

## The Elderlaw Forum: Clinic denies care because of unpaid bill

by Professor\_Michael\_Myers

May a physician legally refuse to treat a former patient because of an unpaid bill? May a physician ethically refuse to treat a former patient because of an unpaid bill?

May a Catholic-sponsored, non-profit clinic refuse to schedule a visit by a former patient because of an unpaid bill? May the clinic's collection agency stack interest expense totaling \$1,181, plus costs of \$70, upon a clinic bill of \$1,251?

Those questions were posed by a 67-year-old senior legal helpline caller. "The woman at the clinic said she would not schedule another appointment until I paid off an old bill. Now I have to drive 60 miles to obtain care," she said. The caller - a diabetic - lives in a sparsely-populated rural location.

The answers to her three questions are yes, yes, and yes. A physician is legally and ethically free to choose with whom to contract and with whom not to contract. However, a physician - and in this case the clinic - has some remote risk under the tort of "patient abandonment" since the caller has been a longtime patient of the clinic.

I advised the clinic that since it had an established physician-patient relationship with the caller, it must exercise reasonable efforts to transfer the caller's care to another physician. Also I am asking that it confirm whether its policy of "no-pay/no-care" is consistent with the "healing" mission of the nuns who sponsor the clinic.

To avoid potential liability for patient abandonment the clinic should provide written notice to the caller that it will no longer continue her treatment, the reason for the termination, and its willingness to provide to another physician all information necessary to assure continuity of care. The fact that the clinic is an operating unit of a Catholic healthcare system is legally irrelevant.

Catholics, Mormons, Lutherans and Baptists exhibit appetites for revenue and profits comparable to for-profit health systems and specialty hospitals owned by cherry-picking physicians. And once they turn over hospital and physician billings to professional collectors, the elimination of usury laws in the United States permit the extraction of virtually unlimited interest penalties for late payment.

The caller had insurance, which paid 90 percent of the charges for her care. But once the nuns turned over

their unpaid bills to professional collectors, their "healing ministry" became a "financial ministry."  
Patient abandonment risk is not a deterrent.

(Pro bono legal information and advice is available to persons 55 and older through the USD Senior Legal Helpline, 1-800-747-1895; mmyers@usd.edu. Comments solely the opinion of the author and not the university).

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