

MANAGING THE “NON-COMPLIANT” PATIENT

Many physicians agree that among the most challenging of their patients are those who do not comply with their recommendations regarding their care. These patients may not state their unwillingness to comply with the physician's recommendations or instructions, but may simply miss scheduled appointments, be poorly compliant with their medication regimen, etc. Often, due in large part to their behavior, non-compliant patients may have less than desirable outcomes but may discount their own role in these outcomes, seeking to hold their physicians liable.

THE FOLLOWING ARE AREAS OF CONCERN WITH THE NON-COMPLIANT PATIENT AND RECOMMENDATIONS TO HELP OUR INSUREDS MANAGE THESE PATIENTS AND SITUATIONS:

Communication

It is possible that a patient's non-compliance is a result of his/her lack of understanding of the physician's instructions or other information provided to the patient. This is one of the reasons that it is very important for the physician to ensure effective communication with all of his/her patients, including ensuring that patients comprehend the information being imparted to them. A patient who understands the doctor's instructions/advice is more likely to follow them.

Where the doctor finds that despite his/her best efforts to improve communication, the patient continues to be non-compliant, (s)he may want to consider modifying the method of communication with that patient. For example, where a patient claims that (s)he forgot the information, it may be helpful to provide that patient with written instructions, to which (s)he may refer later.

With certain patients it may be important to include a family member in the discussion, if the patient consents. This person may be helpful in gaining the patient's cooperation.

Missed Appointments

Non-compliant patients may also exhibit this behavior by not presenting for scheduled appointments. Some practices find it helpful to call and remind their patients of upcoming appointments. This procedure may be especially helpful in decreasing the number of patients who do not keep their appointments.

Some non-compliant patients may try to obtain repeated renewals of their prescriptions while avoiding office visits. The physician should consider setting appropriate limitations on these prescription renewals.

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Monitoring Systems

PRI continues to recommend that our insureds establish monitoring systems in their practices for pending consultation reports, laboratory reports and for patients who require follow-up (recall systems). These tracking mechanisms take on added importance with non-compliant patients, since their failure to see a consultant, get a test and/or return for a future visit, may not be readily identified in practices without these systems.

Documentation

It is very important that non-compliance is documented *thoroughly and contemporaneously*. The physician should try to ensure that the patient, who exhibits non-compliant behavior repeatedly, understands its potential adverse effect on his/her care. These discussions must also be documented. We see cases where, after an untoward event has occurred, the physician documents information concerning missed appointments, refusal of care, etc.

These entries usually appear to be self-serving and, therefore, are detrimental to the physician's case.

If Your Efforts Are Not Successful

There are situations where despite the physician's best effort, patients continue to be non-compliant with the physician's recommendations and advice. Where the patient's behavior is contrary to what the physician considers prudent and it is clear that the likely outcome will be unfavorable, the physician should consider recommending that the patient finds another physician with whom (s)he may be more cooperative. If the patient is not acutely ill, or in the midst of a work-up or treatment, the physician should consider discharging such a patient from the practice.

(Please refer to the section which follows – "Discontinuing the Physician/Patient Relationship".)

In these cases, the physician should have a discussion with the patient about their non-compliance and why that has led to the decision to terminate the relationship. The patient should be advised to identify another physician who will assume their care.

This discussion must be thoroughly documented in the patient's chart. We also recommend that this discussion is followed with a letter (to the patient) which recaps the discussion, although it does not need to include all of the details of the discussion since the note in the chart should include those details. The letter should also mention that the patient is being given a specific amount of time to transfer his/her care (usually 30 days) and that a copy of the patient's record will be made available to the new physician, with

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the patient's authorization. We recommend that the letter is sent by return receipt requested mail and that a copy is sent by regular mail. A copy of the letter should also be included in the patient's chart.

The procedures outlined above may be helpful in bringing a patient into compliance, but where they are not and such a patient makes a claim against the physician after a poor outcome, his/her case will be bolstered by the kind of documentation we recommend.