

Sue the Patient?

written by Richard Leslie | May 24, 2016

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... Suppose that the patient has been allowed to delay the payment of fees and that the balance now owed to the therapist or counselor is, for example, \$1500. Suppose further that the patient now terminates treatment and that the patient has not responded to one or two written requests for payment of the \$1500 or some portion thereof. Is a lawsuit appropriate? Might the bringing of a lawsuit constitute a breach of confidentiality? Might a lawsuit stir things up with the patient, possibly igniting a malpractice claim or the threat of one?

In answer to the first question, a lawsuit (usually in small claims court) is often appropriate. The lawsuit is brought so that the therapist can obtain an enforceable judgment against the debtor-patient. Payment of the debt is enhanced once a court's judgment has been rendered. In fact, a lawsuit is often preferable to other options, such as referral of the matter to collections or frequent and persistent communication by phone and in writing ("harassment" in the eyes of the patient) where repeated requests or veiled threats are delivered to the patient. I usually discourage therapists from referring the matter to collections because of the problems that could arise from such action. Too much communication and persistence may propel the patient into action against the therapist.

It would be surprising to me if any state's law would not provide an exception to confidentiality and privilege so that a lawsuit by a health care practitioner against a patient for monies owed could lawfully be brought. If such an exception did not exist, that would mean that physicians and therapists would effectively be prohibited from being paid for services lawfully and appropriately rendered. The law should not (and generally doesn't) countenance such an absurd result. One must take care to assure that the lawsuit (e.g., the pleadings - the complaint) and the evidence (e.g., the testimony) presented do not address clinical or treatment issues, but are focused on the financial and contractual aspects of the relationship.

With respect to the third question asked above, the answer is "yes." A lawsuit against a delinquent patient may well stir things up, like the patient alleging that the treatment provided was ineffective or grossly negligent and that therefore the patient doesn't need to pay for such shoddy services. Sometimes it is wise for the therapist to drop the matter, even if the amount owed is substantial. Conversely, I have counseled therapists who have pursued, as a matter of principle, payment of \$100 by filing a small claims court action. They refuse to be intimidated into inaction by the patient. Each case and each decision must be carefully analyzed before action is taken to pursue a claim for monies owed.