

TERMINATION OF THE PHYSICIAN/PATIENT RELATIONSHIP

This document has been prepared to assist LSMS members when they want to terminate their relationship with a patient. The information presented in this document should be considered to be in the form of guidelines only. The document is presented with the express understanding that neither the LSMS nor its attorneys are providing legal advice.

Under most circumstances, the physician has the right to terminate the physician/ patient relationship, so long as the patient is notified in person and in writing and is given sufficient time to engage the services of another physician. The legal theory of abandonment of a patient by a physician is not very well developed or defined in Louisiana, so we must look to the common law theory of abandonment and medical ethics for guidance on this issue. The theory of abandonment and medical ethics require that once a patient engages a physician, that physician is under an obligation to provide the patient with continuous care and attention until the relationship is properly terminated. Neither the theory of abandonment nor medical ethics require a physician to continue the relationship if, for example: the patient is consistently non-compliant; the patient refuses treatment that the physician deems necessary; the physician believes that there is nothing more he or she can do for the patient; if the patient refuses to pay for services rendered; or if the physician believes that the patient is diverting or abusing controlled substances. There are numerous other reasons that a physician may choose to take this action. A physician is not required to offer or provide medically inappropriate treatment to a demanding patient, or required to continue to treat a patient who will not follow medical advice.

Once the physician/patient relationship is initiated, the physician may terminate the relationship, either by acquiring the written consent of the patient or by giving reasonable notice to the patient. The physician must give the patient a reasonable amount of time to establish a relationship with another physician before the relationship is terminated.

If the physician decides to terminate the physician/patient relationship, he must carefully document the entire process in the patient's medical record. The first step is for the physician to notify the patient or the patient's legal guardian, in person if possible, of his or her intent to terminate the relationship and to explain the reasons for the decision. This explanation should be very matter of fact and unemotional. During this conversation, the physician should give the patient a time limit of at least 60 days to find another physician and agree to continue care and/or treatment for at least that time period. You may need to extend the time period if the patient is unable to procure the services of another competent physician. The important thing to remember is that there should be no break in medical attention between physicians. Be sure to let the patient know that you will continue to see them on an emergency basis until they are under the

care of another physician. During this initial termination conversation, the physician can offer to refer the patient to other competent physicians who may agree to continue the care and/or treatment of the patient. Offer to provide the new physician with a copy of the patient medical records. It is probably a good idea to provide a copy of the records free of charge to the patient or new physician.

The physician should confirm this initial conversation with the patient or the patient's legal guardian in a letter detailing the entire conversation. The letter should be sent to the patient or the patient's legal guardian by certified mail, return receipt requested and by regular mail. A copy of this letter should be placed in the patient's medical record. This letter should include the following information:

- 1) That the physician intends to sever the physician/patient relationship;
- 2) The reasons for the termination (the tone of this explanation should be matter of fact and cordial);
- 3) The date upon which the physician/patient relationship will terminate (see discussion below on how to determine what constitutes a reasonable time period);
- 4) The patient should immediately find another competent physician to provide continued medical care and/or treatment and that referrals will be provided by the physician upon request;
- 5) The physician will make a copy of the patient's medical records available to the new physician and/or to the patient;
- 6) The physician will continue to see and treat the patient until the termination date given above; and,
- 7) The physician will continue to provide emergency care until the patient engages the services of another physician (the physician should define "emergency care," if possible).

One of the hardest decisions to make is how much time to give the patient to find another physician. The physician should consider the following factors when deciding what a reasonable time period would be with a particular patient:

- 1) The seriousness of the patient's condition or disease;
- 2) The stage of the current course of treatment; and,
- 3) The availability of comparable medical care or treatment.
- 4) The patient's mental health status and their ability to understand the information they are given.

As a general rule, the physician should give the patient at least 45 days notice before he terminates the relationship and discontinues non-emergency care and/or treatment. To avoid a claim of abandonment, it is recommended that the physician continue to treat the patient on an emergency basis until the patient finds a new physician, even if the termination date has already passed.

Please feel free to contact the LSMS Department of Legal Affairs if you need further assistance.

DISCLAIMER

This memorandum is for informational purposes only and does not constitute legal advice and is not a legal opinion. This information is provided with the express understanding that: (1) no attorney-client relationship exists in or is one created hereby, and (2) neither the Louisiana State Medical Society nor its attorneys are engaged in the practice of offering legal advice. If legal advice is required, please contact your attorney.