Pediatricians and the Law: Practice conflicts can affect patient care, increase medical liability risks
by Robin L. Altman M.D., FAAP

At no other point in a physician's career is there more excitement about future potential than when joining a new practice. Physician group practices are the bedrock of our health care system. Like other businesses, physician practices are profit centers with interest in protecting assets. Assets with tangible market values include equipment leases, real estate and electronic health record (EHR) systems. Intangible assets include professional reputations and relationships, practice branding, and patient confidence.

Unlike other businesses, when conflicts occur between partners in a medical practice, the fallout can impact patients and have potential medicolegal liability implications. Following are some examples.

A disgruntled associate makes comments to a patient that disparage the care provided by another health care professional in the practice.

A senior partner who has been practicing for 25 years refuses to adopt the EHR purchased by the practice and continues to use paper.

A partner is moonlighting at a location unbeknownst to, and therefore unauthorized by, the practice and is sued for malpractice at that location. The partnership is named as a defendant in the lawsuit.

A partner who has been with the practice for five years resigns and, without authorization, takes copies of patients’ medical records.

Working in a partnership

Working in a group offers several potential advantages, such as improved quality of life for the practitioner, increased continuity of care for the patient and better sharing of experiences among health care professionals.

According to experts, the single most important barometer for predicting a medical group’s long-term success is how well the physicians in the practice get along. When doctors in a practice get along, there are less stress and wasted energy and more time to focus on running a successful business. Experts advise looking for future partners with compatible personalities and work ethics.

Other successful strategies include strong practice leadership, a shared practice vision, regular meetings where all providers can express views, a clear amenable compensation model, detailed employment and shareholders’ agreements, and a thorough employee handbook.

Conflicts in a partnership
Conflicts between partners can spill into the work environment, be noticeable to staff and patients, and negatively impact the office atmosphere. Disputes could cause depression, substance abuse or disruptive behavior by any of the parties involved. Conflicts could affect willingness to cover for each other's patients. In worst-case scenarios, patients could feel stuck between the practice and a departing doctor.

Common reasons for practice group disruption include perceived unfair practices involving distribution of responsibilities, patient workload and coverage; control over practice decision-making, compensation and distribution of profits; and differences of opinion on the direction of the practice. Other less common reasons include theft, impaired practitioner issues or sexual misconduct.

Breakdown of communication, misunderstandings between partners, incompatible personalities or style and distrust frequently are reported when conflicts lead to breakup. The psychological pain of a practice breakup has been compared to that caused by divorce.

**Medicolegal considerations**

Resentment and emotions due to partner conflicts can cloud interactions related to the practice and could spill over into patient care. A disgruntled associate who disparages the practice, even if subtly, potentially destroys patient trust.

A provider refusing to learn a new EHR system jeopardizes documentation, continuity of care and communication among providers. Moonlighting outside of the partnership creates potential liability exposure at a site not under the partnership's oversight or covered by its malpractice insurance.

**Whose patients are they?**

The practice owns the patient charts, patient lists and other patient demographic information. Patients "own" their information and may transfer it wherever they choose.

To minimize patient confusion, conflicted allegiance or feelings of abandonment, experts advise informing patients that a doctor is leaving the practice and providing them with new contact information upon request. While the departing doctor does not have the right to surreptitiously copy charts, patients have the right to follow their physician and to receive copies of their medical records.

**Minimizing medical liability exposure**

A successful practice is not just about what goes on in the exam room but also about how well it is managed and how well the doctors share a common vision of the organization. Keeping physicians involved will keep them invested.

Even if everyone in the partnership thinks it will never break up, best practice is to prepare for the possibility by:

- adopting equitable practices for distribution of workload and compensation models;
- having strong organizational leadership, defined operations, designated legal and accounting counsel, and documents such as a clear employment agreement with contingencies to mitigate potential future exposure, including if a physician leaves;
- conducting regular meetings to give physicians opportunity to vent, discuss and reach consensus on important issues;
- having a fair process to remediate job performance issues with physician staff but being prepared to
fire them if necessary; and

- keeping patients informed of practice changes and establishing a prompt record request transfer policy.

*Dr. Altman is a member of the AAP Committee on Medical Liability and Risk Management.*

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