

# The Journal of the Michigan Dental Association

---

Volume 105 | Number 10

Article 7

---

10-1-2023

## Dentistry and the Law: Is This Patient Abandonment? Two Scenarios

Dan Schulte JD

Kerr Russell, [dschulte@kerr-russell.com](mailto:dschulte@kerr-russell.com)

Follow this and additional works at: <https://commons.ada.org/journalmichigandentalassociation>



Part of the [Dental Public Health and Education Commons](#), [Health Law and Policy Commons](#), [Human Resources Management Commons](#), and the [Leadership Commons](#)

---

### Recommended Citation

Schulte, Dan JD (2023) "Dentistry and the Law: Is This Patient Abandonment? Two Scenarios," *The Journal of the Michigan Dental Association*: Vol. 105: No. 10, Article 7.

Available at: <https://commons.ada.org/journalmichigandentalassociation/vol105/iss10/7>

This Monthly Departments is brought to you for free and open access by the State & Local Dental Publications at ADACCommons. It has been accepted for inclusion in The Journal of the Michigan Dental Association by an authorized editor of ADACCommons. For more information, please contact [commons@ada.org](mailto:commons@ada.org).



By Dan Schulte, JD  
MDA Legal Counsel

# Is this Patient Abandonment? Two Scenarios

**Question:** Due to a staffing shortage at my office, I have been forced to make some difficult choices. For example, I have had some patients

who were seen previously only for an emergency visit. They had no regular dentist and wanted me to take them on as a patient. I have had to turn them away for further care because, due to lack of help, my practice is full. Another example — we have decided not to schedule established patients needing treatment when they have ignored our repeated phone calls and other efforts to get them in for their regular recall appointments. This, again, is due to my being much too busy and not being able to find the help I need to see more patients. Could I be liable for patient abandonment for doing these things?

**Answer:** Patient abandonment is a type of malpractice claim. These claims are rare. There must be proof that: (1) there is an existing patient relationship; (2) the relationship was terminated without proper notice or cause; (3) it was foreseeable the termination would result in an injury; and (4) as a result the patient suffered an injury and has damages. It does not appear these factors are present in your examples.

In your first example, there is a dentist-patient relationship, but only for the emergency treatment provided. I assume this emergency treatment was provided to completion and that no follow-up care was needed. In the absence of an existing patient relationship and a duty to continue treatment to avoid foreseeable injury, I do not believe a claim of abandonment can be established. You might consider sending these patients a letter when the emergency treatment is complete informing them that your practice is full, you cannot take them on as a patient, it is important that they establish a relationship with another dentist, etc.

The second example is a bit more problematic due to the existing patient relationships. These relationships must be terminated properly to avoid claims of abandon-

ment. The best practice would be to identify the patients who have been ignoring you for longer than you like and then send them a proper notice that informs them of the termination of your dentist-patient relationship. This approach is preferable to refusing needed treatment to a patient who, although neglectful, had no advance notice that you were no longer going to provide him or her with treatment.

A proper notice of termination is done in writing and includes:

- A brief explanation for the termination of the relationship.
- An offer to provide emergency services for a reasonable period, such as 30 days, to allow the patient to establish a relationship with another dentist.
- Information regarding dentist referral services or other assistance to help the patient locate another dentist.
- Information regarding the transfer of the patient's records.

Claims of patient abandonment are rare. You can put yourself in a favorable position to defend these claims both by: (1) completing any course of treatment (including all follow up care within the standard of practice) where a patient injury is a foreseeable result of not completing the treatment; and (2) being proactive by properly terminating patient relationships in advance. When you are overwhelmed due to staffing shortages or for other reasons, terminating inactive patient relationships should be a regular part of the management of your patient population. ●

*Send legal questions for publication to MDA Journal Managing Editor Dave Foe at [dfoe@michigandental.org](mailto:dfoe@michigandental.org). All queries remain confidential.*