



When Can an Urgent Care Legally ‘Fire’ a Patient?

Urgent message: In light of increasingly frequent reports of urgent care centers “firing” patients for various reasons, clarity is needed as to whether and when it may be legal and appropriate for urgent care to “ban” a patient.

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The customer is always right. We’ve all heard that saying and perhaps even invoked it in a contentious business situation. But exactly how does this apply to providers and staff in an urgent care?

Background

A patient at an urgent care facility loses his temper after being declined a prescription refill. He yells and threatens the staff, then storms out of the office. The staff calls the police but before they arrive, the patient leaves. The urgent care facility sends a letter to the patient informing him that he cannot be seen at the center again due to this intimidating behavior.

Can the Urgent Care Center Do This?

The American Medical Association Code of Medical Ethics Opinion 1.1.5 states that the “[p]hysicians’ fiduciary responsibility to patients entails an obligation to support continuity of care for their patients. At the beginning of the patient-physician relationship, the physician should alert the patient to any foreseeable impediments to continuity of care.”¹

Further, Opinion 1.1.5 states that “[w]hen considering withdrawing from a case, physicians must:

- a. Notify the patient (or authorized decision maker) long enough in advance to permit the patient to secure another physician; and
- b. Facilitate transfer of care when appropriate.”²



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Guidelines from the AMA also stipulate that the reasons a physician may dismiss a patient include the following:

- Patient noncompliance
- Failure to keep appointments
- Rude or threatening behavior
- Nonpayment of fees
- The closing of the medical practice^{2,3}

Likewise, the American College of Physicians requires that the physician-patient relationship be discontinued only under “exceptional circumstances.”⁴

Thus, it is likely that an urgent care physician would be permitted to dismiss a patient with rude or threatening behavior or in certain specific circumstances. Nonetheless, physicians need to use caution when dismissing patients from their care.

Situations When You Shouldn’t Fire a Patient

Physicians are not legally or ethically permitted to fire a patient based on discrimination for race, color, religion, national origin, HIV-status, sexual orientation, gender identity, or other attributes

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that are federally accepted as discrimination. Also, a physician cannot withdraw during a patient’s ongoing acute medical care.² Patient termination must wait until the treatment is finished.

Patients who are members of prepaid health plans can’t be discharged until the physician has spoken with the third-party payer to request their transfer to another practitioner. Also, a patient’s disability cannot be the rationale for withdrawal by a physician unless the treatment of that disability is beyond the scope of the practitioner’s expertise.

Beyond this, urgent care facilities must be aware of liability for patient abandonment.

Patient Abandonment and Unprofessional Conduct

The only legal requirement physicians must meet when terminating a relationship with a patient is that they avoid abandonment. This may result in civil liability for the physician.⁵

Numerous states have enacted patient abandonment laws, the violation of which can result in penalties ranging from fines to license revocation for ending the patient relationship, depending on the jurisdiction.⁶⁻¹⁰ For example, Pennsylvania law states that pursuant to the regulations of the State Board of Medicine, a practitioner can be subject to disciplinary action for abandonment of a patient.

In Pennsylvania, 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.”¹¹⁻¹⁴

Patient Discrimination

While a restaurant or retail store can post a sign saying, “we reserve the right to refuse service to anyone,” states have antidiscrimination laws that apply to all businesses, prohibiting discrimination of “protected classes.” In addition, there are states, such as California,¹⁵ that have recognized additional protected classes in addition to those enumerated in the federal statutes and regulations.¹⁶

For example, federal laws such as the Public Health Service

Act¹⁷ prohibit discrimination on the basis of age, race, color, national origin, disability, sex (gender), or religion in programs, services, and activities where facilities receive federal funding.¹⁸ This includes programs such as Medicare and Medicaid.¹⁹

There is also no relief from caselaw, such as the decision of *Masterpiece Cakeshop*, where a Colorado baker declined to decorate a wedding cake for a same-sex marriage on the basis that he had to use his *artistic skills* to make an *expressive statement* inconsistent with his religious beliefs. In that case, the U.S. Supreme Court held that the state civil rights commission violated the First Amendment’s Free Exercise Clause by ruling that the baker violated a state antidiscrimination act, opining that the commission’s treatment of the baker’s case displayed a clear and impermissible hostility toward his sincere religious beliefs.^{20,21} Urgent care center physicians are not dealing with artistic skills and expressive statements. Rather, healthcare is a personal service provided by an individual.

However, there are some “provider conscience” laws that offer healthcare providers some protection if they refuse to perform, accommodate, or assist with certain healthcare services on religious or moral grounds.²²

Other Real-Life Scenarios

The following “real-life” scenarios should be viewed with respect to the AMA guidelines for dismissing a patient (patient noncompliance: a patient’s inability to keep appointments; a patient’s rude or threatening behavior; the nonpayment of fees; and the closing of the medical practice), in addition to applicable state law. Again, one statute stipulates that “[a]bandonment 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.”⁶

It’s important to note that urgent cares are generally private and considered to be akin to a “doctor’s office.” As such, unlike emergency rooms and hospitals, they are not subject to the Emergency Medical Treatment and Active Labor Act (EMTALA).²³

Negative reviews

A patient is “treated” at urgent care, doesn’t get well, and then goes to the ED where she’s told that the urgent care made an incorrect diagnosis. The patient posts several negative online reviews. The urgent care claims that the patient has “defamed” it and subsequently bans the patient from returning. Here, it is clear that a physician-patient relationship has been established; however, the “firing” of this patient may be legal if notice to the patient of the physician’s intention to withdraw is given with sufficient time to allow the patient to obtain necessary medical care.

Competitive intelligence

An urgent care bans an employee of a competing urgent care

who didn't want to be treated by his fellow employees on a confidential health issue because the urgent care believes that this patient is "secret shopping." The analysis is the same as above. Appropriate notice by the urgent care would most likely absolve it of further liability in banning this patient.

Overcapacity

An urgent care posts a sign stating that it can turn away patients prior to closing if the capacity of the center has already been reached with waiting patients. While this policy may be acceptable, states usually require urgent care facilities to see patients who arrive with a life-threatening emergency, even if the physician must work beyond her normal work hours. The urgent care may be liable in an emergency situation if it fails to stabilize the patient and call for an ambulance to transport the patient to an emergency facility.

Insurance coverage

Insurance contracts require that the urgent care provide services to all members of the health plan for which the urgent care is "in network." If there is an issue, it most likely would come down to the patient's ability to pay. Again, urgent care centers are not bound by the EMTALA and typically require payment at the time of service.

Notice Is Essential in Firing a Patient

The AMA's Code of Medical Ethics states that physicians who are considering withdrawing from a case must notify the patient well in advance to allow the patient enough time to find another physician and to facilitate transfer of care when appropriate.² And again, state laws may address specifics as to patient abandonment. The firing or termination of a patient should necessitate formal written notice informing the patient that he should find another healthcare provider. A copy of the letter

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and any other correspondence should be made part of the patient's medical record.²

Written notices should include an effective date and an offer to provide the patient with a copy of their medical records. Be sure to provide medication refills only up to the date of the patient termination. Don't include a specific reason or details, but instead use a vague and generic reason for termination such as an "inability to achieve or maintain rapport."^{2,24}

Takeaway

As one attorney said, "It's time to dismiss (the patient) when the doctor-patient relationship doesn't work."²⁵

Your urgent care center should have well thought-out policies and procedures to help physicians and staff avoid difficult behavior and noncompliance. And these expectations should be laid out in a patient's first visit, ideally in a form that the patient must read and sign. ■

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