



Introduction

It is common for physiotherapists to change employers several times over the course of their career. Physiotherapy Alberta often hears from both business owners and physiotherapists at the end of an employment relationship. The situations we hear about often take on the air of a “bad divorce” once notice is given. All too often the patient, and their rights and preferences, seem to take a back seat to the business interests of the parties involved.

The Leaving a Practice Guideline was developed to help physiotherapists work through the process of parting ways in a manner that is professional, collegial and puts the patient’s rights and interests first. This includes the patient’s rights to:

- Autonomy
- Privacy
- Access to information

What do the Standards of Practice Say?

The Standards of Practice and Code of Ethical Conduct clearly establish the expectations for physiotherapists when leaving a practice, including:

- Respect and support the autonomy of the patient.
- Value the best interests of their patients.
- Protect patients’ privacy and personal information at all times.
- Promote continuity in service by collaborating and facilitating patients’ transition from one provider to another.
- Communicate effectively with patients, team members, and other stakeholders to facilitate collaboration and coordinate care.
- Treat patients, health-care team members, and other stakeholders with dignity and respect at all times.
- Refrain from advertising that questions or diminishes the skills of other providers or the services of other clinics or facilities.

These represent the minimum expectations that all physiotherapists must meet.

Autonomy

The patient has the unalienable right to choose their provider. Neither the physiotherapist, nor the physiotherapy business, have the right to interfere with the patient’s informed choice of where and from whom they receive treatment. No one “owns” the patient. The patient may choose to follow their physiotherapist to their new location, or they may decide to remain at the original clinic. The decision is the patient’s alone.

For the patient to make an informed choice and to exercise their autonomy, the physiotherapist and the physiotherapy business need to provide the following information to the patient:

- The patient’s treatment options, which may include:
 - Following the physiotherapist to their new location
 - Transferring care to another physiotherapist within the practice location

- Transferring care to a physiotherapist at another clinic in the community
- Other relevant information that will inform the patient’s decision:
 - Where the physiotherapist is going
 - Any likely interruptions in their care
 - The skills and services available at the practice location if the patient were to remain rather than following the physiotherapist to their new location

Given that the patient has the right to choose their health-care provider, it is essential that the patient be notified of any pending changes that affect their care. Three common scenarios to consider:

- The patient is undergoing active treatment and has upcoming scheduled appointments.
- The patient has an appointment after the physiotherapist’s last day at the practice.
- The patient has no upcoming appointments but is not yet discharged.

Patients who are undergoing active treatment must be notified of the change as soon as possible. This notification should be in writing, and the patient should be asked to indicate in writing their preference for ongoing treatment, enabling continuity of care.

A sample letter is provided for physiotherapists and their employers to modify as necessary.

Dear (Patient):

On (month, day, year), (I or name of physiotherapist) will be leaving (name of practice) to (retire/go on leave/join a new practice/begin my own practice). As (I or name of physiotherapist) (am/is) presently providing you with physiotherapy services, it is important you know the options available to receive ongoing physiotherapy. These options are:

- Remain at (name of practice) and transferring care to (name of physical therapist).
- Transfer to another practice in the area, a list will be provided to you.
- Transfer to (name of practice or departing physiotherapist).

Please advise (me, practice owner or administrative person) of your decision so that continuity of care can be assured. You may do so by indicating your choice below and returning a signed and dated copy.

(Name of physiotherapist/practice owner)

Please choose one of the following options:

- I wish to stay with (name of practice and new physiotherapist).
- I would like to know about other physiotherapy practices in my area.
- I wish to continue care with (physiotherapist’s name) at their new location

Patient Signature:

Date:

In the case of the patient who has an appointment booked after the physiotherapist's last day, the patient needs to be contacted and advised of the change. This may be done by email or telephone and must include the content already described.

It is not acceptable for the patient to arrive at the clinic for their appointment expecting to see their physiotherapist only to be told that they will be seeing a different person.

In the case of patients who do not have an appointment scheduled nor a current plan for follow up, the physiotherapist should treat these patients as discharged and follow normal clinic procedures regarding the completion of discharge summaries and records before their last day.

If a patient who has been discharged later calls the practice wishing to re-book with the physiotherapist, they must be informed that the physiotherapist has left the practice and provided with information regarding their treatment options, including the physiotherapist's new location, if it is known.

It is not acceptable to book an appointment for the patient and not inform them that the physiotherapist has moved until they arrive.

It is also not acceptable for the former employer to withhold information about the physiotherapist's whereabouts to avoid a business loss.

Privacy

Patients have the right to know that their private information is secure and that it will not be misused. This means that they must know:

- Who the custodian of their health record is
- How they can access their health information or make an amendment to it
- How the record is being protected
- Have confidence that no unauthorized access to their private information is occurring

Among other things, this means that the patient is not contacted using email addresses or old phone numbers on file for marketing purposes when that information was collected for the purpose of providing care.

As physiotherapists increasingly adopt electronic record management, there is an ever-expanding set of private information (email, contact information, health information) that physiotherapists may have access to. Privacy practices need to keep pace with trends such as text and email interactions with patients, and "bring your own device" recordkeeping.

The custodian of private information is responsible to ensure ongoing access, secure storage, and appropriate destruction of private information. While a physiotherapist may be the custodian of patient information, unless specified in the physiotherapist's contract, the physiotherapy business is typically the custodian of patient records.

It is imperative that the physiotherapist and the physiotherapy business understand:

- Who will be the custodian of private patient information?
- How records will be retained
- How access to private information will be provided should the physiotherapist need to generate a report on behalf of a former patient

Access to information

Although the physical record of the patient's physiotherapy care is the property of the custodian, the information contained within the record is the property of the patient. Patients have the right to access their health information, to request an amendment, or to obtain copies of their private information without unreasonable barriers. Although a practice may charge a reasonable fee for the work related to generate a copy of a patient record, these fees must represent the actual costs of generating the chart copy. In some cases, the fees are specified in the privacy legislation that applies to the patient's care and practice setting.

Although physiotherapists may wish to have a copy of the records of patients who follow the physiotherapist to their new location, they should carefully consider the value of such a chart copy keeping in mind the expense to the patient, the expectation to re-evaluate the patient's progress throughout the course of treatment, and the need to obtain ongoing consent for treatment. Is a chart copy necessary?

If the patient chooses to move to the new practice and wishes to obtain a copy of their record, they should make this request. The departing physiotherapist should not make the request on behalf of the patient.

The physiotherapist must not access or copy the patient record or other patient private information to take with them without following formal processes for obtaining a chart copy, including obtaining patient consent.

Avoiding trouble

Faced with the prospect of a bad divorce, the best prevention is a good "pre-nup."

Physiotherapy Alberta does not provide legal advice or resources regarding contracts. This does not mean that these issues are unimportant.

Physiotherapists and physiotherapy business owners are encouraged to know and understand the terms of their contracts and to seek independent legal advice regarding contract terms such as restrictive covenants (non-compete clauses).

It is recommended that contract terms address custodianship of patient records, how records will be retained, and how access to patient private information will be achieved should it be necessary for the physiotherapist to generate a report.

FAQs

1) I am leaving clinic "X" and I will be taking a copy of all my physiotherapy patients' charts. Is this OK?

No. The physiotherapist should only have access to copies of the records of former patients if the patients have requested that a chart copy be prepared. The client, not the physiotherapist, makes this request.

The only exception would be if the physiotherapist and physiotherapy business owner have agreed that the physiotherapist will be the custodian of their patient records. In this case the physiotherapist takes on the responsibility to retain the patient records securely, ensure access to, and appropriately destroy patient records. In this case the physiotherapist would retain the original records, not a copy.

2) Physiotherapist “Y” is/has left the clinic and has taken a printout of all their patients’ contact information so they can send notices thanking the patients for their business and providing information about their new location. Can the physiotherapist do this?

No. Patient contact information (including telephone numbers, email addresses, and mailing addresses) is identified by privacy legislation as private information. When custodians collect patient private information, they are required to do so for an identified purpose and may only use information for the purposes identified. While they may identify contacting patients about upcoming appointments/appointment reminders as one such purpose, it is unlikely that they will have identified notifications of staffing changes as a purpose for data collection. This means that the patient contact information collected may not be used for this purpose.

The custodian also must protect private information from unauthorized access or use. Once the physiotherapist is no longer an employee or contractee of the custodian, they are no longer an authorized user of private information. The custodian must employ measures to ensure the physiotherapist does not have access to the patient information. Similarly, physiotherapists must refrain from inappropriately accessing patient information to which they do not have a right to access and from using information for purposes other than those identified at the time of collection.

3) My current/past employer refuses to provide my patients with my new location even when the patient specifically requests the information. Is this OK?

No. Employers cannot refuse to share information about the physiotherapist’s location if they know it, simply to avoid a business loss. Patients have a right to choose their health-care providers. At a minimum, the employer needs to advise patients that they can obtain this information from the Verify a Physiotherapist section of Physiotherapy Alberta’s website.

4) The non-solicit/non-compete clause in my contract states the clinic “owns” the patient and that I cannot inform them of my new location as this is soliciting their business. Is this right?

As already stated, neither the physiotherapist nor the clinic “own” the patient. The patient has the right to choose their provider. Using the sample letter provided helps to provide information about the physiotherapist’s new location in a neutral manner.

6) Who should notify patients that their physiotherapist is leaving the practice? The practice or the physiotherapist?

In the best-case scenario, this is a collaborative process and the physiotherapist and business owner/manager agree about how patients will be notified and the wording of a letter (or script for telephone contact) that explains the change and patient’s options for ongoing care. Such letters should be written in a clear and neutral manner that allows the patient to choose the ongoing treatment option they deem most appropriate. Notifying patients of pending changes is one of the most challenging aspects of leaving a practice, but it helps to remember that employment change is normal and that any impact on the business of either party is likely to be short lived.

7) Who is responsible for keeping the patient records?

It depends on the contract between the physiotherapist and the employer, but it is common for the practice to retain the patient records. This is a sensible option, due to the responsibilities that come with being the custodian, and the fact that patients typically seek their records from a practice location, rather than seeking out their former physiotherapist when looking for their records.

Regardless of who is serving as the custodian of the records, the patient must know where their records are and how they can access their record should they need it for any reason.

College of Physiotherapists of Alberta
Contact us for more
information on this or other practice guidelines.

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