationship is legally terminated, the courts may consider it to exist even years after the last communication between you and your patient.* The law holds you, not your patients, responsible for properly managing the termination of the dentist-patient relationship.

What Is Abandonment?

Abandonment involves the unilateral dismissal of the patient by the dentist in the absence of ample and proper notice to the patient. Abandonment allegations are founded upon the patients' belief that they have suffered an injury due to the dentist's failure to continue to perform his or her professional duty. Additionally, laws restrict a dentist from refusing treatment to or dismissing a patient from the practice solely on the basis of a disability, race, color, creed, ethnicity, gender or age. This does not mean that you cannot terminate a relationship with a patient who is disabled or otherwise protected by anti-discrimination laws. It means that all patients must be treated equally. Any patient who cannot or will not comply with office policies or treatment can be dismissed, as long as the reasons for doing so are fair and the process adequately documented.

Certain patients whom you terminate may be more likely to allege abandonment than others, including those with poor or adverse clinical outcomes, unmet expectations, billing disputes, argumentative personalities or litigious personal histories.

An emphatic word of caution: If you refuse to treat a patient of record in need of emergent care simply because the patient owes you money, you could be liable for a charge of abandonment.

Controlling the Risks

The risks of abandonment can be controlled most effectively through preventive measures. Inform patients early in the dentist-patient relationship of your practice rules and expectations. Either you or a staff member may engage in a discussion with the patient. A practice brochure also may convey this information. Every reasonable attempt should be made to resolve patient conflicts before termination of the relationship becomes the only solution. In such cases, document in the patient record all discussions with the patient that attempt to resolve the issue.

During all phases of patient care, including the termination period, it is your responsibility to ensure that the patient's health is never compromised. Treatment should be terminated or transferred at a logical point during care when the patient no longer requires emergent intervention. As a general guideline, complete multiple visit procedures which you have started, such as root canal therapy (obturation), crown and bridge procedures (cementation), orthodontic treatment or post-operative care following surgical procedures.

The exception to this rule occurs when the relationship is being terminated due to the patient's failure to return for unfinished treatment. In such cases, you may terminate the relationship in the midst of active care, but only after you have made a good faith attempt to get the patient to return for care. *Be certain you have documented in the patient record all attempts to contact the individual before terminating the relationship.* We suggest you have a minimum of three documented attempts to contact the patient to return for the completion of unfinished treatment. One such attempt should be in the form of a letter sent to the patient. The others may be documented phone calls and/or phone messages. This shows you have taken every reasonable and prudent step to continue patient care and helps to defend against claims of abandonment.

Before terminating a patient, ask yourself the following questions:

- Have I met the required standard of care in my past treatment and management of the patient?
- If not, has the patient failed to allow me to provide care that adheres to the required standard of care?
- Have I provided care to the point where the patient has no immediate need for emergent dental treatment?
- If not, has the patient refused to return for care?

If you can answer *yes* to the first and third of these questions, or to the follow-up questions, a court may conclude that you have fulfilled your responsibilities.

Proper Documentation

If a *patient* ends the dentist-patient relationship for any reason, clearly and fully document the patient's decision in the dental record, including verbatim comments from the patient or copies of patient correspondence.

If *you* terminate the relationship, notify the patient in writing by mail. Send two copies of your letter: one certified mail, return receipt requested, and the second via standard first-class mail. Even if the patient refuses to sign for the certified letter, the first-class mailing will be delivered. The letter should include the following information:

1. Clearly state that the doctor-patient relationship is being terminated and indicate the specific date the relationship will end.
2. Indicate the current status of care and any further treatment needs of the patient, including the risks of not receiving the needed treatment.
3. Offer to provide emergency care to the patient for a reasonable period of time, which must be long enough for a reasonable person to secure an appointment with a new dentist. (Thirty days is generally considered sufficient in most areas.)
4. Indicate how the patient can find a new dentist, such as the telephone directory or the local or state dental society referral service, if one exists where you practice.
5. Offer to forward copies of records to the patient, or to the patient's next dentist, upon written request from the patient. Be sure to keep the original records. You may charge a reasonable fee for duplication and mailing. *You may not refuse to supply copies even if the patient has an outstanding balance.*

Keep a copy of the original letter and the certified mail receipt in the patient record. Any related correspondence should also be maintained. In addition, pertinent conversations should be recorded in the progress notes section of the record. If your certified letter is returned to you unopened, retain it unopened in the patient chart. The possibility of the patient not signing for the certified letter is why we recommend you also send a copy of the letter via first-class mail from the outset.

Other Issues

Dentists often ask, "If a patient who still owes a large sum of money calls during the 30-day emergency period and requests to be seen, do I have to treat him?" The answer: yes. You cannot refuse access to emergency care because of an outstanding balance. You can, however, minimize the risk of nonpayment by informing the patient of the anticipated fees *for that day's services* and insisting on same-day cash payment for the care. This protocol does not abandon the patient because it does not *deny* access. It merely *arranges* for patient care on your terms.

You also may opt to limit your emergency treatment to stabilizing the problem at hand. For example, if a patient you are terminating presents with a missing mesiolingual cusp of #30, consider placing a direct placement restoration to replace the missing tooth structure, rather than preparing the tooth for a crown. Of course, you must inform the patient of the limited nature of the emergency treatment you provided and that additional treatment is necessary upon finding a new dentist.

Be judicious when deciding whether or not to charge patients for duplication costs. Although you are entitled to charge a "reasonable fee" for duplication and mailing, we encourage you to provide a copy of the record free of charge when terminating a patient. If the dentist-patient relationship is already strained, asking for additional money could further inflame the situation. Any exacerbation of the circumstances also may lead to a retaliatory malpractice claim or dental board complaint. In such cases, it is often best to put your personal feelings aside and provide copies of the record and radiographs free of charge.

It takes time and effort to properly terminate a dentist-patient relationship. Providing closure to every lapsed relationship is an essential risk management measure that can protect your practice, your reputation and your peace of mind.

Because of their common occurrence and relative safety, local anesthetic injections are often overlooked as a professional liability risk. While not a significant source of professional liability claims, adverse events can occur during and in response to local anesthetic injections, sometimes with serious consequences.

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