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Hi, it's Dr. Weitz. Thanks so much for joining me for this episode of The Private Medical Practice Academy. If you practice medicine long enough, sooner or later, you're going to get to the point where you want to fire a patient. It could be as simple as the patient having too many cancellations or no-shows. Look as a pain specialist. I can tell you that I terminated my relationship with numerous patients over the years, due to their non-compliance, whatever the reason that you may have for terminating the physician-patient relationship, there needs to be a clear and consistent policy and procedure for doing so. Otherwise, you're simply exposing yourself to hassles and unnecessary potential liability.

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Once you've made the difficult decision to end that doctor-patient relationship, there are a number of steps that you need to take in order to ensure that you don't accidentally un-fire the problem patient. And, you need to understand that failing to take precautions could potentially reinstate the doctor-patient relationship and result in abandonment charges if you refuse to see the patient again. The first step in terminating the doctor-patient relationship is to understand what can undo the termination of a patient. First and foremost, it's important to understand the legal standards for duty of care and for patient termination, let's start with duty of care.

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This refers to the doctor's responsibility to provide patients with treatment that said it doesn't mean that you're obligated to treat everyone. In order for a physician to be obligated to a patient, you must either have a preexisting relationship with the patient, have a commitment to the patient by proxy or take affirmative action to treat the patient. The first category is fairly simple to determine you can do this with a quick check of your patient records. The second category is unlikely to apply to your practice because it primarily refers to emergency care. So let's focus on the third category, taking affirmative action to treat the patient in this case.

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Affirmative action doesn't mean what you probably think it does in this setting. It means that you, the physician have performed or agreed to perform either an examination or have provided the patient with a diagnosis and or treatment. The key here, however, is that what constitutes affirmative action can vary widely from state to state. It is imperative that you review your state's prior case law in order to understand what is defined as affirmative action. For example, in my practice, you could see a new patient, do the initial evaluation, and then tell them that you don't think that you have anything to offer them if you feel that you do not want to have a doctor-patient relationship with them, and then you wouldn't be bound by affirmative action.

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So you really need to understand your state's rules in terms of what you can and cannot do. Then you are going to need to establish a rigorous set of procedures to follow if, and when you do terminate a patient,

you're going to need to send out a termination letter to the patient. Following that, you'll want to take these steps. First, you want to notify all of your office staff about the termination. You want to keep this memo simple. This is not the place or time to list your grievances. Identify the patient, explain that you've ended the doctor-patient relationship, and give the final date that the patient can be seen.

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Remember that there are rules regarding continuity of care. So that typically is 30 days after the termination letter. Don't include any other data since it can potentially pose problems if your patient sues and the memo is subpoenaed, this comes back to sticking to the facts and keeping that memo simple. Also, and this should be intuitive, under no circumstances should the letter describe any aspects of the patient's medical care as this can get you in trouble with HIPAA, I would strongly recommend that you actually refer to the patient by a unique identifier, such as a patient's file number rather than using their name.

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Now, if you have more than one physician in your practice, you absolutely want to notify all practice physicians about the termination. Yes, of course. I understand the patient terminations are typically between one doctor and one patient. But if this patient is causing one physician in your practice, headaches, chances are they're going to have the same effect on others. I can tell you that in my practice, if one doctor fired you, then you're fired from all of the doctors in our practice. It was a practice-wide decision into the story non-negotiable. The reason to notify the other physicians in your group is that frequently fired patients asked to be seen by another physician in the practice.

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You're definitely going to want to put forward a unified front. Your next step is to remove the patient from your roster of active patients. As an aside in general, your practice should segregate patients as either active or inactive in your EMR and your practice management software. For example, if a patient has elected to seek care elsewhere or has moved out of town, you're still obligated to keep their medical records, but realistically, they're just not currently being seen and they are therefore inactive. The same is true for patients that you have fired. You want to move the records for those patients where you've ended the doctor-patient relationship into an inactive file. This is really important because you don't want a staff member to inadvertently schedule the patient for an appointment after their cutoff date.

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After you've fired the patient, meaning that you've sent the termination letter, it's imperative that you document all post-firing encounters. Okay. Admittedly, this should be incredibly obvious, but in case it isn't during the continuity of care period between the time you fired the patient and the patient's ultimate removal from the practice, you must make certain that your staff members document every encounter with the patient and the results of those encounters. There are certainly going to be times that you or your staff will need to interact with that patient, even though you fired them. So you must be able to establish a pattern of conduct

so that if the patient sues for wrongful termination, you have the documentation.

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One of the things that I want you to be aware of is that you need to use a disclaimer for emergency care. There are always needy patients and as a pain management specialist, I'll be the first one to attest to that. Sometimes these patients attempt to abuse the continuity of care period by seeking emergency treatments for ailments that aren't actually emergencies. In these cases, you're going to want to ask the patient to sign and data documents stating that this appointment was conducted on an emergency basis and does not alter or delay the termination process. Be sure to use a new document for each and every one of these visits and keep them in the patient's file. Let's be honest, setting up office procedures and having your staff follow through on them is probably the easiest part.

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The relationship is really between you and the patient and the real issue here is how you, the doctor, interacts with the soon-to-be ex-patient. So here's a list of dos and don'ts as the treating physician that you're going to want to keep in mind. Never discuss the patient's health or wellbeing. If you encounter them outside of the office, this should be beyond obvious to you. But even the most insignificant discussion can be potentially misconstrued as an affirmative action that restores that severed relationship. In all honesty, you should never discuss a patient's health or wellbeing with them when you encounter them outside of the office.

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Anyway, because this is probably or can be construed as a HIPAA violation. Next, if you participate in health fairs, online medical discussions, or any other situation in which there's any potential for your opinions to be interpreted as medical advice, you need to include a disclaimer. This is always a good idea, but it's especially important if you don't want a fired patient, who's attending, let's say that health fair to misinterpret what you're saying. One of the major issues, when you terminate a relationship with a patient, is that you have to give them reasonable notice. Notice the goal here is that you have to provide your patient with enough time to comfortably find a suitable replacement to take over their medical treatment.

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If the patient feels rushed or like you've turned your back on them, your risk of the patient, perceiving that they've been abandoned and therefore suing you goes up. So there are four common elements that are at the heart of whether a wrongful termination lawsuit can be filed. And reasonable notice is a big one of those four elements. So the four elements are number one. Did you have a physician, patient relationship established as a provider? You must have agreed to treat the patient and the treatment must have been underway. Remember when I was telling you that I was able to see a patient and at that first visit, say, sorry, I'm not going to treat you. Number two is the patient's still in need of medical care.

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If so, you can't just end your relationship. Number three, did you provide the patient with reasonable notice? You are responsible to provide that patient with enough time and, and or resources to find a suitable replacement to take over their treatment. And then fourth, did the patient suffer an injury due to the change? For patient abandonment to be a viable lawsuit, the patient must have suffered an injury as a result of you ending the relationship. Look at the end of the day, terminating a doctor-patient relationship is fraught with emotion. You're basically telling the patient you don't want them anymore. And just in case you need me to spell this out for you.

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Whenever emotions are involved, things go downhill fast. One way to mitigate these hurt feelings is to provide your patients with enough time to find a replacement for your services. But how much time is enough time? The real answer is this is where things get complicated. There is no federal standard that defines reasonable notice and state requirements vary wildly. So, unfortunately, there's no clear-cut answer for me to give you that you're going to be able to hang your hat on. In the end, you want to give your patients enough time to find another healthcare provider to find their treatment needs without feeling rushed. So even if your state only requires 15 days, you may want to consider offering 30.

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For example, if you're a subspecialist and you know that your competition's next new patient appointment is two months away, then 30 days may not be enough unless that care can be assumed let's say by a primary care specialist. If the patient does end up filing an abandonment lawsuit, it's much harder to prove when you've provided more time than is typically recommended. Another place to look for guidance on reasonable notice timelines is in your payer contracts. Although not all payer contracts will spell this out. It's important that you double-check. Failure to comply with payer rules can result in you being in breach of your contract and being dropped from the plan;

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let alone having the patient file a lawsuit against you. And then even though every state does not provide clear reasonable notice rules, you have to know what your state requirements are. Once you know your state's reasonable notice standards, you should implement a process to check on them annually, to identify whether any changes have occurred. The challenge is that while most states do have laws related to reasonable notice, it can be extraordinarily difficult to figure them out. Here are a couple of options for where to find it. Number one, contact your state medical society. They usually have access to this information, and if they don't, they may have an idea of where you can go get it.

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You can also look at your state legislature for state-specific rules on reasonable notice. Some states make it very easy to find: others, not so much. And then if after you tried both of these, you still can't find it, I would

recommend talking to a local healthcare attorney. You may have to pay for the information, but at least you'll be compliant. In the end, there are going to be occasions where you want to and are justified in firing a patient. You just want to make sure that you do it the right way. Thanks for joining me. Please be sure to sign up for my newsletter below. I'll be sending your tips on how to start a practice, grow a practice, and then add multiple services so that you can maximize your revenue.