



Laws Related to Physician Patient Relationships



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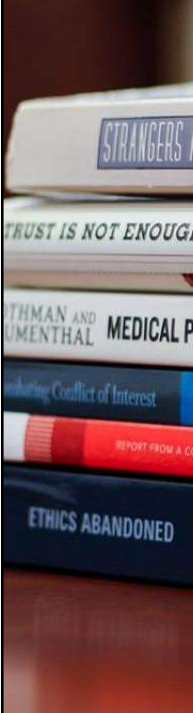


Constitutional Law

1. U.S. Constitution and constitutions of all 50 states define powers of governments & executive, legislative, judicial branches
2. Place limits on government power & protects individual rights
 1. Cannot take private property without just compensation
 2. Right to privacy
 3. Right to travel
 4. Right to vote
3. Protects individual freedoms
 1. Freedom of speech
 2. Freedom of association
 3. Freedom of the press
 4. Freedom of religion
4. Judicial system (i.e., judges) interpret the constitution




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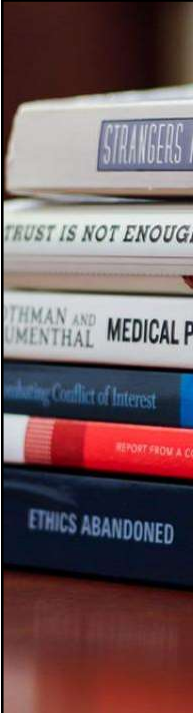


Judicial Law (Common Law)

1. Based on precedent of past court decisions, other courts in same system, public policy, and/or legal reasoning
2. Courts will follow decisions of past cases that are identical or substantially similar
3. State decisis - Courts will adhere to prior decisions involving the same questions of law
4. Common law is subordinate to statutory and constitutional law




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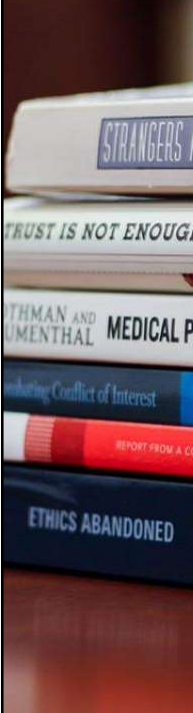


Executive & Administrative Law

1. Composed of rules and regulations promulgated by administrative agencies
2. Deal with rules that are complicated or need more flexibility than legislative-made statutory law
3. Law must be consistent with enabling legislation for agency
4. Executive and statutory law is subordinate to statutory and constitutional law



4




Which of the following are examples of organizations that promulgate executive or administrative law actions? (may have multiple answers)


- A. Food and Drug Administration
- B. Department of Health
- C. Occupational Health & Safety Administration
- D. Worker's compensation
- E. State medical licensing boards

0% 0% 0% 0% 0%

A. B. C. D. E.

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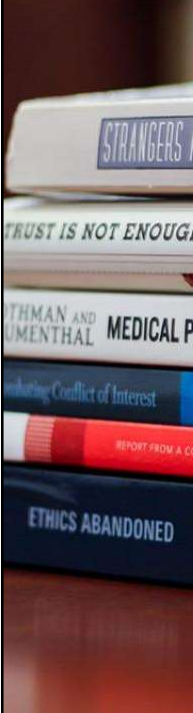
Civil Law Actions

› Actions that come under civil law include:

1. Abandonment
2. Breach of confidentiality
3. False imprisonment
4. Defamation
5. Negligent infliction of emotional distress
6. Medical malpractice


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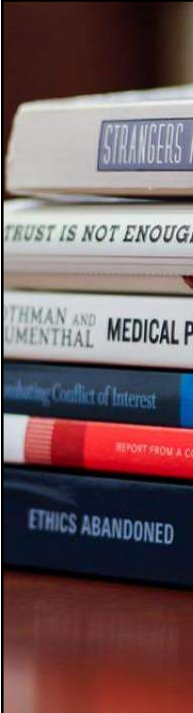


Criminal Law Actions

1. Usually arises from state or federal statutory law
2. Focuses on behavior of individual
3. Physicians mostly face civil law actions, but may be criminal
4. Standard of proof "beyond a reasonable doubt"



7




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?

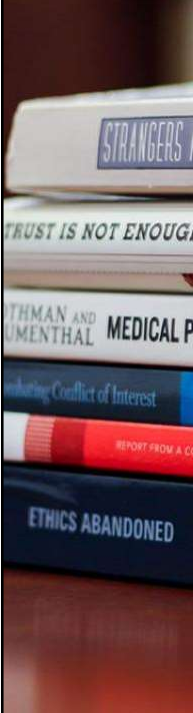
A. True
B. False

0% 0%

A. B.



8




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?

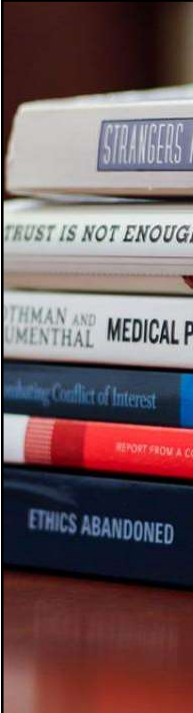
A. Liable
B. Good Samaritan

0% 0%

Liabile Good Samaritan...



9




Good Samaritan Law

California Health & Safety Code § 1799.102(a)

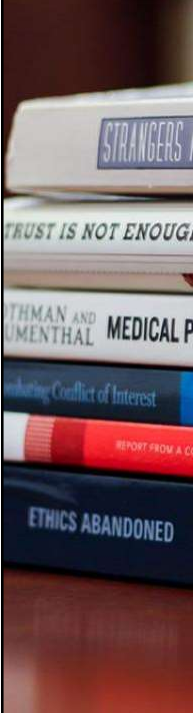
"No person who in good faith, and not for compensation, renders emergency medical or non-medical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission.

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.




10



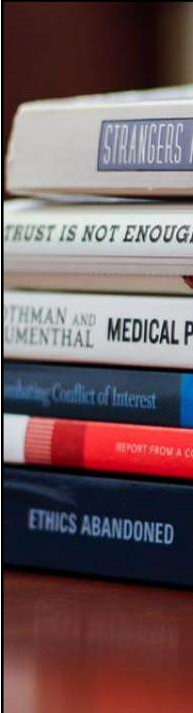
An accountant picked up a car accident victim from the street and brought him to the ER in his car. He did not want to wait for an ambulance because he believed the patient's condition was critical. Physical examination in the ER reveals quadriplegia. Is the physician liable or a Good Samaritan?

A. Liable
B. Good Samaritan

0% A. 0% B.




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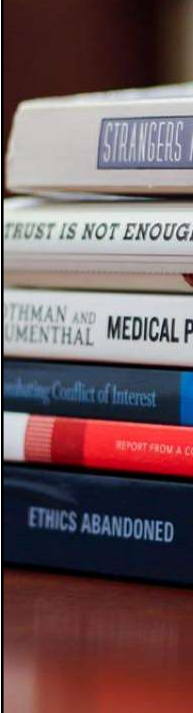


Good Samaritan Law
California Health & Safety Code § 1799.102(b)(2)


"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."



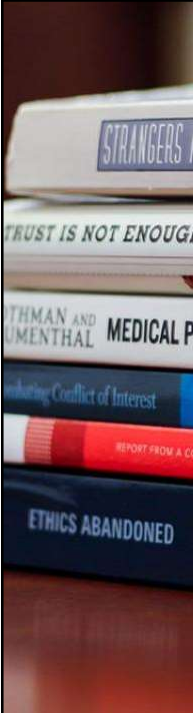
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Responsibilities of Physicians & Patients




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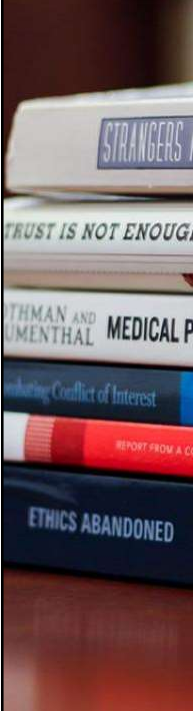


Patient-Physician Relationships

- › 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”)




14




Patient-Physician Relationships

- › 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.




15

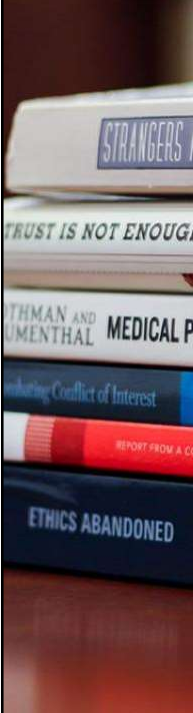


Patient-Physician Relationships

- › 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)




16



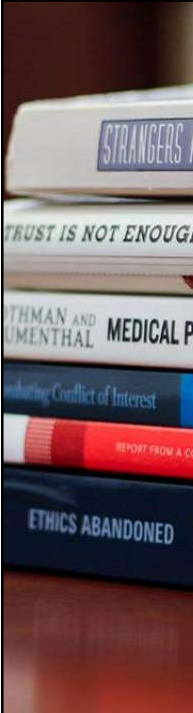
A newborn has been diagnosed with either trisomy 18 or 13 (incompatible with life) tracheoesophageal fistula, which requires surgery. Mother request surgeon to repair the TE-fistula. Should the surgeon accept newborn as a patient and perform the surgery?

A. Yes
B. No

0% Yes 0% No




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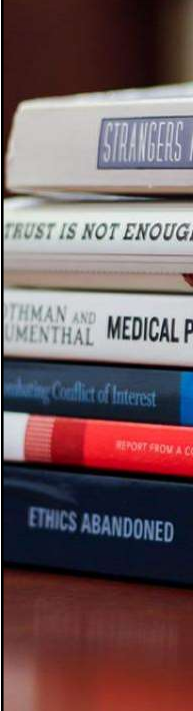


Prospective Patients

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




18




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)




19

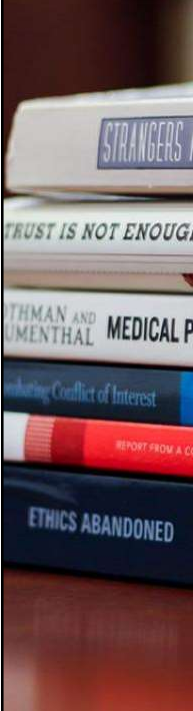


Rejecting Prospective Patients Unacceptable Reasons

- › 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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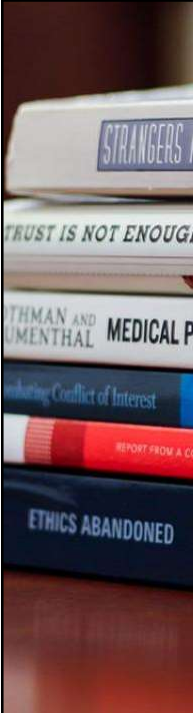


Patients Rights

- › Physicians have a duty to serve as advocates for their patients and respect their rights.
- › Patient have the right to the following:
 - To be treated with respect and dignity
 - To receive timely attention to their medical needs
 - To have the opportunity to discuss the risks, benefits, alternatives, and costs of proposed treatments as well as the risks, benefits, and costs of foregoing treatment
 - To reasonably expect that their physician will provide objective guidance about what is considered the optimal course of action for the patient




21

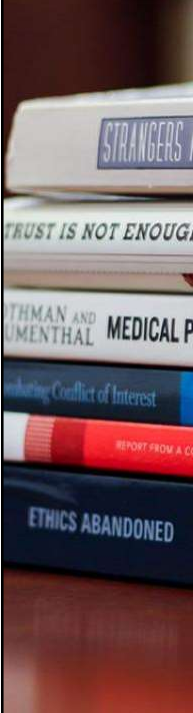


Patients Rights

- › Patient have the right to the following:
 - To ask questions and have their questions answered when they don't fully understand their health status or the recommended treatment
 - To accept or refuse any recommended treatment and have their decision respected
 - To have their privacy and confidentiality respected by the physician and their staff
 - To obtain copies and summaries of their medical records
 - To obtain a second opinion
 - To be advised about any conflict of interest the physician may have with respect to their care
 - To be assured of continuity of care. Physicians should cooperate in coordinating care with other health care professional and, if discontinuing care, give them sufficient notice and reasonable assistance in making alternative arrangements for care.




22



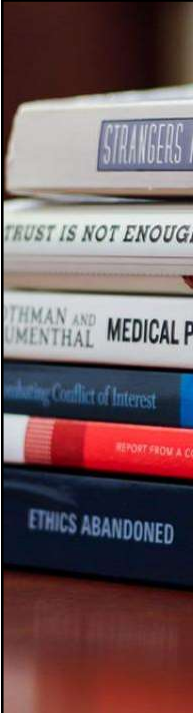
A 49-year-old woman with cervical cancer has a history of noncompliance. She had surgery a month ago that now needs to be followed up with a course of chemotherapy. The patient has now missed several appointments and the window for the chemotherapy is closing. Can the surgery force her into chemotherapy?

A. Yes
B. No

0% A. 0% B.




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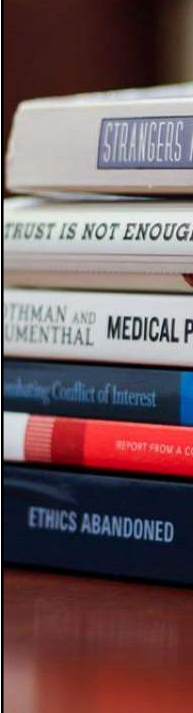


Patient Responsibilities

- › 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




24



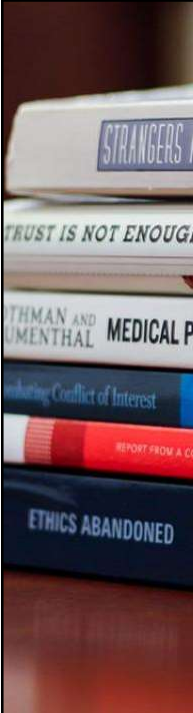
A bus driver has a history of epilepsy. He has requested his physician to keep his history of epilepsy confidential from his employer because this would result in loss of his job. Does the physician have to report the patient's history of epilepsy to the local health office?

A. Yes
B. No

0% A. 0% B.



25




Patient Responsibilities

California Health & Safety Code § 103900

"Every physician and surgeon shall report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a case of a disorder characterized by lapses of consciousness.

However, if a physician and surgeon reasonably and in good faith believes that the reporting of a patient will serve the public interest, he or she may report a patient's condition even if it may not be required under the department's definition of disorders characterized by lapses of consciousness..."



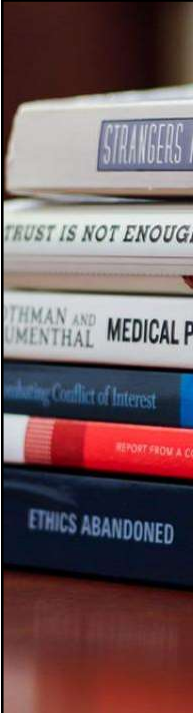
26



Terminating Patient-Physician Relationships



27




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?

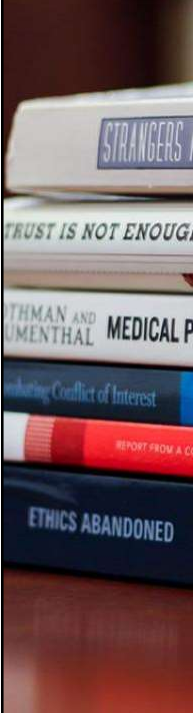
A. Yes
B. No

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A. B.




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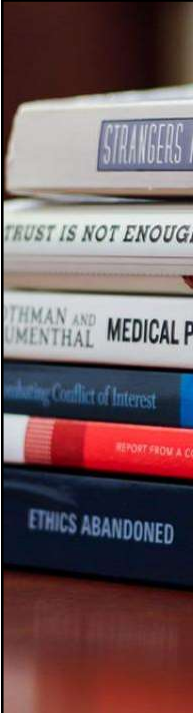
An internist has been managing a diabetic patient for the last 10 years. The patient's condition is progressively getting worse. The patient is not happy with the physician's management. Can the patient terminate care with the physician?

A. Yes
B. No

0% A. 0% B.




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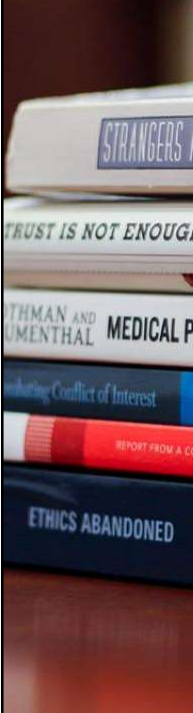
An internist refuses to see a complicated hypertensive patient who he has seen for the last 10 years. Internist did not give any notice to that patient, and the patient is now angry with the physician. The patient was recently admitted to a hospital with the diagnosis of stroke. Has the physician effectively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

A. Yes
B. No

0% A. 0% B.




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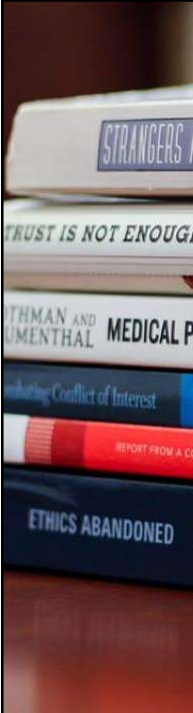


Terminating Patient-Physician Relationships

- › 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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31

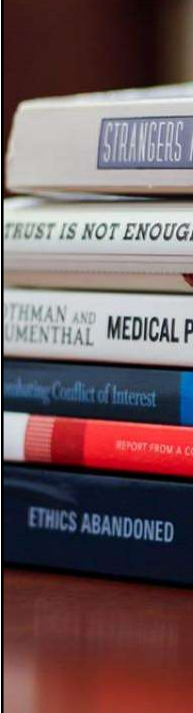


Terminating Patient-Physician Relationships

- › 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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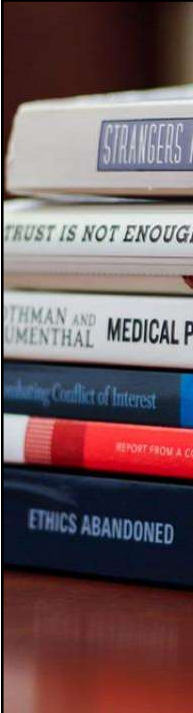


Terminating Patient-Physician Relationships

- › 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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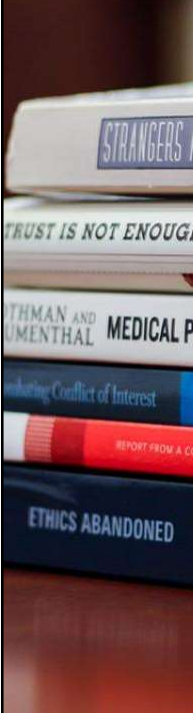


Terminating Patient Relationships

- › 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




34



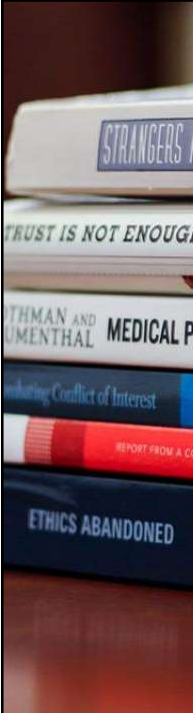
Terminating a Patient-Physician Relationships California Business & Professions Code § 125.6

"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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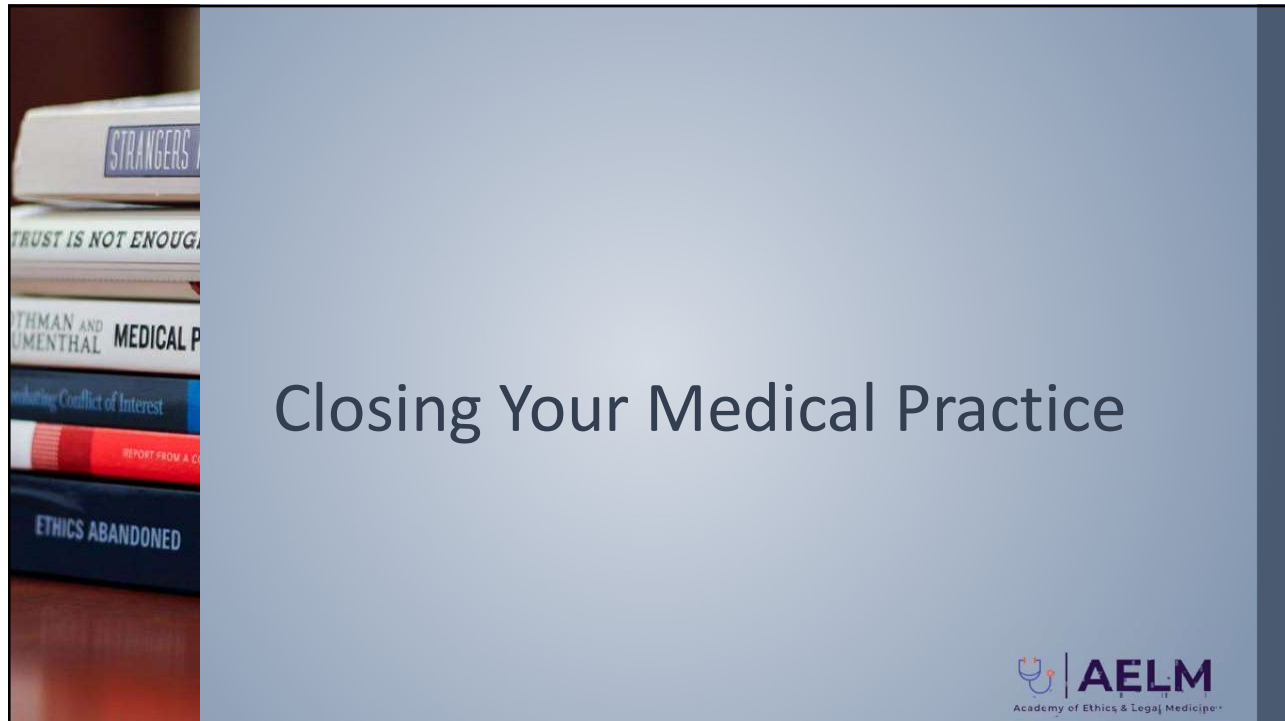


Terminating a Patient-Physician Relationship California Business & Professions Code § 125.6(a)(2)

"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."



36



37

Closing a 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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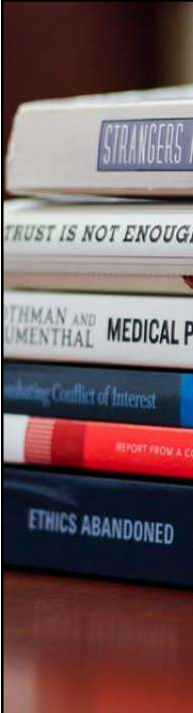
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Quality of Medical Care



39




A physician sees patients at a reduced fee when they are unable to pay. To compensate for the lost income, he spends less time with these patients. Is this a reasonable way to see patients who otherwise would not be able to afford care?

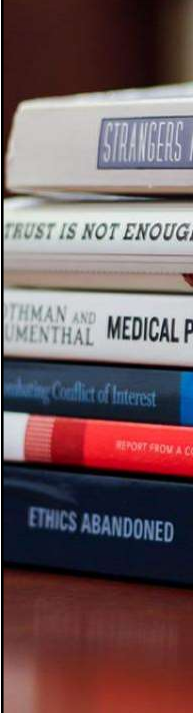
A. Yes
B. No

0% 0%

A. B.




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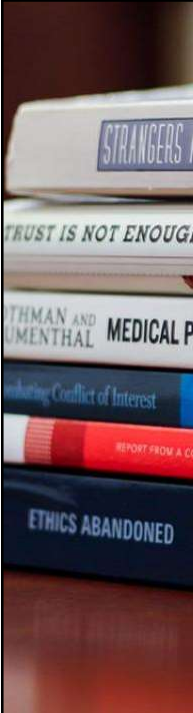


Quality of Medical Care


- › Physicians must ensure their patients receive safe, effective, timely, efficient, and equitable care.
- › They should strive to improve the quality of care by:
 - maintaining professional competence and keeping up with best practices
 - communicate effectively with their patients and coordinate care appropriately
 - monitor quality of care they deliver through personal review, peer review, and use of other quality improvement tools



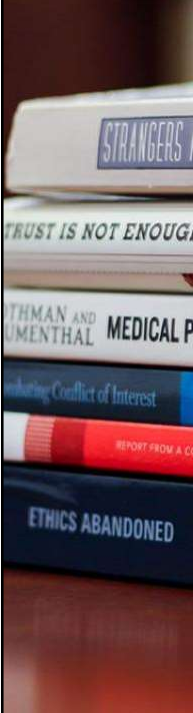
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Treating Self or Family Members



42




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

0% 0% 0%

A. B. C.

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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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45

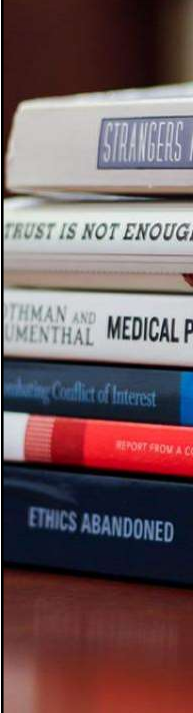


Treating Self or Family

- › 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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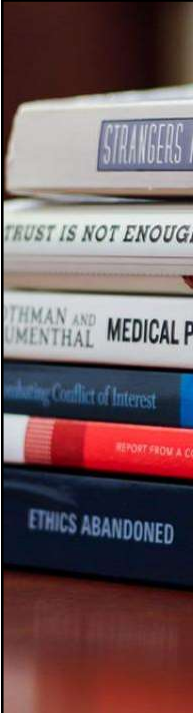
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Impaired Physicians



47




California Business & Professions Code § 822

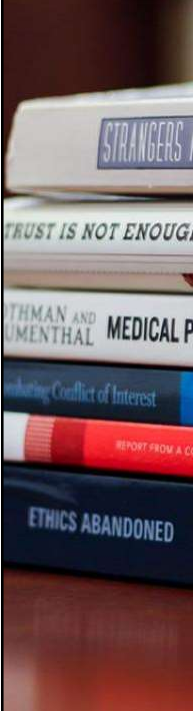
“If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by one of the following methods:

- revoking the licentiate's certificate or license
- suspending the licentiate's right to practice
- placing the licentiate on probation
- taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.”




48




Physical Impairments

- › Physical impairment must interfere with the safe practice of medicine.
- › These include:
 - illnesses that cause fatigue, poor concentration, tremors, weakness
 - medications that impair vision, speech, or hearing;
 - pain that results in irritability
- › Any combination of these conditions that impair physician to extent that they cannot practice medicine safely.




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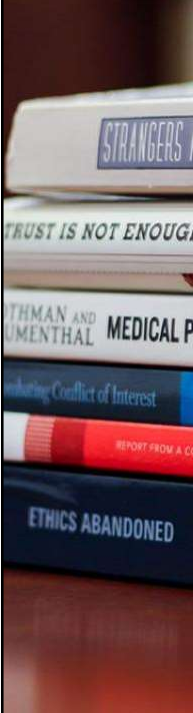


Mental Impairments

- › Mental impairments also infer with physician's ability to practice safely:
 - dementia or memory loss
 - depression
 - personality disorders
 - substance use disorders
 - medication side effects
 - sleep disorders




50

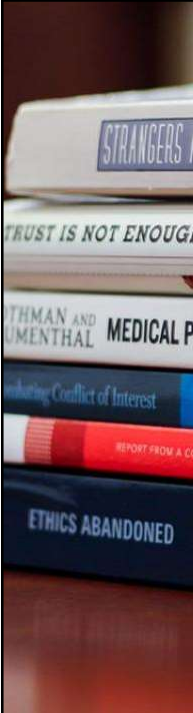


Responsibilities to Impaired Physicians

- › Physicians with physical or mental conditions that interfere with their ability to practice safely are putting their patients at risk
- › They deserve thoughtful & compassionate care, but our primary consideration must be protecting patients' safety and wellbeing
- › Physicians have an ethical obligation to:
 - ensure impaired physicians cease practicing and receive appropriate assistance in a timely manner
 - report impaired colleagues
 - assist and support recovered colleagues when they return to patient care
 - support peers in identifying physicians in need of help




51



California Reporting Impaired Physicians

- › No statutory requirement to report an impaired physicians
- › Moral and ethical duty to report to protect patients from harm and to assist a colleague



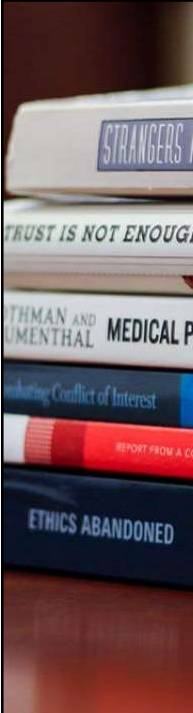
52



Disruptive Behavior by Patients




53



Disruptive Behavior by Patients

- › Undermines trust
- › Undermines the therapeutic relationship
- › Physicians should:
 - always treat their patients with compassion and respect
 - terminate the relationship if the patient uses derogatory language or acts in a prejudicial manner and the patient is unwilling to reform his conduct.



54