

New Jersey Pediatrics

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Legal Update: *Terminating the Physician-Patient Relationship Due To a Parent's Choice Not to Vaccinate: Key Considerations*

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The American Academy of Pediatrics (AAP) recently published new policies aimed to boost child immunization rates. The AAP urges pediatricians to speak with parents to address any concerns they may have about vaccines and offers a free online training course for pediatricians counseling vaccine hesitant parents. However, if counseling and education efforts fall on deaf ears and parents continue to decline immunizations, the AAP has suggested that pediatricians go as far as requesting that the parents seek care from a different health care provider.

Before a pediatrician can terminate the physician-patient relationship, though, certain safeguards must be in place to prevent accusations of patient abandonment or discrimination based on religious beliefs.

If the parent declines immunizations, it must be clearly communicated to the parent in no uncertain terms that the patient's discharge from the practice is based solely on health policy reasons. The physician should explain the AAP's position that unimmunized children are at risk of contracting vaccine preventable diseases and create risk of disease outbreaks in young infants and those children who medically cannot be immunized.

Once the decision to terminate the physician-patient relationship has been made, but before discharging a patient, the physician must first review the New Jersey State Board of Medical Examiners ("Board") Regulations and New Jersey Statutes to ensure full compliance with same.

Pursuant to *N.J.A.C. 13:35-6.22(c)*, in order to terminate a physician-patient relationship, the physician must:

1. Notify the patient, in writing, that the licensee shall no longer provide care to the patient as of a date certain. The notification required by this paragraph shall be made **no less than 30 days** prior to the date on which care is to be terminated, and shall be made by **certified mail, return receipt requested**, or other proof of delivery, sent to the patient's last known address; ("emphasis added")

2. **Provide all necessary emergency care** or services, **including** the provision of necessary **prescriptions**, until the date on which services are terminated. The provision of any such emergency care or services shall not be deemed to manifest any intention to reestablish a licensee-patient relationship; and ("emphasis added")
3. Comply with all requirements set forth in *N.J.A.C. 13:35-6.5* for access to and transfer of patient records.

As per *N.J.A.C. 13:35-6.22(d)*, a physician is prevented from terminating the physician-patient relationship in instances:

1. Where doing so would be for any discriminatory purpose and/or would violate any laws or rules prohibiting discrimination; or
2. Where the licensee knows, or reasonably should know, that no other licensee is currently able to provide the type of care or services that the licensee is providing to the patient.

It should also be noted that the Board regulations further require physicians "[w]hen requested by the patient ... [to] make reasonable efforts to assist the patient in obtaining medical services from another licensee qualified to meet the patient's medical needs. These efforts may include, but are not limited to, providing referrals to the patient." *N.J.A.C. 13:35-6.22(f)*

Therefore, in order to ensure compliance with New Jersey laws and regulations, a letter should be sent to the patient's parents to satisfy the notice requirements of *N.J.A.C. 13:35-6.22(c)* and offer assistance in finding a new physician as per *13:35-6.22(f)*. Note that the reason for the discharge need not be detailed in the discharge letter.

The debate over immunizations is controversial, emotional and unlikely to go away any time soon and pediatricians have been thrust into the front lines of this national issue. As states pass non-medical exemption laws and parents claim religious exemptions, pediatricians are left with difficult decisions, including when and how to terminate the physician-patient relationship. If a pediatrician decides to terminate the relationship though, all laws and regulations must be strictly adhered to in order to avoid potential civil litigation and Board discipline.

SAMPLE LETTER TO TERMINATE PHYSICIAN-PATIENT RELATIONSHIP

INSERT LETTERHEAD OF PRACTICE

Via Certified Mail, Return Receipt Requested

Patient's name

Patient's last known address

Dear _____:

It is with much regret that I must inform you that I will no longer be able to serve as your physician. If you desire, I will continue to provide care to you for a period of thirty (30) days following the date of this letter, but as of _____ I will no longer be available to provide you care. However, there are many excellent {insert specialty} in the area and I suggest that you contact the {insert name of County} County Medical Society or one of the following physicians for any future care you may require:

{insert names of other physicians}

Of course, in the event of an emergency, please seek treatment at the nearest hospital. Please beware that if you suffer from a condition for which you have been under my care, it may be detrimental to your health if you do not seek further continued treatment.

Please rest assured that your medical records remain confidential, and that a copy can be transferred to another physician or, released to you (or another person you designate) only with your written permission. If you need to obtain a copy of your medical records, please contact _____ at _____. Until then, your records will remain on file at my office.

While we regret that we are no longer able to treat you, I wish you good health and the very best of luck in all of your endeavors.

Very truly yours,

{insert name of physician}