

# Risk Management Hotline

## Cooperation Essential as Physicians Leave a Practice

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Physicians leave practices for many reasons, including illness, retirement, changes in employment status, and personal or family needs. Both the individual ophthalmologist and the practice need to take steps to promote continuity of care, prevent allegations of abandonment, and ensure that all involved physicians have access to the medical records in the event the care is ever called into question. A successful transition, therefore, requires the cooperation of all involved parties. Strained relationships put everyone at risk and must be carefully managed to avoid patient harm, business disputes, and malpractice lawsuits. This article will address difficulties with patient notification and record sharing; for a discussion of other related issues, see "When Physicians Leave a Practice" in the **Risk Management Recommendations** section of the OMIC web site ([www.omic.com](http://www.omic.com)).

**Q** I am leaving my current practice arrangement, and the medical director won't allow me to notify my patients. Am I at risk for an allegation of abandonment?

**A** Yes, both you and the other physicians in the practice are at risk. Patient abandonment occurs when a physician fails to provide for necessary medical care to a current patient without adequate justification. In general, once a physician-patient relationship is established, a physician has an ongoing responsibility to the patient until the relationship is terminated. In order to terminate the relationship, the physician must notify the patient

sufficiently in advance for the patient to secure the services of another physician. Physicians are generally aware of the need to notify patients when they will no longer provide care for them (e.g., when discharging patients from the practice or retiring). Questions arise when a physician leaves to practice elsewhere. Whose patient is it? What if the patient wants to follow the doctor? Or stay with the practice? While some of these issues may be spelled out by the employment agreement, it is nonetheless prudent to notify patients that the ophthalmologist is leaving and give them the choice to continue seeing the physician if he or she plans to remain in the area.

**Q** Which patients should I notify?

**A** There is no need to notify every patient in the practice or those patients whom you saw only occasionally while covering for another physician. Rather, inform those for whom you had primary responsibility. Send a letter **by certified mail, return receipt requested**, to all of your "high-risk" patients, and one **by regular post** to "active" patients who are not considered "high-risk" (see web document for examples). To notify patients who will *not* be receiving a letter – or for general notification purposes if you did not have primary responsibility for any patients – place a notice in the local newspaper with the largest circulation, put a sign up in the lobby, or prepare a patient handout. Also remember to provide a script for receptionists of what they should say to your patients who call after your departure and how they can contact you.

**Q** What should the notice say if I am staying in the area?

**A** Notify patients that you are leaving the practice but are still available to care for them. Explain that they have the choice of staying with the practice or continuing to see you in your new location. Instruct patients who choose to follow you that, upon written authorization, a copy of their medical record will be forwarded to you. Consider including an authorization form with the letter to expedite the transfer of records. If your practice charges the patient for the cost of photocopying the medical record, inform the patient of this fee.

**Q** Who gets to keep the chart if I am still treating the patient?

**A** Any material related to patient care should be considered part of the medical record and provided to the departing physician. Both the practice and the departing physician should keep a copy of the medical records. A written agreement should determine who keeps the original and who pays the cost of copying the records. The departing physician and the practice need to come to a written agreement about who is the custodian of the records, and the conditions under which the departing physician will be granted access to the records of the patients he or she treated. The custodianship agreement should verify whether patient authorization is needed for the departing physician to access his or her former records or to obtain a copy of those records for his or her healthcare operations (such as a medical malpractice allegation). If not specified in the agreement, state law may determine whether patient authorization is needed for the departing physician to access or copy these records. Generally, physicians should be allowed access to the records of patients they treated. The records provided should reflect care up to and including the day of the physician's departure.