

# How to Fire Difficult Patients—Safely and Ethically

*WILLIAM H. MARUCA, ESQ*

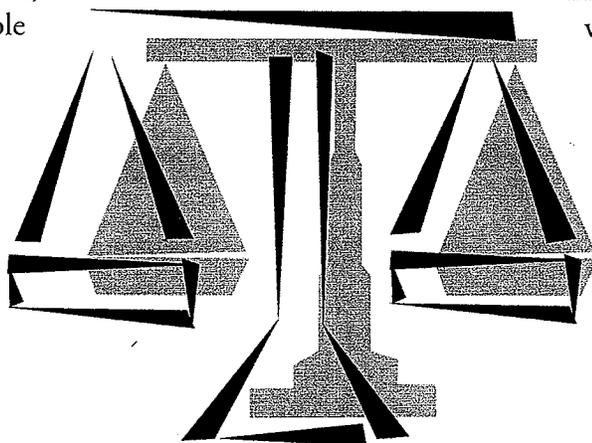
Ideally, your patients all arrive on time for their appointments, bring their insurance cards and a full list of their current prescription medications and over-the-counter remedies, disclose all relevant history and information, carefully listen to and follow your advice, take their medications regularly, pay their bills, don't demand guaranteed results, respect your staff and return for follow-up visits when recommended.

As you know better than I, patients in the real world don't all meet these expectations. Some routinely and repeatedly miss appointments without calling in advance. Some refuse to follow your advice and instructions, leave the hospital against medical advice or threaten lawsuits when they don't get their way. Some verbally abuse your staff, show up without appointments, call you at home, make unreasonable demands, inappropriate personal comments or even sexual advances. Others arrive intoxicated or behave belligerently. Some try to scam narcotics or insist that you fraudulently certify their conditions to qualify for insurance or Workers' Compensation benefits. I have had physician clients whose patients brought handguns into exam rooms, stole

prescription pads, threatened violence and otherwise made themselves unwelcome. How can you ethically and compassionately decline to provide further service to patients who make your professional life miserable—without inviting liability?

Generally, physicians are not obligated to accept every patient who seeks their care. You may not legally discriminate on the basis of race, national origin or disability, nor on the basis of gender or age (within the limitations of your specialty—gynecologists are still free to refuse to treat men). You are not required to treat all Medicare or Medicaid patients, nor are you required to provide free care in most circumstances. There are exceptions: Hospital medical staff bylaws may require that you participate in a call rotation and see all patients who present during your call shifts, and managed care participation agreements may require that you treat the plan's subscribers unless you follow the plan's procedure to transfer them to another practitioner. However, once you begin a physician-patient relationship, your duties change.

The Pennsylvania State Medical Board's licensing



regulations include “patient abandonment” as a type of unprofessional conduct which may lead to sanctions including suspension or revocation of a physician’s license. The term is defined as follows:

“Abandonment occurs when a physician withdraws his services after a physician-patient relationship has been established, by failing to give notice to the patient of the physician’s intention to withdraw in sufficient time to allow the patient to obtain necessary medical care. Abandonment also occurs when a physician leaves the employment of a group practice, hospital, clinic or other health-care facility, without the physician giving reasonable notice and under circumstances which seriously impair the delivery of medical care to patients.”

Although these regulations do not provide a remedy for patients who have been discharged by their physicians, plaintiffs’ lawyers are quick to cite the regulations as a baseline for physician responsibility in malpractice suits.

To avoid run-ins with the medical board and minimize liability exposure from disgruntled patients, the following steps are recommended:

*Set expectations in advance.* On your intake forms make sure your patients understand that you expect at least 24 hours prior notice for any cancellations absent legitimate emergencies, indicate that copays and other fees must be paid at the time of service, and include any other standards you expect your patients to meet. For instance, you can institute a “three strikes” policy for no-shows. You may also want to send a patient a “last chance” letter after several infractions before pulling the trigger on discharge.

*Document the problem.* If the patient has missed multiple appointments, refused to follow advice, falsified information, harassed your staff or otherwise violated expected standards of conduct, document the incidents factually in the chart without editorial comment. Be careful not to include suspicions that cannot be proven, as this may constitute actionable defamation. I shouldn’t have to say this, but don’t include potentially insulting or demeaning personal characterizations, with or without clever slang or acronyms, no matter how tempting it may be to do so—the patient (and his or her lawyer) may see such comments eventually. You’d be surprised to learn what some physicians or their staffs put in their charts.

*Send a certified letter.* Your letter should politely explain why you believe the physician-patient relationship

August 2008

is being terminated, emphasizing that it is in the best interest of the patient to find a new physician who can establish a positive relationship. Indicate that you are willing to provide emergency care for a stated period (see below). Send a copy by regular first-class mail since many people are hesitant to accept registered or certified letters.

*Set a reasonable effective date.* The regulations require you to provide sufficient time to allow the patient to obtain necessary medical care. Many physicians erroneously believe this requires 30-days notice, but in fact there is no specific amount of notice required, and the effective date should be determined with regard to the patient’s own situation. An obvious example of when not to discharge a patient is in her 38th week of pregnancy. A patient with a stable, chronic condition such as hypertension or diabetes may not need as much time to find a new doctor as one with a more acute condition.

*Help the patient find a new physician.* Although you

continued on page 379

### AUDIT RESULTS

## Medicare or Blue Shield Audit?

Revised Code	Paid Amount	Audit Amount	Deficiency
99213	\$78.97	\$50.26	Incorrectly coded
99212	\$36.72	\$0.00	Insufficient documentation

**If you are involved in a Medicare or Blue Shield audit, we have clinical, coding, and financial experience to assist you.**

**We would review your medical record documentation and coding to make certain your position is properly presented to Medicare or Blue Shield. And, if a refund is requested, we are available to assist you in determining a fair settlement offer.**

**For information, please call Beth Ann Fleischmann, RN, BSN, CPC at 412-788-8007 or contact her at [bethann@fennercorp.com](mailto:bethann@fennercorp.com).**



**FENNER CONSULTING**  
 One Penn Center West  
 Pittsburgh, PA 15276  
[fennercorp.com](http://fennercorp.com)



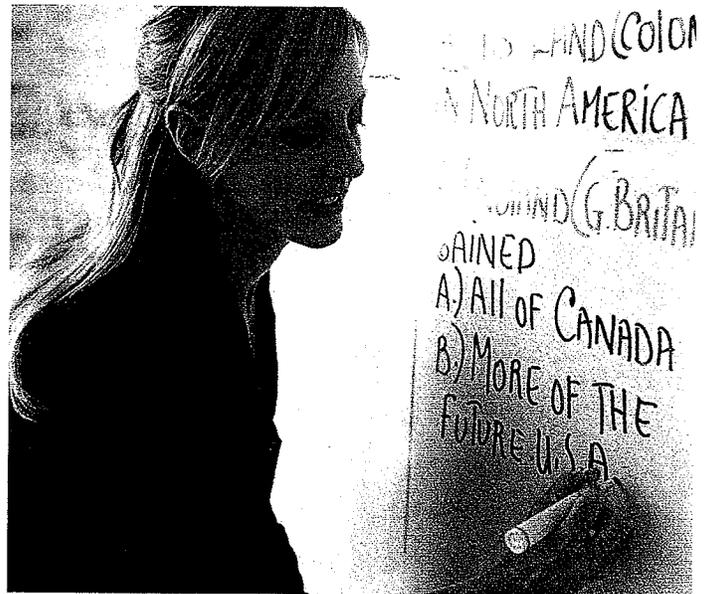
are not responsible to continue care until the patient selects a new doctor, it is advisable to include the contact information of the county medical society's physician referral service (412-321-5030 for Allegheny County Medical Society), the state medical society (<https://webapps.pamedsoc.org/findphysician/asppages/main/landingpage.aspx>), the local hospital's physician referral service or any similar service.

*Transfer the patient's records without delay.* Your letter should state that you will transfer the patient's chart to his or her new physician immediately upon receipt of a signed release, and don't insist on payment of outstanding bills first. You may charge for copies, within the limitations set by state law. It's a good idea to keep a copy of the chart, even after you transfer it to your successor, in the event of future litigation or payment disputes. Note that the medical board has the right to penalize a physician for:

"... Failing to make available to the patient or to another designated health care practitioner, upon a patient's written request, the medical record or a copy of the medical record relating to the patient which is in the possession or under the control of the board-regulated practitioner; or failing to complete those forms or reports, or components of forms or reports, which are required to be completed by the board-regulated practitioner as a precondition to the reimbursement or direct payment by a third party of the expenses of a patient that result from the practice of the healing arts. Reasonable fees may be charged for making available copies, forms or reports. Prior payment for professional services to which the records relate—this does not apply to fees charged for reports—may not be required as a condition for making the records available."

It's never pleasant to part company with a difficult patient; however it may be a relief to send him or her on the way. Following these steps will minimize the fallout and, hopefully, help the patient find a new physician with whom he or she can establish a more productive rapport. ■■

*Mr. Maruca is a partner with the Pittsburgh office of the law firm of Fox Rothschild, LLP, which serves as counsel to the Allegheny County Medical Society. His practice is concentrated in health care law. He can be reached at (412) 394-5575 or [wmaruca@foxrothschild.com](mailto:wmaruca@foxrothschild.com).*



## Public speaking is her livelihood. We make sure she's heard.

The power of the voice is undeniable. When it's compromised, it can affect your quality of life. The experts at the UPMC Voice Center specialize in disorders that range from advanced vocal fold lesions to vocal paralysis as a result of surgery, cancer, or other neurological conditions. We also care for those who are struggling with quality and function of the voice because of vocally demanding jobs and inefficient use of the voice. Voice Center patients have access to expert care from physicians with specialized training in voice disorders, speech-language pathologists, and singing voice specialists. The UPMC Voice Center team is committed to helping our patients find their voices again.

For consults or to refer patients to the UPMC Voice Center, call UPMC's 24-hour physician referral service at 1-800-544-2500.

# UPMC