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Good Samaritan Law

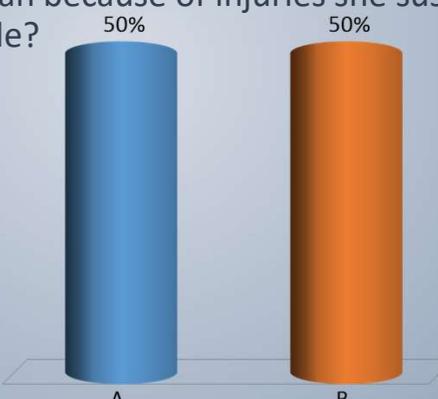
- › Good Samaritan is a person who tries to help in an emergency
 - Offer emergency or non-emergency care to help the injured person, and they don't expect compensation for doing so.
- › Good Samaritan laws protect those who make an honest effort to be of assistance when help is needed even if their actions end up doing more harm than good.
- › Without these laws, people who would otherwise lend a helping hand may be dissuaded from doing so, fearing they might be sued for their actions.
- › All 50 states have some type of law that aims to protect Good Samaritans, but they vary widely in their protection.

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A physician is driving along the road and come upon a car accident. He pulls his car over and runs to the scene of the accident. The driver is still in the car. Fearing that the car is going to catch on fire, he pulls the driver from the car and remained with the injured driver until the ambulance arrives. The driver sustains physical injuries during the rescue and is now quadriplegic. The driver sues the rescuing physician because of injuries she sustained. Is the physician liable?

A. True
B. False

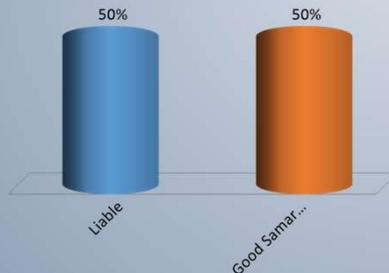


Response	Percentage
A. True	50%
B. False	50%



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Several hospitals in Los Angeles are located adjacent to each other. One day, a resident working at one hospital cut through a second hospital to pick up lunch. He did not have privileges at the second hospital. As he walked along the corridor of the second hospital, he heard someone cry out for help. The resident went to investigate and found a patient who appeared to be having a grand mal seizure. The nurse had a large dose of Midazolam with her, and the resident administered the Midazolam. The patient stopped breathing. Code Blue was called. Resuscitation was attempted, but the patient died. Is the resident liable or a Good Samaritan?



Response	Percentage
A. Liable	50%
B. Good Samaritan	50%

A. Liable
B. Good Samaritan



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Good Samaritan Law

California Health & Safety Code § 1799.102(a)

"No person who in good faith, and not for compensation, renders emergency medical or non-medical care care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission.

The scene of an emergency shall not include emergency departments and other places where medical care is usually offered."

- › This subdivision applies only to the medical, law enforcement, and emergency personnel specified in this chapter.



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An accountant picked up a car accident victim from the street and brought him to the ER in his car. He did not want to wait for an ambulance because he believed the patient's condition was critical. Physical examination in the ER reveals quadriplegia. Is the physician liable or a Good Samaritan?

50%



A.

50%



B.

A. Liable

B. Good Samaritan



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Good Samaritan Law California Health & Safety Code § 1799.102(b)(2)

"Except for those persons specified in subdivision (a), no person who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall be liable for civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct. The scene of an emergency shall not include emergency departments or other places where medical care is usually offered."



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The Relationship Between Patients and Physicians



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Physician Patient Relationship is a Moral Activity

- › The relationship between a patient and physician is fundamentally a moral activity.
- › The patient-physician relationship is based on the physician's responsibility to:
 - Do good for the patient and alleviate suffering (“beneficence”);
 - Do no harm to the patient (“non maleficence”)
 - Allow the patient, when possible, to decide what to do with their own body (“autonomy”)


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Physician Patient Relationship is a Moral Activity

- › The relationship is one of trust
- › Physician is responsible to:
 - Put the patient's needs and welfare before his own self-interest;
 - Provide medical care to patients based on evidence-based science and sound judgment; and
 - Work in best interests of patient
- › Relationship started by mutual consent:
 - but relationship is not on a equal footing
 - physician is in a position of power in relationship
 - patient is vulnerable
 - Relationship exists to serve patient's medical needs, not physician's.


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Starting the Patient Physician Relationship



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Prospective Patients

- › Physicians are not ethically required to accept prospective patients and may exercise their right to choose who they serve



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Rejecting Prospective Patients Acceptable Reasons

- › Care requested is:
 - beyond physician's competence or scope of practice
 - is known to be scientifically invalid
 - not medically indicated
 - incompatible with physician's deeply held personal, religious, or moral beliefs
- › Physician lacks resources to care for patient in a safe, competent, respectful environment
- › Accepting the patient would seriously compromise physician's ability to provide needed care to his other patients
 - needs to be balanced against promoting access to care
- › Patient is abusive or threatening to physician, staff, or patients (must rule out underlying medical condition causing behavior)



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Rejecting Prospective Patients Unacceptable Reasons

- › Discrimination against a prospective patient based on:
 - race, gender, sexual orientation, gender identity
 - or personal/social characteristics not relevant to the individual's care
- › Patients for whom physician is contractually obligated to provide care



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Starting the Relationship without Consent

- › A physician-patient relationship may be started without the patient's consent:
 - In emergency situations where the patient is unable to consent;
 - Medical care to a prisoner under a court order;
 - Independent medical examinations requested by a third party (a limited patient-physician relationship may exist)



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Terminating Patient-Physician Relationships



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Patient Responsibilities

- › Patients are autonomous and exercise control over their health care decisions. With self-governance comes responsibility to actively participate in the healing process
- › Patients have a responsibility to:
 - be truthful and forthcoming with their physicians
 - provide as complete a medical history as they can
 - cooperate with the agreed-on treatment plans or disclose when they have not followed the plan or want to reconsider the plan
 - refrain from behavior that unreasonably places the health of others at risk
 - refrain from being disruptive in the clinical setting

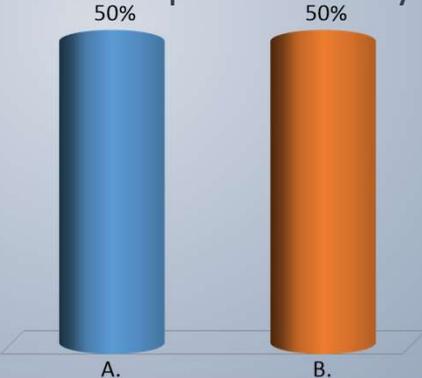


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A patient in your practice for about 10 years has made regular visits but has not been compliant with taking hypertension medications. You repeatedly explained risk of nonadherence, and you have rescued the patient on many occasions with emergent medications. You are convinced the patient understands but stubbornly refuses to comply. You decide to terminate this patient from your practice. Can you?

A. Yes
B. No



Response	Percentage
A. Yes	50%
B. No	50%

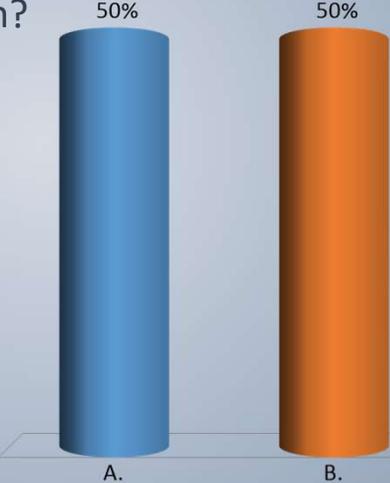


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An internist has been managing a diabetic patient for the last 10 years. The patient's condition is progressively getting worse. The patient is not happy with the physician's management. Can the patient terminate care with the physician?

A. Yes
B. No



Response	Percentage
A. Yes	50%
B. No	50%

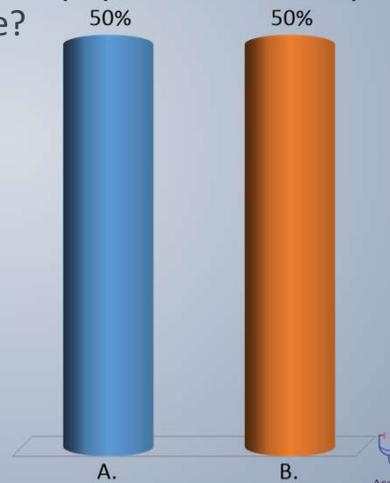


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An internist refuses to see a complicated hypertensive patient who he has seen for the last 10 years. Internist did not give any notice to that patient, and the patient is now angry with the physician. The patient was recently admitted to a hospital with the diagnosis of stroke. Has the physician effectively discharged the patient from his practice?

A. Yes
B. No



Response	Percentage
A. Yes	50%
B. No	50%



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Terminating Patient-Physician Relationships

- › Physician can end patient relationships
 - Cannot be discriminatory
 - Cannot be abandonment
- › Acceptable reasons
 - Treatment nonadherence
 - Follow-up noncompliance
 - Office policy nonadherence
 - Verbal abuse
 - Display of firearms or weapons
 - Nonpayment of bills



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Terminating Patient-Physician Relationships

- › Exceptions
 - Patient in acute phase of treatment
 - Physician is only source of medical care within reasonable distance
 - Physician is only source of specialized medical care
 - Patient is a member of a prepaid health plan
- › Other situations
 - Patient cannot be dismissed or discriminated against based on limited English proficiency or is in a protected class by state or federal law
 - › Americans with Disabilities Act (ADA)
 - › Civil Rights Act
 - › Emergency Medical Treatment and Labor Act (EMTALA)



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Terminating Patient-Physician Relationships

- › Other situations (cont)
 - For pregnant patients,
 - › Can end relationship in 1st trimester if pregnancy is uncomplicated
 - › Can end in 2nd trimester if pregnancy is uncomplicated and the patient is transferred to another practice prior to cessation of services
 - › Can end in 3rd trimester only under extreme circumstances (e.g., illness of physician)
 - Presence of a disability cannot be a reason for terminating relationship unless patient requires care for disability outside expertise of physician



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Terminating Patient Relationships

- › Give patient written notice of termination
 - Send by both regular mail and certified mail, return receipt requested
 - Keep copies of all materials in the patient's medical record
- › Written notice should contain:
 - Reason for termination ("inability to achieve or maintain rapport")
 - Effective date (30 days is adequate)
 - Provisions for interim care
 - Offer referral suggestion for continued care
 - Offer to provide copy of medical records (attach authorization form)
 - Offer to speak with new provider to ensure smooth transition
 - Remind patient of their responsibility to follow-up and continue medical care
 - Explain that medications will be provided only up to the effective date of termination



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Terminating a Patient-Physician Relationships California Business & Professions Code § 125.6

"With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action ... if, because of any characteristics listed in ... Section 51 of the Civil Code, he or she refuses to perform the licensed activity or ... makes any discrimination, or restriction in the performance of the licensed activity."

- › Civil Code § 51 prohibits business from discrimination based on age, ancestry, color, disability, national origin, race, religion, sex and sexual orientation



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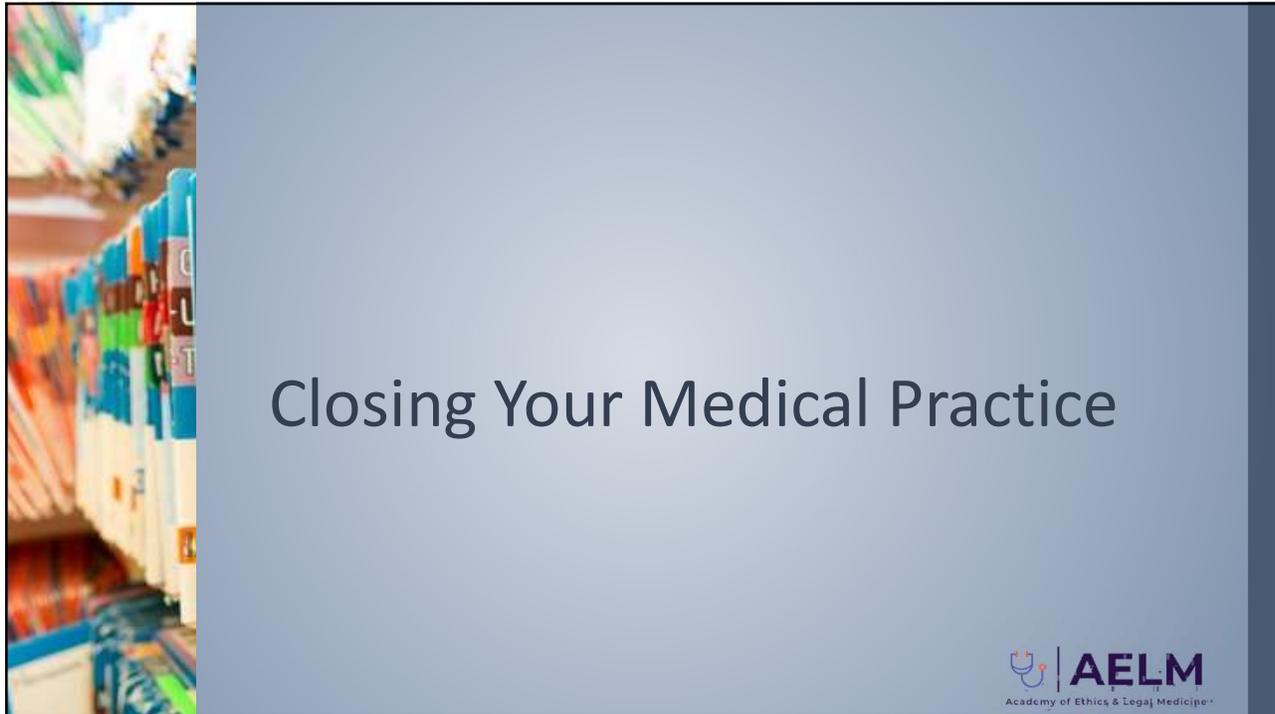


Terminating a Patient-Physician Relationship California Business & Professions Code § 125.6(a)(2)

"Nothing in this section shall be interpreted to prevent a physician or health care professional ... from considering the characteristics of a patient listed in ... Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient."



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Closing Your Medical Practice

- › Terminates physician-patient relationship
 - Should notify patients sufficiently in advance
 - Need to ensure smooth transition to new treating physician
 - Need to minimize liability of “patient abandonment”
- › Patient has ultimate decision from whom to receive care
 - Send letter to patient explaining closure including final date of practice
 - Advise patients where their medical records will be stored and how to access them
 - Include authorization form with letter to facilitate transfer of medical records to new treating physician
 - If practice is being taken over by another physician, patients can be referred to that physician.

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Treating Self or Family Members



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A physician has decided to provide medical care for himself, his family members, and his relatives. He's a very smart physician and believes he is the best doctor for his family. Can he provide medical care to his family?

A. Yes
B. No
C. Yes, but he shouldn't



Response Option	Percentage
A. Yes	33%
B. No	33%
C. Yes, but he shouldn't	33%



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Reasons Not to Treat Family

- › Drawbacks:
 - emotions may compromise professional medical judgment
 - may require sensitive questions or examining intimate parts
 - patient (child) may be reluctant to disclose sensitive information
 - Patient (child) may not feel free to refuse care
 - Patient may not have true autonomy and may not be able to give informed consent (refusal)
- › Therefore:
 - physicians should not treat themselves or family members



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Acceptable Conditions for Treating Family

- › Ethically acceptable to treat self or family:
 - In emergency or isolated settings where no other qualified physician is available
 - for short-term, minor problems
- › When treating family members, physicians should:
 - document treatment or care provided
 - send relevant information to patient's primary physician
 - avoid providing sensitive or intimate care for a minor patient
 - recognize the limitations of patient autonomy



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Treating Self or Family

- › California:
 - no law that prohibits prescribing controlled substances to family member, employee, or friend
- › Must comply with laws of prescribing, including:
 - must perform and document an appropriate history and physical exam
 - must document medical indication for the prescription
 - must keep adequate and accurate medical records
 - follow same practice as for any other patient for which medications are prescribed



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Managing Access to Medical Records



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Management of Medical Records

- › To manage medical records responsibly, physicians should:
 - Prohibit access to patients' medical records by unauthorized staff
 - Consider how long you should keep medical records
 - › Immunization records should be kept indefinitely
 - › Keep records that may have a bearing on patient's future health care needs
 - Make medical records available
 - › When requested by patient
 - › To physician who takes up patient's care
 - › As otherwise required by law
 - Never refuse to transfer records on request by patient
 - Charge a reasonable fee (if any) for transferring record
 - Discarded records should be destroyed to protect confidentiality



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Patient Access to Own Medical Records



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Patient Right to Access Medical Record

- › Patients have the right to inspect and obtain copies of their medical records [Health and Safety Code §§ 123100-123149.5]
 - Must permit patients to inspect their medical records within 5 working days after receiving a written request.
 - Must provide copy of medical record within 15 days after receiving a written request
 - › May charge a fee of up to 25 cents per page or 50 cents per page for records copied from microfilm plus reasonable clerical costs
 - May draft comprehensive summary for the patient in lieu of making copies
 - › must be made available to patient within 10 working days from the date of request (and up to 30 days if record is of extraordinary length or patient has been discharged from a facility within the last 10 days)
 - › Provider may charge a reasonable fee based on actual time and cost for preparation [Health and Safety Code § 123130]



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Patients' Rights to Access their Medical Records

- › Release of medical records to parents of minor patient optional
 - Balance right to obtain records with need to protect physician-patient relationship with minor patients [Health & Safety Code § 123115]
- › Physician may deny patient's request for medical records
 - Substantial risk of detrimental consequences to patient having access to psychiatric or mental health records
- › Patient has right to add addendum to medical record
 - May provide a written addendum about any item in medical record patient believe to be incomplete or incorrect
 - Healthcare provider must attach the addendum to the patient's medical record and must include addendum whenever the records are provided to a third party [Health & Safety Code § 123111].



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Patients' Rights to Access their Medical Records

- › Physician may not withhold patient medical records because of unpaid healthcare bills.
 - Failure to do so subjects physicians to sanctions by the MBC [Health & Safety Code § 123110(i)].
- › Physician willful violation of “Patient Access to Health Records Act”
 - constitutes unprofessional conduct
 - grounds for disciplinary action by MBC
 - may include license suspension or revocation [Health & Safety Code § 123110(i)].



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Obtaining Patient Records from a Previous Physician



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Obtaining Medical Records from a Previous Physician

- › Former physician should make medical records available promptly.
- › Proper authorization to transfer medical records must be granted by patient.
- › Physician may be sued for breach of confidence or an invasion of privacy for divulging information without patient's written authorization



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Other Release of Medical Records



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Subpoena of Medical Records

- › If patient medical records are subpoenaed for a deposition or court hearing
 - Physician need not surrender original documents but may provide certified copies of medical records
 - Physician may be asked to produce originals for inspection
 - Original medical records themselves are property of the physician


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Review of Medical Records by an Investigator

- › Patients are entitled to
 - Confidentiality of their medical records
 - Confidentiality of doctor-patient communications
- › Statutory exceptions include reports regarding
 - Child and elder abuse
 - Communicable diseases
 - Pesticide poisoning
 - Medical Board investigations [Business & Professions Code § 2225]


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Review of Medical Records by an Investigator

- › Medical Board investigators have peace officer authority [Penal Code § 830.3]
- › Medical Board is a state regulatory agency and therefore exempt from the usual requirements of HIPAA
- › Medical Board may secure patient medical records [Business and Professions Code §§ 2225 and 2225.5]
 - Through securing a properly executed patient release of records
 - With a search warrant
 - With a subpoena duces tecum
- › Physician required to produce records within 15 days
 - Failure to comply – civil penalty of \$1,000 per day