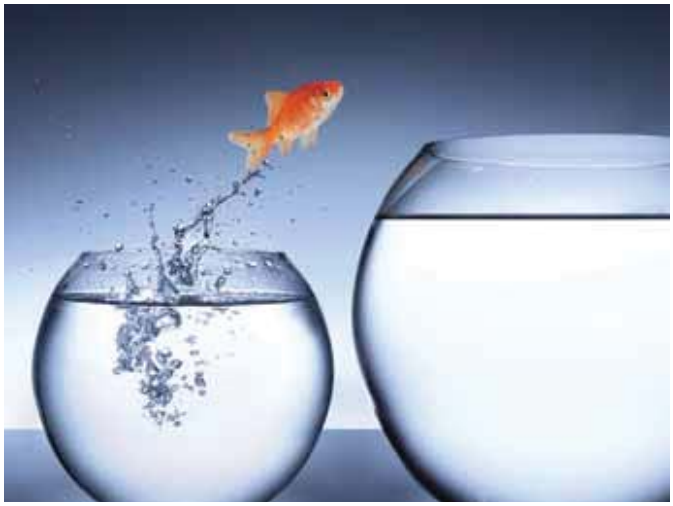
LEGAL ISSUES

# Transitions and Terminations: Legal and Ethical Issues When Discontinuing Treatment

## *Consider these important factors related to ending treatment.*



The process of terminating psychotherapy often goes smoothly and offers an opportunity to review progress made in treatment, plan for managing any recurrence of symptoms and gain closure regarding the therapeutic relationship. Ideally, psychotherapy is discontinued when treatment goals are met, the psychologist and patient* agree that it's time to stop, and the patient knows where to obtain follow-up services if needed in the future. Factors that may have a bearing on successful termination include length of therapy and clinical features such as quality of the therapeutic relationship and the patient's personality traits.

Difficulties are most likely to arise when transitions are not mutually agreed upon by both patient and therapist. Sudden and unforeseen terminations can also be challenging.

Familiarity with legal and ethical duties, a thorough informed consent procedure and advance planning are all useful in promoting smooth and effective transitions.

In this article, the term "termination" refers to the discontinuation of treatment by a particular psychologist. The term "transition" is used more broadly to refer to all types of situations that involve discontinuation of treatment, including transfers to another mental health professional or setting.

### Ethical and legal framework

The APA Ethical Principles of Psychologists and Code of Conduct (Ethics Code) provides both an excellent framework and specific guidance for handling treatment terminations. The Ethics Code Principle A (Beneficence and Nonmaleficence) requires psychologists to "strive to benefit those with whom they work and take care to do no harm." This principle applies to the course of treatment as well as its ending. Ethics Standard 10.10 (Terminating Therapy) specifically addresses terminations as follows:

> **(a)** Psychologists terminate therapy when it becomes reasonably clear that the client/patient no longer needs the service, is not likely to benefit, or is being harmed by continued service.
>
> **(b)** Psychologists may terminate therapy when threatened or otherwise endangered by the client/patient or another person with whom the client/patient has a relationship.
>
> **(c)** Except where precluded by the actions of clients/patients or third-party payors, prior to termination psychologists provide pretermination counseling and suggest alternative service providers as appropriate.

Section (a) implies that clinical judgment is involved in determining the benefits of continued services, a topic discussed in further detail later in this article. Section (b) clearly allows psychologists to unilaterally end therapy when they are threatened by a patient or someone connected to a patient. Section (c) addresses pretermination counseling and referrals.

Referral information is preferably given to the patient both verbally and in writing, with a copy included in the patient record. Even in circumstances that preclude pre-termination counseling, such as when a patient suddenly stops attending therapy appointments, psychologists

*The terms "patient" and "client" may be used interchangeably in this article to refer to recipients of psychological services.

should typically provide patients who need additional treatment with contact information for several appropriate alternate service providers. A letter to the patient is generally an appropriate way to convey this information.

Many states have adopted the APA Ethics Code or similar ethical standards or rules for professional conduct for psychologists. Furthermore, some states have adopted specific statutes or regulations prohibiting abandonment of patients or have case law prohibiting abandonment. In other words, psychologists are both ethically and legally required to handle terminations in a way that does not constitute abandonment of a patient.

For example, the New York Rules of the Board of Regents § 29.2 states: "Unprofessional conduct [for psychologists and other listed health professionals] shall also include… abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment… without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients."

According to Younggren & Gottlieb (2008), "Abandonment represents the failure of the psychologist to take the clinically indicated and ethically appropriate steps to terminate a professional relationship" (p. 500). Although psychologists may become concerned when they need to unilaterally terminate therapy, legal and/or state board actions against psychologists for abandonment appear to be rare (Younggren & Gottlieb, 2008). Usually, the real question is how to handle transitions in a way that best promotes the patient's welfare – whether the transition is complicated or not.

To avoid allegations of abandonment, Knapp et al. (2013) offer the following advice: "The general risk management rule is not to terminate against the wishes of patients if they are in life-endangering crises. If therapists decide to terminate treatment, they should give adequate notice and provide referrals for other treatment opportunities if more treatment is needed" (p. 204). In addition, careful documentation, obtaining clinical and/or legal consultation as needed, and advance planning are all helpful in reducing risk. If you are concerned about a possible allegation of abandonment, however, you should consult with your malpractice insurer's risk management service or a knowledgeable attorney.

### Termination as a process

To handle termination as smoothly as possible, it helps to think of it as a process and begin planning for termination at the outset of treatment. Topics such as the expected course of

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Younggren, J. N., & Gottlieb, M. C. (2008*).* Termination and abandonment: History, risk, and risk management. *Professional Psychology: Research and Practice, 39*(5), 498-504.

treatment and policies regarding termination can be included as part of your informed consent. In fact, Ethics Standard 10.01 (Informed Consent to Therapy) requires that psychologists inform patients about the anticipated course of therapy. In addition, clear treatment goals should be established early.

Addressing these issues at the beginning of therapy helps patients to work in a collaborative manner toward achieving positive outcomes and to anticipate when therapy will end. It will also help patients better understand when termination is needed due to insufficient progress or inability to meet treatment goals.

### Termination by mutual agreement

Typically treatment is terminated by mutual agreement of patient and therapist, which allows for effective pre-termination counseling to take place. Pretermination counseling should usually include the following: planning for an end date; reviewing progress made and goals achieved in treatment; discussing strategies for maintaining treatment gains; and clarifying how to access follow-up care if needed.

The specific issues that should be addressed and desirable length of pretermination counseling will depend on a number of factors, such as overall duration of therapy, clinical considerations and treatment approach. For example, a patient who has been in long-term psychodynamic psychotherapy for chronic depression will have a longer and more involved termination phase than a patient who has been in short-term treatment to cope with anxiety symptoms caused by transitioning to a stressful new job.

### Planned terminations

Planned terminations that are initiated by either the patient or the therapist also generally allow for thorough pre-termination counseling and a smooth ending of the professional relationship. Planned transitions can occur for many reasons, such as relocation of either party or the psychologist taking a new job or retiring. Planned transitions can also occur when the patient's insurance benefits change or run out.

From the outset of treatment, psychologists should strive to be aware of any financial limitations that could interfere with needed services and plan accordingly, with a focus on patient welfare. For example, if you are an out-of-network provider and the patient is under financial strain but will likely need long-term treatment, you should consider referral to an in-network provider.

***Termination is often more difficult when the decision to stop treatment is made unilaterally by either the patient or the therapist and is not triggered by a definitive event such as relocation.***

### Planning for the unexpected

Ethics Code 3.12 (Interruption of Psychological Services) addresses both expected and unexpected reasons for termination as follows: "Unless otherwise covered by contract, psychologists make reasonable efforts to plan for facilitating services in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, relocation or retirement or by the client's/patient's relocation or financial limitations."

Unless you are working for an organization with contracts in place that address continuity of care, advance planning is needed in case a psychologist is suddenly unable to provide services due to unforeseen circumstances such as an accident, serious illness or death. In addition to meeting ethical requirements, planning for the unexpected can facilitate your patients' transition to a new mental health professional, simplify access to records, and prevent your family from being burdened by the complex task of figuring out how to handle your professional affairs if you are suddenly unable to do so yourself. To put an effective plan into place, see "Your Professional Will: Why and How to Create" on page 12.

### Other unilateral terminations

Termination is often more difficult when the decision to stop treatment is made unilaterally by either the patient or the therapist and is not triggered by a definitive event such as relocation. For example, sometimes patients will simply stop paying for therapy or no longer attend scheduled appointments. Payment issues should be addressed promptly and referrals to lower-fee or in-network service providers offered if appropriate. Psychologists should keep in mind that failure to pay for services may at times reflect a patient's dissatisfaction with treatment or other underlying clinical issues that need to be addressed.

If a patient stops attending sessions, it is usually appropriate to reach out to the patient by phone or mail to offer continued services or pre-termination counseling, clarify the status of your professional relationship and/or offer referrals to alternative service providers if needed. Further action may be required if you are concerned that your patient is in crisis or a danger to self or others. (For additional information on this topic, see "Duty to

Protect" in the Fall 2013 issue of *Good Practice* magazine at **apapracticecentral.org/good-practice/secure/duty-to-protect.pdf**.) If a patient or someone close to a patient threatens or harasses a psychologist, treatment should usually be discontinued immediately and appropriate steps taken to prevent harm (see "Dealing with Threatening Client Encounters" in the Winter 2012 issue of *Good Practice* magazine at **apapracticecentral.org/good-practice/secure/client-encounters.pdf**).

More complex reasons that psychologists may decide to unilaterally discontinue treatment or refer patients to alternative service providers include a lack of progress and/or a need for services beyond the psychologist's professional skills and competence. If you think you may need to terminate treatment unilaterally, it is often useful to consult with colleagues about your concerns. Perhaps the treatment can be modified in order to be more helpful to your patient? In most cases, if you do decide to stop treatment, it is important to discuss the situation with the patient, give adequate notice, provide referrals as needed and keep careful documentation.

If you are unable to continue to provide needed care due to a lack of expertise or because treatment is not progressing, you should give patients the names and contact information for several mental health professionals or agencies that can provide appropriate services. Knapp et al. (2013) note that although giving patients three referrals is often recommended, doing so is not legally or ethically required. The goal is to provide some reasonable options for services (p. 203). If a patient is angry, he or she may at least initially object to any alternative service providers you suggest.

As mentioned earlier in this article, Knapp et al. (2013) recommend not terminating against the wishes of patients if they are in life-endangering crises. Terminating treatment of a patient with a chronic low level of suicidality can also be risky and should be handled with particular care. Ideally, the patient will understand your rationale and agree to a referral, for example to a more experienced therapist or to a more structured environment that provides urgent care services. If the patient is a potential risk to self or others, or if the patient is angry and disagrees with your decision to end treatment, you should consider consulting with a colleague. In addition, you may want to consult with an attorney or your malpractice insurer's risk management service.

Although transitions can be difficult to manage when therapy is not progressing well, it is important to keep in mind that *continuing* treatment under these circumstances may be inadvisable. Knapp et al. (2013) recommend that


psychologists stop treatment "if they are unable to provide a reasonable level of quality of care" (p. 206). This advice is consistent with Ethics Standard 10.10(a), as quoted earlier, which requires psychologists to terminate treatment when the patient no longer needs the service, is not likely to benefit or is being harmed by continued service. Of course, the transition itself must still be handled in an ethical and professional manner.

Vasquez, Bingham & Barnett (2008) offer a detailed discussion and a list of practice recommendations for ensuring clinically appropriate terminations consistent with professional standards and patients' best interests. Their practice recommendations cover many of the key issues discussed in this article. In addition, they provide sample letters for use in the termination process.

## Promoting patient welfare

Maintaining a focus on patient welfare is a good guiding principle when handling difficult transitions and other complex practice issues. Even in challenging circumstances, such as a unilateral termination due to a lack of expertise, the psychologist may be able to promote a positive outcome, for example by facilitating a transition to a provider who can better meet the patient's needs.

If you have further questions about transitions and terminations, please contact the American Psychological Association Practice Directorate's Legal and Regulatory Affairs Department at praclegal@apa.org or 800-374-2723.

*Please note: Legal issues are complex and highly fact specific and require legal expertise that cannot be provided by any single article. In addition, laws change over time and vary by jurisdiction. The information in this article should not be used as a substitute for obtaining personal legal advice and consultation prior to making decisions regarding individual circumstances.*