

# LEGAL UPDATE 2018

## PATIENT TERMINATION VS. PATIENT ABANDONMENT

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# DISCLOSURE

I HAVE NO RELEVANT FINANCIAL RELATIONSHIPS OR AFFILIATIONS WITH  
COMMERCIAL INTERESTS TO DISCLOSE

# PATIENT SATISFACTION?



WHAT ABOUT PROVIDER SATISFACTION?

# PATIENT TERMINATION VS. PATIENT ABANDONMENT

- AMA CODE OF ETHICS 1.1.5 TERMINATING A PATIENT-PHYSICIAN RELATIONSHIP:
- FIDUCIARY RESPONSIBILITY ENTAILS AN OBLIGATION TO SUPPORT CONTINUITY OF CARE.
- WHEN CONSIDERING WITHDRAWING FROM A CASE, PHYSICIANS MUST:
  - 1. NOTIFY THE PATIENT (AUTHORIZED DECISION MAKER) LONG ENOUGH IN ADVANCE TO PERMIT THE PATIENT TO SECURE ANOTHER PHYSICIAN.
  - 2. FACILITATE TRANSFER OF CARE WHEN APPROPRIATE.

# DOES A "RELATIONSHIP" EXIST?

- LIMITED EXAMS:
  - INSURANCE PHYSICALS
  - SCHOOL SCREENINGS
  - HEALTH FAIR VOLUNTEER
- PARTICIPATION IN WEB SITE DISCUSSIONS
  
- ALWAYS USE A DISCLAIMER!

## TOP 10 REASONS FOR TERMINATION:



- PHYSICIAN MOVES
- PHYSICIAN LEAVES INSURANCE NETWORK
- NUMEROUS MISSED OR CANCELLED APPOINTMENTS BY PATIENT

## TOP 10 REASONS FOR TERMINATION:



- UNETHICAL BEHAVIOR
- DISRUPTION TO TRUST RELATIONSHIP – THREAT TO SUE
- SEXUAL ADVANCES



## TOP 10 REASONS FOR TERMINATION:



- RUDE, ANTAGONISTIC OR DISRUPTIVE BEHAVIOR
- VIOLENCE OR THREATS OF VIOLENCE
- BILLING DISPUTES

AND REASON #1 . . .  
NON-COMPLIANCE



## IT IS ILLEGAL TO TERMINATE BASED ON:

- RACE
- COLOR
- CREED
- ETHNICITY
- GENDER
- AGE
- DISABILITY – *UNLESS* THE PATIENT REQUIRES CARE FOR THAT DISABILITY THAT'S OUTSIDE YOUR EXPERTISE

# OKLAHOMA LAW ON ABANDONMENT

- “UNLESS THERE IS AN EMERGENCY OR THERE ARE OTHER SPECIAL CIRCUMSTANCES, A PHYSICIAN HAS A DUTY NOT TO LEAVE A PATIENT AT A CRITICAL STAGE WHEN THE PATIENT NEEDS FURTHER MEDICAL TREATMENT WITHOUT GIVING THE PATIENT REASONABLE NOTICE SO THAT THE PATIENT HAS A REASONABLE OPPORTUNITY TO OBTAIN THE NECESSARY MEDICAL TREATMENT FROM ANOTHER PHYSICIAN.”
- OKLAHOMA UNIFORM JURY INSTRUCTION 14.5

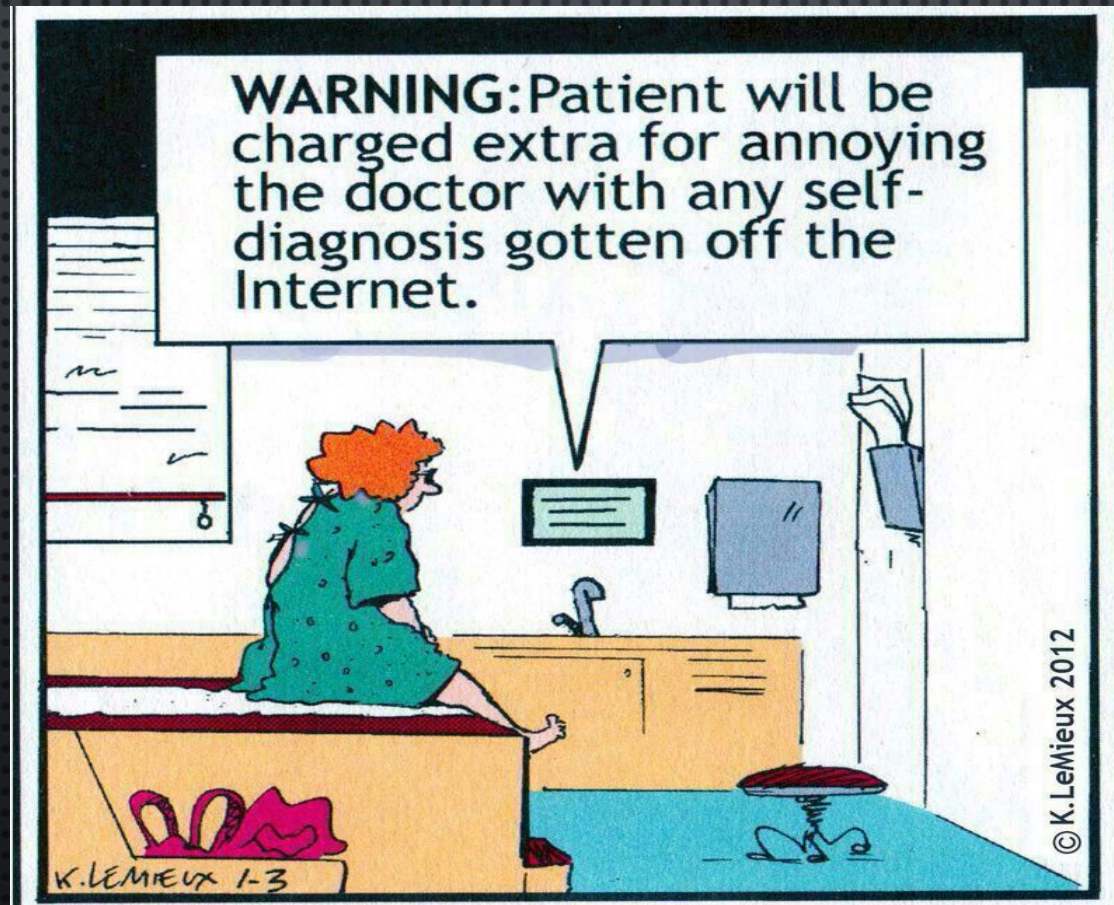
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## BUT FIRST . . .

- REVIEW YOUR CHART
  - IS THERE WRITTEN SUPPORT FOR TERMINATION?
- GIVE A WARNING
  - ALWAYS DOCUMENT THE WARNING!
  - TRY TO HAVE A WITNESS PRESENT FOR THE WARNING.
  - IF TERMINATING FOR NON-PAYMENT, SEND A LETTER FIRST REQUIRING A PAYMENT PLAN.
  - IF TERMINATING FOR BAD BEHAVIOR, CONSIDER A BEHAVIOR CONTRACT.

MAYBE NOT THIS WARNING,  
BUT IT'S ENTERTAINING NONETHELESS



## DETAILS TO WORK OUT PRE-TERMINATION:

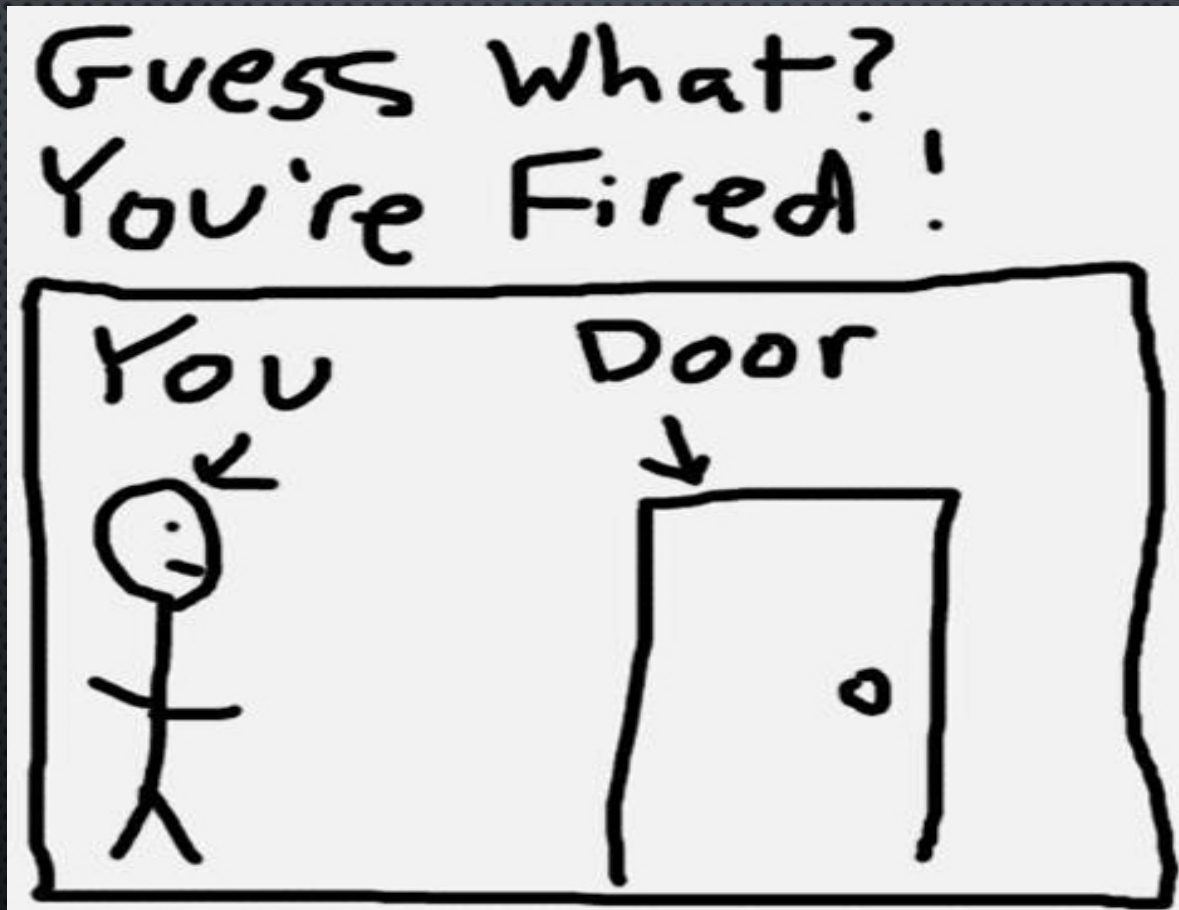
- SCOPE OF TERMINATION?
  - WHAT ABOUT YOUR PARTNERS?
- BE SURE TO NOTIFY OFFICE ADMINISTRATOR AND SCHEDULING
  - "NO SCHEDULE" LIST
  - EMR RED FLAG
- CHECK MCO, HMO, PPO CONTRACT REQUIREMENTS



# TRICKY TERMINATIONS . . .



THE LETTER YOU WANT TO SEND:



# THE LETTER YOU ACTUALLY SEND:

- PROFESSIONAL, NON-CONFRONTATIONAL
- DO NOT HAVE TO STATE THE REASON
  - HOWEVER, IF YOU DO, BE BRIEF AND OBJECTIVE
- CLEARLY STATE THE DATE TERMINATION IS EFFECTIVE
  - NOT THE SAME DATE AS THE LETTER
- CLEARLY STATE THE TIME TO PROVIDE EMERGENCY CARE ONLY (USUALLY 30 DAYS)
  - RURAL AREA?
  - ONLY SPECIALIST IN THE AREA?
  - TIME CAN BE LESS IF MADE THREATS OR WAS VIOLENT
- IDENTIFY SOURCE FOR REFERRAL – INSURANCE NETWORK, MEDICAL SOCIETY, ETC.
- EXPLAIN THE PROCESS TO FORWARD MEDICAL RECORDS
  - ENCLOSE A HIPAA-COMPLIANT MEDICAL AUTHORIZATION

# LETTER TRANSMITTAL

- VIA CERTIFIED MAIL, RETURN RECEIPT
- REGULAR U.S. MAIL
  
- COPY LETTER AND RETURN RECEIPT FOR CHART

# AND IF THERE IS AN EMERGENCY?

- ER CALL
  - YOU MUST SEE THEM!
- PATIENT DECLARED EMERGENCY
  - YOU MUST SEE THEM!
  - IF YOU DISAGREE THAT THEIR STATED REASON WAS NOT REALLY AN EMERGENCY, ONLY DOCUMENT THAT YOU SAW THEM FOR A CLAIMED EMERGENCY.
    - DO NOT NOTE THAT YOU DISAGREE; THAT CAN BE A POSSIBLE WAIVER OF THE TERMINATION.
  - REITERATE THAT THE TERMINATION PROCESS WILL PROCEED FOLLOWING THE EMERGENCY AND CHART IT.
- SEND A FOLLOW UP LETTER

# QUESTIONS?

FOR ANY QUESTIONS FOLLOWING THIS PRESENTATION:

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