

Employees want 'curbside' care? Be careful, and make sure it's on the record

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Question: *I work in a physician practice and sometimes I discuss my medical issues informally with one of our doctors. He seems game, but I don't want to get him (or us!) in trouble. Should I offer to have a formal medical visit with him instead?*

Answer: Whether it's a receptionist who wants a breakroom consult or a patient who bails before the provider can render a service, it's not a good idea to leave quasi-encounters undocumented — even if it leads to the awkward expedient of telling your workers to fill out a form and get in line or to get their treatment from another provider.

"Medical practices should treat staff requests for care as they would any other individual," says Faisal Khan, senior counsel at Nixon Gwilt Law in Cleveland. "The staffer should become a patient of the practice and register as such."

"Curbside" treatment of employees — or friends, building staff or others without a formal provider-patient relationship — can lead to trouble. One such case is described in a presentation on medico-legal documentation issues by Samer Kanaan, M.D., FACS, FCCP, of Irvine, Calif., in which a medical assistant asked a physician at his practice for an opinion on his red, watery eye. The physician recommended some drops and a visit to an ophthalmologist; the MA, who took the drops but did not follow up with the specialist, turned out to have herpes simplex keratitis and later sued. The practice was forced to settle.

Adding to the challenges is that an encounter between an employee and the physician might be awkward and thereby unsuccessful. "The employee may not want to tell you everything you need for a proper diagnosis," says Erin Smith Aebel, shareholder with Trenam Law in Tampa, Fla.

Jim Hoover, partner with Burr & Forman in Birmingham, Ala., sees a potential employment law issue. "It may create a reason for an employee to charge discrimination under the Americans with Disabilities Act," he says. For example, if an employee discusses his alcoholism with a doctor, and the doctor later tries to fire the employee for work issues that may be related to his drinking problem, the employee may claim the office needs to provide him with a reasonable accommodation under ADA for the alcoholic disability that the doctor is clearly aware he suffers from.

And even if you make it official and see the employee as a patient, with proper insurance and medical documentation procedures, Khan suggests you might still have problems: What if another patient suspects the provider is showing "a potential bias toward treating staff as a higher priority than non-staff patients?" he asks. To be on the safe side, Khan advises an official written policy dictating "how the practice will care for its staff and reiterating the practice's obligation to its workforce that treatment of staff is subject to all applicable laws."

Early exit? Write it down

What about a situation where a non-employee patient comes into the office and leaves before a service can be performed? You could make the case that it can just be forgotten, like a missed appointment or a patient who leaves because she was made to wait too long to be seen. If the patient leaves before a service was completed, "there is no 'rule' since it's not a billable event," says Nancy Enos, FACMPE, CPC-I, CPMA, CEMC, CPC emeritus, president of Enos Medical Coding in Warwick, R.I.

But, that being said, "in my experience, this happens with patients who are trouble," Enos says. As usual with such patients, you should tie up the documentation neatly in a properly written medical record.

"The medical record is the provider's business record that memorializes what happened — even if, you know, nothing happened," Hoover says.

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