

To Mask or Not to Mask

What to do when faced with a patient who refuses to comply with your policy?

BY LYNN HOMISAK, PRT

To Our Readers: *There are no foolish questions. Chances are that if you have a question or concern in your practice, others are experiencing a similar situation. We're here to help. PM [doctor and staff] readers are encouraged to submit questions to lynn@soshms.com which will be printed and answered in this column anonymously.*

Re: To Mask or Not to Mask

Dear Lynn,

Since returning to our office post-coronavirus/COVID-19, we have implemented new safety policies, one of them requiring all doctors and staff and anyone else entering the office to wear a mask or face covering (exceptions for patients with medical issues). We haven't had any problems until today when a patient arrived without a mask, refused to wear one we provided, and warned that if we refused her treatment, she would sue us. To avoid a scene (and a potential lawsuit?), we let her in, but got a lot of criticism from other patients. In an effort to be fair to all our patients, how could we have handled this better?

Non-compliant behavior is nothing new and we are no stranger to it in our podiatry offices. "Wear this night splint while you sleep." "Ease into your new orthotics. Don't wear them all day the first day." "Keep your foot dry while this bandage is

indicating that patient phone calls will be returned at the end of each day. Written policy helps set standards based on how you want your office to function; making sure you do not discriminate. And you expect them to be followed. Is this any different

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on." "Don't put any pressure on your foot immediately after surgery." We have struggled getting patients to follow these (and other) familiar directives. We make it clear that following these simple instructions is in their best interest, and yet there are those who resist.

This type of behavior is somewhat similar to your "rebellious-patient" incident. Though requiring a mask/face covering is not a medical treatment recommendation, it is also not up for debate. It is your office policy, much like your financial policies or your policy, for example, in-

than restaurant policies prohibiting customers from smoking or requiring a dress code? If a patron shows up for his or her dining reservation without pants, guess what? Do not pass go, do not collect your cheeseburger! "No shoes? No service!" If you patronize a store, you are expected to follow their return merchandise policy. If their policy is CASH ONLY, you pay cash or no sale. Why then, is asking patients to wear a mask while in your practice a bridge too far?

Perhaps you've watched a number of social media videos depicting

Continued on page 36

THE CONSULTANT IS IN

Mask (from page 35)

angry patients and consumers screaming at business owners who have politely asked them to wear a face covering in their facility. If so, you know that confrontation only adds fuel to the fire. Words and tempers can escalate quickly following these common non-wearer excuses, “it’s too hot; it’s not comfortable; it’s inconvenient; I can’t breathe; it stifles communication; or it violates my constitutional rights.” In many scenarios, it seems when the conversation devolves into aggressiveness, the litigious argument begins.

Maybe you’re thinking that if you inundate these patients with knowledge, facts, and logic, you can persuade them. Understand, however, that the non-compliance in these cases is planned before they arrived for the appointment, so don’t be surprised if you fail to win them over to your side. With or without statistics. An article titled “The Role of Cognitive Dissonance in the Pandemic” offers some keen insight into why it is almost impossible to change some peoples’ minds, psychologically.

Authors Elliot Aronson and Carol Tavris, social psychologists, explain that “the minute (people) make any decision, e.g., ‘I think COVID-19 is serious’; or ‘no, I’m sure it is a hoax’, (they) begin to justify the wisdom of (their) choice and find reasons to dismiss the alternative. As people justify each step taken after the original decision, they will find it harder to admit they were wrong at the onset. Especially when the end result proves self-de-



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feating, wrongheaded, or harmful.”¹

Obviously, if only this one patient who refused was willing to put herself in harm’s way, you might have just shrugged and said, “if it’s okay with you, it’s okay with us.” However, the policy is meant to protect all individuals, including those who might come into contact with her, so enforcing it becomes a much broader health concern.

Can she sue the practice? It’s about as likely as suing TSA for making you take your shoes off at the airport. Regrettably, ambiguous guidance from public officials and inconsistent state mandates add to the confusion. What is legal in one state is prohibited in another—times 50, county to county, city to city, and the virus doesn’t respect borders on maps.

What Can You Do?

First, make sure you post your policy on your door and your website. Give patients who schedule by phone

the heads up that a mask is required when they arrive for their appointment.

“Better yet,” says author Peter M. Sandman in his article “Making Patients Wear Masks,” “don’t just tell the patient your policy. Get the patient to repeat it back to you. This can be a standard part of the protocol for confirming appointments by phone or text: ‘I understand that I will be required to wear a mask.’ It’s not just that people who have repeated the words can’t later claim they didn’t know. Repeating the words is a behavioral commitment that will help patients rein in their inclinations to resist. Alternatively, refusing to repeat the words will signal that you have a problem and a choice: continue the discussion, cancel the appointment, or make an exception.”²

Next, check with your state and/or state association for regulatory guidance. Are there any laws in your particular location that address this issue and from a medical standpoint, what (if any) legal ramifications does refusing service to a non-compliant, non-emergent patient have?

And third, consult your lawyer. What actions can you take to protect yourself? One thing you might consider asking them is, “if another individual gets the virus as a result of coming into contact with this non-compliant patient, can they make a legal case that the practice is responsible?”

All that being said, there are a couple of suggestions when faced with a patient who refuses to comply with your policy, assuming they do not have a condition that

Continued on page 38

Mask (from page 36)

requires emergent or immediate care.

1) Offer a telehealth visit, realizing that in certain circumstances, treatment is not always feasible in this manner.

3) You can try to assess the reason why the patient refuses to wear a mask and offer empathy and exception if warranted.

4) If nothing else works, suggest to the patient that their appointment

the policy or go elsewhere. Try not to make it more complicated than it needs to be. **PM**

Regardless of your position regarding face coverings, your policies are not, nor should they be, determined by patients.

2) The Texas Medical Board offers this bilateral commentary: “The decision to treat/see any patient is at the discretion of the physician/practice.” And then, “If the physician chooses to deliver care and the patient cannot wear a mask, practitioners should document the circumstances surrounding the decision to render care to a patient who is not wearing a mask.”

will be rescheduled after the pandemic is over.

Regardless of your position regarding face coverings, your policies are not, nor should they be, determined by patients. You are entitled to set non-discriminatory rules in your practice and if anyone takes issue with ANY of these policies, they have two choices. Comply with

References

¹ <https://www.theatlantic.com/ideas/archive/2020/07/role-cognitive-dissidence-pandemic/614074/>

² <http://www.psandman.com/col/Corona20.htm>



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