



State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934

med.ohio.gov

FAQs: Terminating the Physician-Patient Relationship and Notifying Patients when a Physician leaves a practice

Approved – December 12, 2013

1. Q: Does the Medical Board have rules regarding terminating the physician-patient relationship or notifying patients when a physician leaves a practice?

A: Yes. The Medical Board adopted the following rules, effective December 31, 2013: Rule 4731-27-01 (Definitions), 4731-27-02 (Dismissing a patient from the medical practice), and 4731-27-03 (Notice of termination of physician employment or physician leaving a practice, selling a practice, or retiring from the practice of medicine.). The rules are located in the Ohio Administrative Code [OAC].

2. Q: Have the Rules changed? Why?

A: Previously, Rule 4731-27-01 required a physician to take specific steps to notify the patient when dismissing the patient from the medical practice and also set actions all physicians must take to notify patients when the physician was leaving a practice for any reason. However, the Ohio General Assembly enacted Section 4731.228 of the Ohio Revised Code, effective March 22, 2013, which requires the employer of a physician to notify patients when an employed physician's employment ends for any reason. That legislation also required the Medical Board to amend Rule 4731-27-01 to specify the means by which the patient notification must be given by the employer.

Upon review, it was determined that requirements would likely be clearer if the requirements for terminating a single patient from the medical practice were in a separate rule from the requirements for notifying a group of patients that the physician will no longer be practicing at the same medical practice. The Medical Board, with input from medical associations, medical societies, individual physicians, and the Ohio Hospital Association, then adopted new Rules 4731-27-01, 4731-27-02 and 4731-27-03.

3. Q: What is Rule 4731-27-01 all about?

A: New Rule 4731-27-01 gives definitions for various words and phrases found in Rules 4731-27-02 and 4731-27-03.

4. Q: What is Rule 4731-27-02 generally about?

A: Rule 4731-27-02 spells out the requirements for a physician terminating a patient from the medical practice.

5. Q: What are the requirements for dismissing a patient from the medical practice?

A: Generally, the physician must send the patient notice that the patient is terminated from the practice. The notice of termination must also include certain information.

6. Q: What are the methods for sending the notice of termination?

A: The options for sending the notice are the following:

1. Sending a letter sent to the patient's last known address by certified mail, return receipt requested. A copy of the letter, the certified mail receipt, and the mail delivery receipt must be maintained in the patient's record.
2. Sending an electronic message sent via a HIPAA compliant electronic health record system or HIPAA compliant electronic medical record system.
3. If the notice sent via the HIPAA compliant electronic health record system or medical record system is not viewed by the patient within ten days, the physician must send a letter to the patient's last known address by certified mail, return receipt requested.

7. Q: What information is required in the notice of patient termination?

A: The notice must include the following three statements:

1. The physician-patient relationship has been terminated.
2. The physician will provide emergency treatment and access to services for up to 30 days.
3. The physician will transfer the patient's records after receiving an appropriately signed consent.

The rule does not obligate the physician to find another physician for the patient.

8. Q: What does "emergency treatment and access to services for up to thirty days" mean?

A: First, "*emergency treatment and access to services*" does not mean that the physician has to see the patient for routine medical services.

- ✓ "*Emergency treatment*" does, however, require the physician to provide care for an emergency situation that comes up prior to a patient getting a new physician, or up to 30 days, whichever comes first.

- ✓ The phrase “*access to services*” generally contemplates that the physician will provide the patient a short-term prescription for maintenance medication.
- ✓ The phrase “*for up to thirty days*” anticipates that there may be situations where a patient’s action or threats may compromise the safety of the physician and/or office staff. Under these circumstances, the physician can terminate the physician-patient relationship immediately and has no obligation to provide further emergency treatment and access to services.

9. Q: Are there situations in which a formal termination of the physician-patient relationship is not required?

A: Yes. Formal termination is **NOT** necessary if the physician gave medical services to the patient on an episodic basis or in an emergency setting where the patient should not expect that related medical services will be provided in the future. In addition, no formal termination is required if the patient’s care has been transferred to another health care provider in another group. No formal termination is required when the patient terminated the physician-patient relationship.

10. Q: What is Rule 4731-27-03 generally about?

A: Rule 4731-27-03 spells out the legal requirements for providing notice to patients when a physician leaves a practice, sells a practice, or retires from practice.

11. Q: What does Rule 4731-27-03 require when an employed physician leaves employment for any reason?

A: Section 4731.228, Ohio Revised Code, requires the employing health care entity to send the notice to patients, and sets out the information required in the notice and the timeframe for sending the notice. Paragraph (A) of Rule 4731-27-03 establishes the methods by which the notice is to be sent to patients. In addition, the employer may meet the requirement of Section 4731.228, Ohio Revised Code, by providing patient contact information to the departing physician and requiring the physician to send the notice to patients.

12. Q: What if the employer DOES NOT provide patient contact information to the departing physician?

A: If the employer does not provide patient contact information to the departing physician, the physician has no responsibility to notify patients that he/she is leaving the health care entity.

13. Q: What if the employer DOES provide a list of patients and patient contact information to the departing physician? What are the departing physician's responsibilities?

A: This situation is covered by Rule 4731-27-03(B). The departing physician must send a notice that contains all of the following:

1. A statement that says the departing physician will no longer be practicing medicine as an employee of the health care entity;
2. Information the patient may use to contact the physician after leaving employment with the health care entity;
3. The date when the departing physician has stopped or will stop practice as an employee;
4. Contact information for alternative physician(s) employed by the employer or a group practice that can provide the care to the patient;
5. Contact information so that patients can obtain information on their medical records.

The notice may be given by a letter sent regular mail to the last known address of the patient with the date of mailing documented in the patient file, **OR** by electronic message sent via a HIPAA compliant electronic medical record system or a HIPAA compliant electronic health record system meeting specified requirements.

14. Q: What about a situation where an independent contractor physician or a physician who has an ownership interest in the practice leaves, sells off his/her interest or retires from a practice?

A: Rule 4731-27-03(C) covers this situation.

15. Q: What is required by Rule 4731-27-13(C)?

A: The physician must send a notice to all patients seen by the physician within two years of the last date on which the physician will see patients.

16. Q: When must the notification be sent to patients by a physician who is an independent contractor or who has an ownership interest in the practice?

A: The notice must be sent no later than 30 days before the last date the physician will see patients or upon actual knowledge that the physician will be leaving, selling the interest in the practice or retiring, **whichever comes first**.

17. Q: What if the physician suffers from an acute illness or if there is an unforeseen emergency that prevents the physician from timely sending the notice?

A: The notice must be sent no later than 30 days after it is determined that the physician will not return to the practice.

18. Q: How does the notification get sent to patients?

A: The options for sending the notice are:

1. By a letter sent regular mail to the last known address of the patient, with the date of mailing documented in the patient file;
2. By electronic message sent via a HIPAA compliant electronic medical record system or by a HIPAA compliant electronic health record system.

19. Q: What must be included in the notice?

A: The notice must include all of the following:

1. A statement that says the departing physician will no longer be practicing medicine at the practice.
2. The date when the departing physician has stopped or will stop practice at the practice.
3. Contact information for the departing physician if that physician will practice medicine at a different location.
4. Contact information for alternative physician(s) employed by the practice or a group practice that can provide the care.
5. Contact information so that patients can obtain information on their patient records.

20. Q: Are there any exceptions to the notification requirement about a departing physician, regardless of the reason for the departure?

A: Yes. The notification requirements for a departing physician do not apply in any of the following five circumstances:

1. The physician gave medical services to the patient on an episodic basis or in an emergency setting where the patient should not expect that related medical services will be provided in the future.
2. The physician is a medical director or other physician who provides services similar to those found through a hospice care program.
3. The physician is a medical resident, intern, or fellow who is working in the capacity of a medical resident, intern or fellow.
4. The physician provides services to patients through a community mental health agency certified under section 5119.611, Ohio Revised Code or through

an alcohol and drug addiction program certified by section 3793.06, Ohio Revised Code.

5. The physician provides services through a federally qualified health center or federally qualified health center look-alike.

21. Q: What if a physician does not follow these notification requirements? What can happen?

A: The Medical Board could potentially discipline your license for not following minimal standards of care under section 4731.22(B)(6), Ohio Revised Code.