

## Part B Insider (Multispecialty) Coding Alert

### Compliance: Are You Considering 'Firing' A Patient? Proceed Carefully to Avoid Getting Burned

**These tips will help you avoid legal pitfalls in discharging deadbeat beneficiaries.**

Delinquent patients don't have to be a permanent fixture in your practice. If you have patients who owe thousands of dollars in copayments and deductibles, you don't have to keep providing them with care in non-emergency situations when the patient does not require your medical attention and you have provided adequate notice.

At issue: Some practices may feel tempted to terminate their relationships with patients who have long-overdue bills, who habitually skip appointments, or who are nasty to the office's staff members. However, some providers worry that this could lead to a dangerous set of legal nightmares, so they continue to treat the patients.

In discharging deadbeat patients, one concern is that the patient might charge you with "patient abandonment." Physicians have taken an oath to protect the welfare of their patients, and practices should ensure that they have followed the appropriate steps before they terminate the physician-patient relationship, says **Laura L. Katz, Esq.**, a health care attorney with Saul Ewing, LLP in Baltimore.

To smooth the patient's departure, keep the following tips in mind as you proceed with ending the physician/patient relationship.

1) Give adequate notice. You should first send the patient a certified letter stating that you're considering terminating the relationship, Katz says. Let the patient know why you are intending to terminate the physician-patient relationship, and give them an opportunity to address those reasons within a reasonable time period, she advises. If the reasonable period of time has elapsed and they haven't responded or proposed a plan to resolve the issues, then you could send a second letter saying that the issue has not been resolved, so you are terminating the relationship.

The second notification should also be a certified letter notifying the patient of the termination date, and the deadline to address the issues and to reach a resolution of the matter. Give the patient time to attempt to resolve the matter and find another physician. You should continue treating the patient during that period.

2) Help your patients find other resources. If you tell a deadbeat patient that the relationship isn't working because he or she hasn't fulfilled his or her obligations, you should be prepared to assist the patient in finding another physician who can meet his or her medical needs.

3) Pay attention to state laws. Some states may have unique abandonment laws that you have to obey when discharging a patient.

For instance, the N.J. Attorney General's office notes on its Web site, "As long as the patient is not being treated under circumstances where his/her life or health may be threatened or compromised unless timely medical care is given, the doctor may terminate the relationship. The doctor must notify the patient, in writing, that he/she will no longer provide care after a date certain, which cannot be less than thirty days prior to the termination date. This letter must be sent by certified mail, return receipt requested. The doctor, however, is obligated to provide all necessary emergency care and services, including providing necessary prescriptions, until the date of termination. If requested by the patient, the doctor must make reasonable efforts to assist the patient in finding another provider and provide for the orderly transfer of the medical records. You may not charge for the copying and/or transfer of the patient's medical records."

In California, however, the physician "must notify the patient in writing informing the patient the last day the physician will provide care, assuring the patient at least 15 days of emergency treatment and prescriptions before discontinuing

service; alternative sources of medical care; i.e., referral to another physician, the patient's insurer/HMO, or the local county's medical society; and information necessary to obtain the patient's medical records compiled during this physician's care."

4) Pay attention to circumstances. Patients in rural or underserved areas may need longer than 30 days to find a new provider. Also, if the patient has insurance that few providers will accept, then the situation may not be so simple.

5) Check your participation agreement. If the patient belongs to a health plan and you're a participating provider, then your agreement may specify how you can get rid of a non-paying patient. You may have to approach the medical director of the health plan and ask to transfer the patient out of your panel.

Important: You cannot simply discharge your Medicare patients because you're sick of the low reimbursement rates that Medicare pays. Just getting rid of a patient because he's on Medicare could be discriminatory, Katz says.