2022 LOSS PREVENTION SEMINAR

Back to Basics

MODULE ONE:
Difficult Patient Relationships

MODULE TWO:
Fundamentals of Follow-up

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Disclaimer

The information contained herein and presented by the speakers is based upon sources believed to be accurate at the time they were referenced.

The speakers are not engaged in rendering legal or professional services other than risk management. If legal advice is required, the services of an attorney should be sought.

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2022 LOSS PREVENTION SEMINAR

Back to Basics

MODULE ONE:

Difficult Patient Relationships

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Module I – Difficult Patient Relationships

Learning Objectives

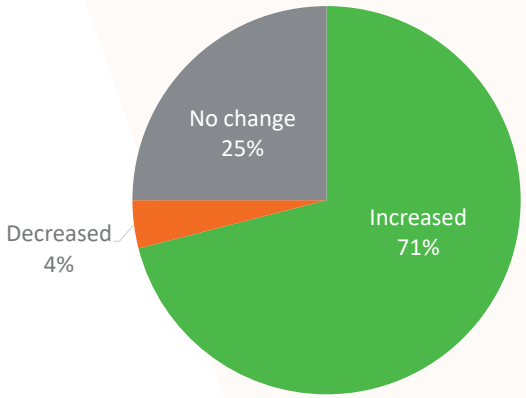
- Recognize associated risks with difficult patient interactions.
- Identify contributing factors that may trigger disruptive behaviors.
- Utilize concepts for conflict de-escalation.
- Develop guidelines for handling difficult patient communication.
- Apply risk management recommendations for improved patient engagement and patient safety.

Current Environment

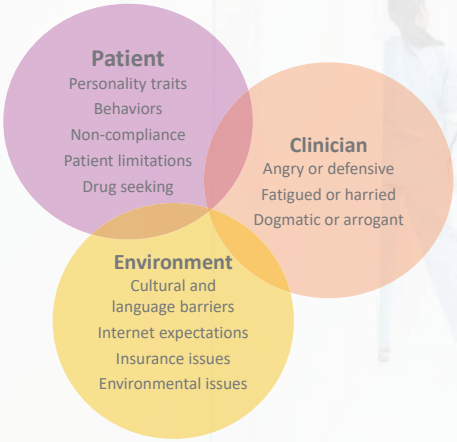
71% **of medical practices reported an increase in disruptive patients in 2021.**

MGMA Stat poll. January 4, 2022

% Change in number of disruptive patients



Contributing Factors



Difficult Patient Relationships: Impact on Care

How may difficult patient relationships affect the quality of care?

Clinicians may unintentionally impact care through:

- **Avoidance** of interaction resulting in delayed care
- Taking an **incomplete history** and physical
- Possibly **discounting symptoms** that may represent a serious condition or medical emergency.
- **Conveying** an attitude that there is **no medical basis** for the patient's symptoms.

Case Studies:

Demanding/Manipulative Patient

Somatic Patient

Drug Seeking Patient

Non- Compliant Patient

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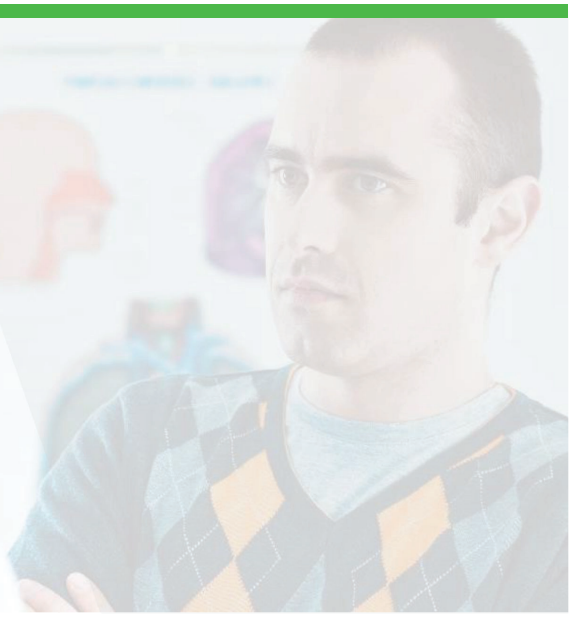
Common Difficult Patient Interactions

- Demanding/Manipulative
- Somatizing
- Non- Compliant
- Drug Seeking
- Angry
- Aggressive/Violent



Case Study: Demanding/Manipulative Patient

Patient with COVID-19 admitted to hospital
Demanded Ivermectin
Threatened to sue if MD does not comply
MD refused, citing lack of effectiveness in pre-clinical trials
Patient sued and asked the Court to order MD to comply with request for Ivermectin
Court dismissed lawsuit

Common Manipulation Techniques

- Find another provider
- Give negative online review
- Social media
- File a lawsuit

Risk Management Considerations

Managing the demanding/manipulative patient:

- Set limits
- Learn the patient's expectations
- Keep your focus
- Exercise good medical judgement

Somatic Patients

Excessive worry

Multiple and vague symptoms

Numerous physicians

Negative diagnostic results

Truthfully report symptoms

Risk Management Considerations

Managing the patient with somatization disorder:

- Recognize multiple somatic complaints and patterns
- Provide support by demonstrating sensitivity and understanding
- Remain focused on the evaluation and treatment course
- Consider a mental health consultation

Role Play: Doctor with somatic patient

Conflict Triggers:

- Personality traits
- Defensive behaviors
- Dismissive behaviors

De-escalation Techniques:

- Show empathy
- Be supportive
- Communicate with focus and clarity

Drug Seeking Patients

Report continued pain from an injury that occurred years ago

Claim they have built developed a tolerance to the meds

Report symptoms that do not correspond with their diagnostic test results

Report an odd recent event, such as tripping over a dog, that has caused them renewed pain

Ask for a prescription refill before the scheduled exhaustion date of their current prescription

Risk Management Considerations

Managing the drug seeking patient:

- Use pain medication agreements
- Consider non-opioid treatments and referrals
  - Rural locations may have limitations
- Check prescription drug monitoring databases (PDMP)
- Document thoroughly
- Terminate when appropriate

Case Study: Non-compliant Pt.

24 YO law student

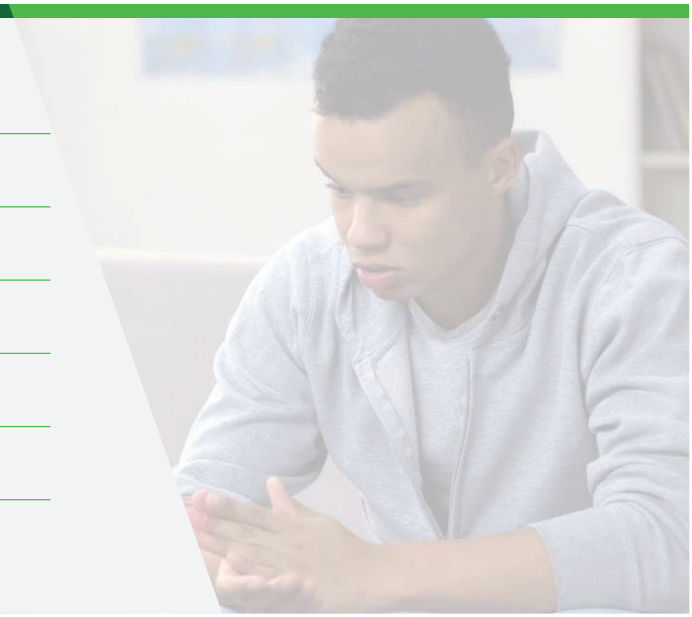
Seen at student clinic

Dx: Delusional Disorder,
Grandiose vs. Schizophrenia

Retiring Psychiatrist

30-day med supply

Seek treatment with new provider



Risk Management Considerations

Managing the non-compliant patient:

- Emphasize treatment plans
- Discuss risks associated with non-compliance
- Document thoroughly
- Ensure efforts of continuity in care
- Terminate when appropriate

Conflict Triggers

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Conflict Triggers

- Personality conflicts
- Unanticipated outcomes
- Unmet Needs
- Interpersonal triggers
- Poor customer service

De-escalation Tips

- Self awareness
- Identifying stressors
- Stay focused and maintain good medical judgement
- Stay calm and professional
- Actively listen
- Repeat or restate what was said
- Validate feelings
- Clarify any misunderstandings
- Be supportive but set reasonable limitations

Case Study:
Angry Patient

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Case Study: Angry Patient

- Female
- ED via ambulance
- Pain Scale 10
- Medication Therapy
- Discharged
- Return to ED
- Requests for IV Narcotics
- Non Review of Record
- Escalation Occurs
- Patient Removed

Risk Management Considerations

- Identify your own and patients contributing factors that could result in escalation
- Be understanding of potential triggers and avoid behavior that may contribute to escalations
- Deliver communication with patience, respect and understanding
- Document all interactions thoroughly

Workplace Violence: A category of its own

Plan & Response Resources:

- **ASHRM**: Workplace Violence Toolkit
- **OSHA**: Healthcare Workplace Violence

*"**Workplace violence** (WPV) is a recognized hazard in the **healthcare** industry. WPV is any act or threat of physical **violence**, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. ...WPV ranges from threats and verbal abuse to physical assaults and even homicide."*

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Treated Fairly

Before terminating the relationship, consider…

- Rehabilitate or terminate?
- Is there an ethical duty to repair the relationship?
- Are there benefits to rehabilitation?

Patient Termination

Reasons for Patient Termination

- No shows and cancellations
- Noncompliance
- Failure to pay bills
- Violent, threatening or offensive behavior
- Irreparable Physician- Patient Relationship

Exceptions to Patient Termination

- Insurance contract
- Obstetrical patient
- Rural patient

Case Study: OB Patient

Patient in labor presented to ED

OB on call had previously dismissed the patient from his practice

OB refused to provide medical treatment

Hospital removed the OB from the call panel based on his patient abandonment

OB appealed and lost

Risk Management Considerations

General guidelines for terminating OB patient:

First and second trimesters:

Should only be done for uncomplicated pregnancies and once the patient has transferred to another provider

Third trimester:

Should generally be avoided

Case Study: Rural Patient

- Diabetic patient visited family MD monthly
- Over time, patient became combative and refused to give himself insulin injections
- MD terminated patient with a 30-day notice letter
- Patient was unable to timely procure subsequent provider
- Patient suffered vision damage and sued MD

Risk Management Considerations

General guidelines for terminating rural patient:

- Carefully weigh your ethical duty to treat the patient against your right to terminate treatment.
- Consider the seriousness of the patient's condition.
- Seek guidance from a risk management consultant or your personal attorney if a patient's circumstances will make it very difficult to obtain necessary treatment.

Patient Termination

Risk Management Recommendations	Establish a policy and procedure
	Resolve acute medical condition(s)
	Consult with managed care plan
	Provide adequate notification
	Send letter via certified mail

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Back to Basics

MODULE TWO:

Fundamentals of Follow Up

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Module II – Fundamentals of Follow Up

Learning Objectives

- Identify key follow-up principles to promote a culture of patient safety.
- Assess your practice for gaps in follow-up protocols.
- Apply strategies that increase effectiveness of communication.
- Implement follow-up systems to track results and appointments.
- Utilize follow-up documentation to enhance claims defense.

Follow-Up Claims Data*

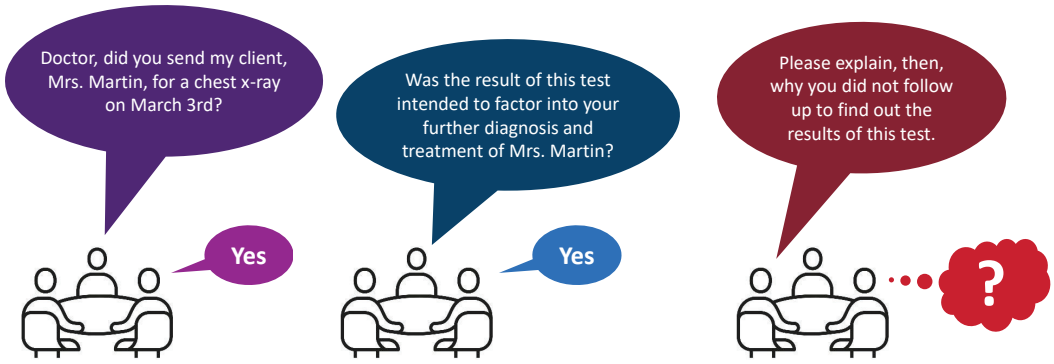
4% (n = 4,826) of all claims over this time period had **associated follow-up issues**

Claims with **associated follow-up issues** closed with indemnity more frequently

Most Common	
Main allegation	Error in diagnosis
Diagnosis error	Delayed diagnosis of cancer
Associated cancer	Lung cancer
Medical specialties	Internal and family medicine

** Claims closed 01/01/2015 to 12/31/2019*

Imagine the following scenario



Initial Considerations

- Did the patient comply with the recommendation for a test, consultation, or appointment?
- What is the outcome or report from the test, consultation, or appointment?
- Did we convey findings to the patient?
- What further care, tests or referrals does the patient need?

Follow-up Principles

- **Physician-Physician Communication**
- **Recall Appointments**
- **Follow-Up Systems**
- **Patient Education**
- **Staff Education and Training**
- **Documentation**

Physician-Physician Communication

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Case Study

- 62 YO male presented to PCP with chest pain
- Echo, stress test, x-ray and labs ordered
- Chest x-ray: RUL nodule vs infiltrate
- CT Chest: multiple nodules in both lungs
- CT Guided Biopsy RUL nodule: necrotizing granuloma with no evidence of malignancy
- Patient referred to Pulmonologist and ID

Case Study

- ID: Suspected fungal infection, but all labs (-), repeat CT in 3 mo. recommended
- Pulmonologist: Repeat CT in several months recommended
- Patient followed-up with PCP 21 mo. later complaining of SOB
- Further work-up revealed non-small cell lung CA in LLL with mets to bone
- Patient died a year later

Standard of Care

- The yardstick by which the defendant-physician's conduct is measured by the jury
- Established in court by the testimony of expert witnesses
- Consider:
  - What would a similarly situated physician have done?
  - Jury determines whether physician's conduct met the standard of care

Legal Factors

Wife filed suit against Internist, ID, and Pulmonologist

Allegations:

- Failure to follow-up
- Delay in diagnosis of cancer

Initial expert review:

- SOC support for initial work-up
- All physicians had obligation to follow lesions to make sure they resolved

Legal Factors

Plaintiff's expert:

- Follow-up CT scan likely would have shown all the nodules decreasing in size except the nodule in the left lower lobe, where the cancer developed
- Would have led to the investigation of that lesion and the diagnosis of cancer at an earlier stage
- Criticized all three physicians for poor communication processes and inadequate follow-up processes

Legal Factors

Defense Expert:

- Agreed with initial review that SOC met for initial work-up
- Reasonable after biopsy of one nodule to presume that all the lesions were related to the same non-cancerous infectious process
- No support for physicians' failure to follow the lesions to ensure decrease in size and resolution
- No support for failure to adequately communicate follow-up plan to patient
- **CASE SETTLED**

Case Discussion

- No communication about who would discuss follow-up plan with patient
- Specialists assumed internist would communicate to patient and vice versa
- No emphasis to patient of importance of follow-up tests
- No adequate follow-up system in place
- Lack of fail-safe method for recalling patients for recommended tests
- No physician followed through to actual diagnosis of this patient

Risk Management Considerations

Referring physicians should consider the following:

- Request consulting physician forward copy of findings
- Determine time frame within which to expect a report
- If a report not received within intended time frame, contact consulting physician to ascertain status
- If something in the report is unclear, if clinical findings do not match the report, or suggested follow-up seems inappropriate, contact the consulting physician
  - Document these actions
- Clearly establish who will coordinate any additional tests, consults, or treatment that is needed in the future

Risk Management Considerations

Consulting physicians should consider the following:

- Notify referring physician if patient does not schedule or attend appointment
- Report appropriately to referring physician
- Depending on urgency of the situation, communicate by written report or directly by telephone with a follow-up written report
- Report to referring physician any subsequent follow-up visits and what tests or follow-up you will be responsible for providing
- Ensure clear understanding with referring physician regarding who is responsible for patient follow-up and recommendations

Recall Appointment Tracking and Patient Education

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Case Study

58 YO female presented to ED with epigastric pain radiating to chest- admitted for cardiac work-up which is negative

GI consulted- iron deficiency anemia and heme (+) stool

EGD - small gastric ulcer

Colonoscopy - incomplete due to tortuous colon and a sub optimal bowel prep

Ulcer treated and repeat endoscopy as outpatient planned

Case Study

After hospital d/c patient left for vacation and forgot to schedule GI follow-up

1 year later patient presented to GI with complaint of blood in her stool

Outpatient colonoscopy revealed cecal mass

Biopsy = cancer

Legal Factors

Allegations:

- Delay in the diagnosis of cancer resulting in pain and suffering, loss of wages, and loss of enjoyment of life

Plaintiff's expert:

- If colonoscopy obtained earlier, likely result in earlier diagnosis of cancer and a better prognosis
- Criticized physician for having inadequate follow-up methods for patients who had been seen in the hospital

Legal Factors

Defense expert:

- No SOC support for failure to follow-up
- No SOC support for delayed diagnosis
- Cannot passively rely on patient to schedule own follow-up

CASE SETTLED

Case Discussion

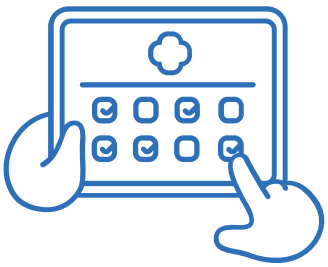
- GI did good job explaining that the colonoscopy was incomplete and required additional future evaluation
- GI surprised patient didn't schedule follow-up visit
- GI unaware patient had no PCP at discharge
- Practice had no process for recalling patients after hospital discharge
- Practice relied on patient to schedule follow-up visits as recommended

Risk Management Considerations

- Policies and procedures for managing patient follow-up after hospital consultations
- If practice had a fail-safe method for recalling hospital patients after discharge, patient's cancer may have been caught earlier and/or the defensibility of the liability case improved
- Cannot rely on patients to schedule their own follow-up appointments
- Taking time to educate patients on the importance of follow-up may improve compliance

Recall Appointment Tips

- Procedure to track patients who require follow-up visits
- Implement system to facilitate patient adherence
- Implement recall process for patients who do not make return appointments after hospital discharge
- Consider limiting prescriptions so patients must come in for appropriate monitoring
- Designate staff to communicate and counsel patients on the importance of follow-up



Patient Education

- Educate patients about tests and consults, why these are important, how results will likely affect further care, and possible consequences of not getting the evaluations
- When ordering tests, inform patients how long it will take to obtain results, and how they will be notified of the results
- Advising patients to call in for results should not be primary notification system
- Make it standard procedure to inform patients about all test results — positive and negative
- Advise patients about the importance of continuing evaluation until a definitive diagnosis for their symptoms is reached

Follow-up Systems and Staff Education and Training

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Case Study

60 YO female was overdue for annual wellness visit due to COVID-19

History of Ovarian Cancer

Unable to complete lab work prior to last wellness visit

Abnormal CA 125 unnoticed

Oncologist referral and workup revealed ovarian cancer recurrence

Delayed Care Due to COVID-19

- CDC: 41% of adults delayed care by 06/2020
- Majority = Routine Care

Factors:

- Practice Closures
- Elective Procedure Suspension
- Patient Fear

https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a4.htm

Legal Factors

Allegation:

- Delayed diagnosis of ovarian cancer recurrence

Plaintiff's Expert:

- Treatment below SOC for failing to timely and appropriately inform Plaintiff of elevated CA 125 levels
- Critical of policy that results only reviewed at follow-up appointments
- Lack of protocol for flagging suspicious test results
- Failure to properly train staff

Case Discussion

- Physician testified abnormal results typically flagged by MA for physician review then messaged through EHR
- Results were not available at annual visit as expected
- When results were available, MA did not realize importance of abnormal results and failed to elevate to physician for review
- Policy was to review results at next visit
- Patient did not return for over a year due to pandemic concerns

Case Discussion

Physician testified that if abnormal results had been brought to his attention, he would have:

- Immediately communicated results to patient
- Sent results to oncologist
- Advised patient to return to oncologist ASAP

Defense Expert:

- No SOC support for failure to timely communicate results to patient
- Insufficient policy/procedure for flagging abnormal results

Risk Management Considerations

- Cannot allow pandemic-related disruptions to cause deviations from SOC
- Implement a strong follow-up and recall system
- Staff training and effective protocols necessary to efficiently utilize technologies such as EHR and automated reminders
- Review appointments cancelled due to pandemic to ensure patient safety and follow-up

Establishing and examining follow-up systems

- Ensure reliable follow-up processes for managing tests and consultations
  - Perform analysis of existing system to detect and eliminate gaps
- Consider the following method to support effective test result management:
  - All results are routed to the responsible physician
  - The physician signs off on all results
  - The practice informs patients of all results, normal and abnormal
  - The practice documents that the patient has been informed
  - Patients are told to call after a certain time interval if they have not been notified

https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/415120

Staff Education and Training

Follow-up protocols and systems are only as reliable as those that are utilizing them

Be sure staff understand the clinical relevance of these protocols to minimize errors

EHR Tips

1. Analyze EHR follow-up mechanisms for possible weaknesses
2. Be sure there is the capability to create inclusive lists of outstanding results and to flag unresolved orders
3. Even with computerized tracking, be sure protocols establish next steps for reviewing and taking action to reconcile outstanding matters

Documentation

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Case Study

59 YO female presented to PCP with foot wound

History: longstanding poorly controlled diabetes and noncompliance

PCP obtained wound C&S and prescribed antibiotics

PCP educated patient on the importance of blood sugar management and advised that she fill antibiotic Rx ASAP

Follow-up visit in 1 week scheduled

Case Study

Rescheduled follow-up visit reveals worsening wound, patient referred to ID

Patient missed scheduled ID visit, and specialist notified PCP

PCP office called patient and she stated worsening symptoms, immediately referred to ED

Patient presented to ED 2 days later and was admitted with osteomyelitis

Treated with IV antibiotics and amputation

Legal Factors

Allegation and Plaintiff's Expert Opinion:

- PCP deviated from standard of care by failing to timely diagnose osteomyelitis, resulting in below knee amputation

Defense Expert:

- PCP exceeded the SOC as evidenced by impeccable documentation

Case Discussion

Strong Expert Support for PCP:

- Each telephone encounter and resulting action was documented
- Communications with ID clearly documented – Including attempt to schedule ID appointment for her
- Clear documentation of patient counseling and referrals
- Prompt referral to ED after no-show with ID
- Meticulous documentation of blood sugar management patient education
- Thorough documentation of patient's history of noncompliance

Risk Management Considerations

Always Document:

- Patient education regarding tests and consultations
- Follow-up contacts when patients noncompliant
- Review of test results by initialing or signing and dating reports or by otherwise noting your review of the patient's medical record
- What action is required and what has been implemented
- Patient notification of test findings and any recommendations for further testing or treatment

Missed Appointments and Noncompliance

- Have a procedure for physician or nurse review of records and circumstances of patients who miss or cancel appointments
- Account for varying levels of importance of clinical visits
- Document cancellation or no-show, physician's evaluation and decision about the missed appointment, and any follow-up steps
- Consulting physicians - contact referring physician when a patient is a no-show

Missed Appointments and Noncompliance

- If missing the appointment causes significant risk to the patient, explain these over the phone or in a letter.
- Document all actions related to patient education efforts:
  - Document telephone discussions in the medical record
  - Place a copy of any letters sent to patients in the medical record
- Consider formal termination of the relationship with chronic "no-show" patients.

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- AHRQ: Health Literacy Universal Precautions Toolkit, 2nd Edition
  Follow Up with Patients: Tool #6: https://www.ahrq.gov/health-literacy/improve/precautions/tool6.html
- Fundamentals of Follow-up: A Risk Management Resource and Distance Learning CME Course (Released 06/15/2021)