

# Risk Strategies for Managing Patient Relations Challenges



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Mutual trust and respect are the foundation of the practitioner-patient relationship. They must be developed from the first encounter and continuously reinforced. Trust and respect depend in turn upon effective communication, which involves more than talking to patients. It also encompasses careful and empathic listening; awareness of gestures, posture and other forms of nonverbal communication; and attention to the level of information presented. By consistently utilizing strong communication skills, practitioners can maintain a healthy rapport with patients.

Deficiencies in communication, inappropriate body language and inappropriate behaviour can all be factors in triggering a claim. The following sections outline strategies to help practitioners initiate and maintain a sound relationship with patients.

## 1. Managing Patient Complaints

Evaluating patient experiences and quantifying satisfaction levels is not a simple process. Overall satisfaction is influenced by myriad factors, ranging from technical skills and professional manner to cost and scheduling considerations.

Aside from complaints about treatment times and promptness, most patient grievances revolve around staff professionalism, or the lack thereof. Practitioners can lapse into unprofessional behaviour under stress. Watch for verbal and nonverbal signs of dissatisfaction and frustration. When a practitioner suspects that a patient is dissatisfied and/or frustrated, discuss the matter in a private room with a door that closed. Acknowledge the patient's anger and frustration, and tell the patient explicitly that his or her concerns are noted and will be addressed. After the patient has vented his or her anger, respond to the tangible issues. Identify those conflicts or questions that can be readily resolved, asking for clarification, as needed. Enlist disgruntled patients in the problem-solving process, asking them for their suggestions on how to achieve a satisfactory resolution. End the discussion only after an agreement has been reached that is clearly understood.

## 2. Managing Difficult Patients

One of the most unpleasant situations a practitioner may encounter is treating an unhappy or recalcitrant patient who threatens to sue during the course of care. In our litigious society, practitioners must be aware of the possibility of complaints or claims even when treatment appears to meet the

standard of care. The following tips can help minimize the risk of legal entanglements:

- **Maintain a good chairside manner.** Not every complaint to the licensing body or lawsuit is motivated by obvious malpractice. The patient may feel ignored, mistreated, or overcharged by the practitioner. These marginal claims are less likely to occur if the practitioner is attentive, communicative and pleasant, is upfront about costs, and treats all patients with respect.
- **Maintain accurate and informative records.** Careful recordkeeping is not only critical to quality care, it may also prevent problems down the road in the event of a conflict or complaint. Most licensing bodies require practitioners to meet minimal documentation standards. In fact, sometimes when investigating a patient complaint, the licensing body will find no problems with the care delivered, but will sanction the practitioner for inadequate records. These standards are found on licensing body websites and should be reviewed periodically.
- Consistent, thorough and accurate records can do more than avert licensing body sanctions. In the event of a claim, sound documentation significantly strengthens legal defensibility by clearly relating the sequence of events and preventing plaintiff's attorneys from filling in the gaps with a one-sided narrative. Typically if something is not written down, it is legally perceived as not having occurred. For this reason, good documentation practices are a key risk management measure.
- **Keep patients informed.** Practitioners are legally required to fully describe treatment recommendations, benefits of the suggested therapy, and material risks of both proposed and alternative treatments when obtaining a patient's informed consent for treatment. The informed consent discussion and written form should be consistent with the patient's level of comprehension.

- **Carefully assess whether to refer to a specialist.** The ability to legally perform a procedure (e.g., controlled act) under one's license does not mean that one must or should perform the procedure. All health practitioners should be conscious of their limitations in terms of scope of practice, training and experience, and must make well-considered treatment decisions based on the patient's best interests.
- **If necessary, dismiss a difficult patient.** With few exceptions, practitioners have the right to refuse to treat or discontinue care of a disruptive, rude, impossible-to-please, uncooperative or non-paying patient. In such cases, terminating the practitioner-patient relationship may be the most prudent course of action.
- When terminating a patient, it is essential to observe appropriate protocols. This includes sending the patient a clear and respectful termination letter that summarizes treatment needs and describes the urgency of such care, in order to prevent allegations of failing to inform the patient of his or her health status.

### 3. Terminating the Practitioner-Patient Relationship

Prior to terminating a patient, every practitioner should consider seeking legal counsel. The following guidelines can help minimize the risks associated with terminating the practitioner-patient relationship:

- Document the reasons for terminating the relationship as well as efforts made to resolve conflicts or misunderstandings in the patient health record.
- Terminate the relationship by sending a certified letter requesting return receipt. A copy of the letter also should be sent via first-class mail in the event that the patient is not available to accept certified letters.
- Include the following information in the termination letter:
  - o A clear statement that the relationship is being terminated.
  - o The date on which the relationship will end, giving at least 30 days.
  - o An offer to refer the patient to another practitioner.
  - o An assessment of the patient's current health status and description of planned care.
  - o An offer to forward a copy of the patient's health record to the subsequent practitioner.
  - o A form authorizing release of health information to the subsequent practitioner.
- Keep a copy of the letter and return receipt in the patient's health record.

- Document in the record that the letter was sent, noting the date.
- Document any subsequent communication with the patient, whether in writing, by telephone or in person.

### 4. Professional Boundaries

Professional practitioners assume a position of trust and authority with their patients, frequently becoming familiar with the most intimate and sensitive aspects of their lives. Sometimes these relationships become too personal, leading to an erosion of boundaries, confused roles, and/or incidents of abuse or exploitive behavior.

Every jurisdiction has its own policies regarding professional boundaries and sexual misconduct. Practitioners are responsible for being conversant with their jurisdiction's laws and other guidelines governing their practice. To avoid reputational harm and potentially costly, hard to defend claims, practitioners must ensure that proper boundaries are maintained at all times between themselves, their employees, and their patients.

Most healthcare specialties have a code of ethics that clarifies behavioural boundaries. These guidelines embody basic legal and professional standards, serving to ensure that the practitioner-patient exists to serve patients' needs rather than the practitioners'. Examples of potential issues may take many forms, such as:

- Socializing with a patient under treatment.
- Relating to a patient inappropriately, such as in a flirtatious or overly familiar manner.
- Exchange gifts of significant value with a patient.
- Using social media to connect with a patient outside of the parameters of a professional relationship.

While not all boundary issues are equally serious, as a rule they tend to impair the objectivity and judgment of the parties, thereby potentially skewing expectations and/or affecting health outcomes. The worst-case scenario is when boundary violations lead to verbal, emotional, physical, financial or sexual misconduct, requiring direct, swift and proportionate intervention.

A breach of boundaries can have devastating consequences for both patient and practitioner. By implementing and enforcing sound policies, practitioner practices can prevent initial ethical lapses, which ultimately may develop into serious violations and associated liability exposure.

*Adapted from CNA's Risk Management Strategies for the Physician Office, 2017*

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