

# Are You at Risk for an Allegation of Patient Abandonment?

## Avoiding Liability Bulletin - October 1, 2013

Many nurses are concerned about patient care situations that may result in an allegation of patient abandonment. It might be helpful to explore the definition of patient abandonment, how it applies to nursing practice, and considerations to avoid such an allegation.

Patient abandonment was a legal liability term applied only to physicians in the early days of health care delivery because physicians were the primary patient care providers before other health care providers came on the scene, such as advanced practice nurses (APNs).<sup>1</sup> In addition, staff nurses were not usually seen as separate, responsible health care providers when providing patient care, so their legal liabilities in earlier times were minimal.

As you know, all that has changed. In terms of patient abandonment, it has been expanded to apply to many, if not all, health care providers. The American Nurse's Association's definition of patient abandonment is "a unilateral severance of the *established* nurse-patient relationship without giving reasonable notice to the appropriate person so that arrangements can be made for continuation of nursing care by others.....".<sup>2</sup>

Perhaps this definition is most clearly applied to an APN. As an example, if an APN refuses to continue treatment for a particular patient and expresses this at the patient's appointment, telling the client that from that point on, no more services will be provided by the APN, and the patient sustains an injury as a result of this unilateral termination of services, or is in need of immediate continued care, the patient could have a cause of action against the APN for abandonment.

Another example of patient abandonment is when a home health care nurse does not adhere to the contractual relationship between the patient and the nurse/home health agency for daily nursing care or other home health services. The RN does not allow for adequate notice to the patient and his/her family that home health care services will no longer be provided and an injury occurs or immediate continued care is needed.<sup>3</sup>

Nurses working in a health care delivery system are not immune from patient abandonment allegations. When a nurse accepts a patient assignment and then leaves the facility without handing over the patient's care to another qualified nurse or individual, patient abandonment can be alleged.<sup>4</sup>

Not only does a nurse in the above situation possibly face an allegation of patient abandonment, the nurse may also face employer sanctions, including termination, and potential action by a state board of nursing.<sup>5</sup>

So, how can you avoid allegations of patient abandonment? Some considerations include:

- Recognize that once a nurse-patient relationship is established, the potential for patient abandonment allegations are present if your absence results in an injury or a clear risk to the patient and you have not provided for the safety and care of the patient;
- If an APN or an RN in a more “independent” practice setting, never terminate care without giving adequate notice to the patient so that he or she can obtain continuing care from another APN or RN;
- Allow at least 30 days before care is actually terminated and inform the patient (and the family) that if there is an emergency, care will be provided to the patient during that 30 day time period;
- Document the termination of care in the patient record and in a letter sent to the patient and/or the family, certified mail, return receipt requested;
- Never leave your place of work for whatever reason without reporting off to your supervisor or other designated superior;
- When leaving a unit or assignment at work, never leave the unit or patient without “handing off” the patient to a competent nurse colleague; and
- If you are concerned about an unsafe assignment given you in your workplace, utilize whatever procedures or forms are available to you to document your concerns and, at the same time, protect yourself and your patient from any adverse outcome.

## FOOTNOTES

1. "Abandoning Patients" (1993). The Law, Science & Public Health Law Site. Available at <http://biotech.law.lsu.edu/books/lbb/x226.htm>. (Accessed October 1, 2013).
2. American Nurses Association (2009). *Position Statement: Rights of Registered*
3. *Nurses When Considering A Patient Assignment*. Silver Spring, MD: author. *New York State Nursing Practice Information: RN & LPN Practice Issues: FAQ (on Patient Abandonment)* (2002), 1. Available at <http://www.op.nysed.gov/prof/nurse/nurseabandon-qa.htm> . (Accessed October 1, 2013).
4. Id.
5. ANA, supra note 2, at 8.

## GENERAL REFERENCE

1. American Nurses Association (2001). *Code For Nurses With Interpretive Statements*. Silver Spring, MD: Author.

**THIS BULLETIN IS FOR EDUCATIONAL PURPOSES ONLY AND IS NOT TO BE TAKEN AS SPECIFIC LEGAL OR OTHER ADVICE BY THE READER. IF LEGAL OR OTHER ADVICE IS NEEDED, THE READER IS ENCOURAGED TO SEEK ADVICE FROM A COMPETENT PROFESSIONAL.**

### **Author:**

Nancy Brent