

Handling the Non-Compliant Patient: Timely Documentation Can Reduce Your Risk

Patient non-compliance can manifest itself in many ways. Most often, it presents as an unwillingness to conform to medical therapy. At other times, it stems from complaints about coverage and frustration with the managed care referral process. Patient non-compliance can, however, pose a serious risk exposure to your office practice if allowed to continue without resolution. Timely intervention and documentation are critical to limiting such exposure.

This article aims to provide podiatrists with helpful risk management tips on handling the non-compliant patient. Sample documentation formats are provided for your consideration as you develop a policy on communicating with non-compliant patients. A well-documented record may prove invaluable should a non-compliant patient sue over a poor outcome, or allege abandonment when non-compliance results in a decision to terminate the patient-podiatrist relationship. In either instance, quality documentation will enhance your defense.

Failed Appointments: an Early Indicator

One of the more prevalent indicators of non-compliance is the failed or missed appointment in the office practice setting. Often, failed appointments are allowed to continue before the podiatrist will consider documenting the occurrence on record. Documenting the failed appointment is the first critical step in addressing the issue of non-compliance.

Consider developing a protocol for management of failed appointments if you do not currently have a written policy statement. The process can be distilled to a few simple steps and may be largely delegated to your office personnel.

Include the following measures in your protocol:

1. Prepare a daily list of missed or failed appointments by patient name and medical identification number.
2. Pull the respective medical record(s) and document the occurrence of the failed appointment in the progress note section. Utilize a rubber stamp or a pre-printed sticker to affix to the progress note (see Attachment A, *Sample Failed Appointment Stamp*, on page 3). Such a ready-

made stamp can facilitate an ease in documentation and provide a variety of follow-up orders for the clinical staff to conveniently check, such as:

- Call patient today to reschedule
- Send reminder card to reschedule
- Send certified/return receipt letter
- No action needed

3. Require that the podiatrist review and sign the progress notation and order any recommended follow-up.
4. Note where indicated the date that clinic personnel carried out the order and place a copy of any written correspondence to the patient in the medical record.

Formal Communication with Patient

In many instances, a patient's non-compliance stems from a desire to have someone else assume responsibility for their health care. Such patients lack accountability and often demonstrate manipulative behaviors. The key to building good patient relations is to foster responsibility on the part of the patient. Encourage staff and providers to verbalize expectations at the outset of care and incorporate standardized education materials, appointment reminders, and other teaching aids to foster compliance.

Notwithstanding such intervention, when efforts fail to improve a patient's compliance, communicate feelings of frustration and/or disappointment in a face-to-face discussion with the patient. Follow-up that discussion with a written letter (see Attachment B, *Sample Non-Compliant Letter Format*, on page 3).

A letter of this nature should advise the patient that your organization's primary concern is to accommodate his or her medical needs and deliver quality health care services. Using assertive but non-threatening language places the patient on notice that non-compliance with recommended treatment impairs the ability to assess health care needs in a comprehensive and professional manner.

When sending a letter to notify the patient of chronic non-compliance, remember the following risk management recommendations:

- A face-to-face discussion with the patient should precede the mailing of any notice of non-compliance to mitigate a negative response by the patient. Document that encounter in the medical record.

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- Send the letter of non-compliance by certified mail and place a copy of the letter in the medical record.
- If applicable, notify the patient's managed care plan by copying the member/beneficiary service department on the correspondence. A health plan must be advised that you are struggling with a non-compliant patient and that the patient may require referral to another panel podiatrist if the behavior fails to improve.
- Inform the patient of the preferred process to address his or her concerns regarding receipt of the letter. Be accessible to the patient.

Informed Refusal: An Extra Measure of Protection

Persistent refusal to consent to recommended therapy is yet another form of non-compliance. Such failure to heed medical advice can pose a serious health threat to the patient and may contribute, in whole or in part, to a less than desirable outcome for the patient. The adoption of a standardized refusal to consent form can facilitate ease in documenting the exchange with a patient on this subject (see Attachment C, *Sample Refusal to Consent Form*, on page 4).

A form of this nature is designed to document the discussion between the patient and providers of care regarding a proposed treatment, procedure or operation, in addition to a full disclosure of risks associated with refusal to consent. The form reflects the patient's acknowledgment that failure to follow the medical recommendations may endanger one's health or life.

The completed refusal to consent form is placed in the medical record. In the event a patient subsequently complains about a less than desirable outcome, the documentation may provide your practice with an extra measure of protection. Such additional documentation may serve to portray the patient's own behavior as a contributing factor to the poor outcome.

Termination of the Patient-Podiatrist Relationship

Whether it is failure to comply with recommended therapy, disruptive behavior, or other signs of non-compliance, a podiatrist may be left with no other recourse but to terminate the patient relationship based on those repeated occurrences. This is rarely an easy decision for a podiatrist to reach, and it requires careful thought and preparation to avoid legal repercussions. A medical record that demonstrates early and timely use of the above documentation formats can certainly lessen the angst associated with a decision to terminate.

It is important to ensure that the patient's health status is never compromised. Treatment should be terminated when the patient is medically stable and any medical procedures initiated by the terminating podiatrist are completed. If a podiatrist withdraws services without providing reasonable notice to the patient, the patient may sue on grounds of abandonment. In addition, if the patient belongs to a managed care plan, the podiatrist should be acquainted with the plan's policies on patient termination prior to initiating such an action.

Consider the following interventions to ensure that the patient receives proper notice:

- Send a termination letter by certified mail (see Attachment D, *Sample Termination Letter Format*, on page 4). It is optional whether to include the reasons for withdrawing medical services. The preferred method of communicating specific reasons is through a face-to-face discussion prior to mailing such a letter.
- Indicate the current status of the patient's health and include any recommendations for immediate medical care.
- Provide the date the relationship will end (30 days from receipt of the letter is customary).
- Agree to provide emergency care until the stated date of termination.
- Suggest the patient locate another podiatrist by contacting the managed care plan member service department or the local podiatric society.
- Offer to provide a copy of the medical record to a subsequent treating podiatrist, but first require the patient to execute a release of information form. Enclose such a form with the notice of termination letter.
- Retain a copy of the termination letter in the medical record. Carefully document any subsequent correspondence with the patient.

Conclusion

Effective communication and timely disclosure of the problems associated with non-compliance are the best methods for handling a difficult patient. Strategies include listening, reinforcement of positive behavior, use of compliance aides, and educating the patient on the harmful effects of non-compliance.

Ignoring a non-compliant patient does not represent a viable solution to the problem. Such action may precipitate verbal threats and, in the most extreme scenario, physical abuse of clinical staff. Effective use of the documentation formats provided above can serve to lessen exposure to the risks associated with managing non-compliant patients.

Attachment A: SAMPLE MISSED APPOINTMENT STAMP

Date of Missed Appointment _____

Follow-up: _____

Call patient today to reschedule _____

Send reminder card to reschedule _____

Send certified/return receipt letter _____

No action needed _____

Podiatrist's Signature _____

Date of Follow-up _____

Attachment B: SAMPLE NON-COMPLIANT LETTER

Date
 Patient Name
 Address
 City, State, Zipcode

Dear [PATIENT'S NAME]:

The purpose of this correspondence is to advise you that a recent review of our office records has determined that you are out of compliance with your recommended treatment plan.

As you are aware, your primary care physician, Dr. _____ referred you to _____ for _____. Dr. _____ has recommended that you undergo _____. It is our understanding that, at the present time, you are opposed to the procedure or treatment recommended.

[INSERT PRACTICE NAME]'s primary concern is to accommodate your podiatric needs and deliver quality health care services. Due to your non-compliance with the recommended treatment plan, our ability to assess your health care needs in a complete and professional manner is affected significantly.

The _____ Health Plan has been notified of our concern as this may affect your health, as well as your health care coverage.

Should you dispute the content of this letter, you have the right to initiate a grievance. Please address in writing any contrary information you may have to:

Insert contact name and address

[INSERT PRACTICE NAME] looks forward to your cooperation in this matter.

Sincerely,

[PODIATRIST'S NAME]

cc: Health Plan
 Medical Record

Attachment C: SAMPLE REFUSAL TO CONSENT FORM

1. I have been advised by my podiatrist, Dr. _____ that the following operation or treatment should be performed upon me: (Describe operation or treatment) _____
2. My podiatrist has explained to me, and I understand the following:
 - A. The nature of the recommended treatment.
 - B. The purpose and need for the recommended treatment.
 - C. The possible alternatives to the recommended treatment for which I similarly refuse consent.
 - D. The probable consequences of not proceeding with the recommended treatment and/or alternatives.
3. I know that my failure to follow the aforesaid recommendations may endanger my health or life. I nonetheless refuse to consent to the proposed treatment.
4. My reason for refusal is: _____
5. [The following release is optional.] I personally assume the risks and consequences of my refusal, and release for myself, my heirs, executors, administrators, or personal representatives those podiatrists who have been consulted in my case from any and all liability for ill effects which may result from my refusal to consent to the performance of the proposed treatment.
6. I acknowledge that I have read this document in its entirety, that I fully understand it and that all blank spaces have been either completed or crossed off prior to my signing.

CAUTION: READ BEFORE SIGNING

Date:	Time	A.M. P.M.	Signature of Refusing Patient
Witnesses:		If refusing party is other than patient:	
Signature of Witness		Signature of Refusing Party	
Signature of Witness		Relationship	

Attachment D: SAMPLE TERMINATION LETTER

Date
 Patient Name
 Address
 City, State, Zipcode

Dear [PATIENT'S NAME]:

I am writing to inform you that I will no longer be available to provide you with podiatric care for the following reasons.
 [OPTIONAL: INSERT REASONS FOR WITHDRAWING MEDICAL SERVICES.]

[INDICATE THE PATIENT'S CURRENT HEALTH STATUS AND INCLUDE ANY RECOMMENDATIONS FOR MEDICAL CARE.]

This notice will become effective on [SPECIFIC DATE] or [30 DAYS AFTER YOUR RECEIPT OF THIS LETTER.]

I advise you to seek medical care from another podiatrist. You may wish to contact the Member Relations Department of your Health Plan or Physician Referral Network [PROVIDE TELEPHONE NUMBERS IF AVAILABLE] for your referral. Our office will promptly forward a copy of your medical records to your new podiatrist after we have received your written authorization on the enclosed release of information form.

If, during this 30-day period, you should require urgent care, please do not hesitate to contact my office or proceed to your nearest emergency department for care.

Please feel free to contact the clinic if you have any questions regarding this notice.

Sincerely,

[PODIATRIST'S NAME]

Enclosure: Release of Information Form

cc: Health Plan
 Medical Record