



DR. WITHERSPOON
CHIEF OF STAFF

by J. M. MacDavid M.D.

Final Notice

A gentleman was given the unfortunate news he had colon cancer. His doctor advised him to undergo surgery to remove it.

The patient wanted to think about it. "It's cancer. It must be removed," the doctor said. They agreed to discuss it further at his next office visit.

But the patient canceled the next visit. Then another. Several calls were made urging him to come in, but the patient always had an excuse.

He complained about the cost of surgery. Then he accused the doctor of thrusting an unnecessary operation on him just to get his business. The doctor pleaded with him to get a second opinion. The patient ignored that, too. Letters were sent.

Finally, the doctor sent him a registered letter stating that, since he had ignored repeated advice to undergo a life-saving operation, he, the patient, would be responsible for what the doctor was convinced would be a fatal outcome.

Eventually, the man grew weak and thin. He saw another doctor who diagnosed advanced colon cancer. His prognosis was now dismal, his time very short.

The man sued his first doctor for malpractice. He claimed the doctor failed to advise him of the seriousness of his condition and never told him he needed surgery. In a scurrilous denunciation, his lawyer claimed the man's fatal condition was a result of the doctor's inexcusable negligence.

But the doctor kept a meticulous record of all his dealings with the patient. Every phone call was accompanied by an office note, every letter photocopied. And they had his signature on the little slip accepting the registered letter.

The case was dismissed.



Dr. Witherspoon Says:

Why in the world would a man, presumably of sound mind (by that I mean able to manage his affairs, go to work, balance the checkbook, things of this nature) simply walk away from an operation that would save his life?

He was probably in “denial,” a coping strategy by which the mind refuses to acknowledge information that it cannot deal with.

To the good doctor, this can be downright baffling. What can he do? Classic treatment recommendations for denial include being supportive, be an advocate, don’t be judgmental, cognitive behavioral therapy, and others, but these are geared toward such conditions as diabetes or hypertension: life-long illnesses that a significant percentage of patients tend to ignore. These are silent killers because many patients erroneously conclude since I don’t feel sick, there must not be anything wrong me, so why bother? Expense is an issue when medications are not covered by insurance. And there’s the granddaddy of all conditions notorious for patients in denial, AUD or Alcohol Use Disorder.

In the conditions noted above, the consequences of inadequate treatment come later in life, when the ravages wrought by neglect become manifest and generally irreversible. Successful treatment is preventive and involves a life-long commitment. Denial kills, but with most conditions, it’s a long, slow death spanning years.

This case is entirely different. There was a very narrow window of opportunity that closed quickly. The doctor must have been frantic, knowing there was so little time. I’m not sure what else he or anyone could have done, particularly since the patient had become accusatory and somewhat hostile.

You can’t drag a patient into the OR and operate on him against his will. You must be legally incompetent (dementia, mentally ill, etc.) or otherwise incapable of informed consent (e.g., intoxicated accident victim) for that to happen. Even under those conditions, treatment guidelines vary from state to state. Many are very restrictive. We could order a competency hearing but if he otherwise makes sense and doesn’t meet the criteria, nobody will force a patient into an unwanted operation.

We can advise counseling but it’s the ol’ “lead a horse to water” situation. If he doesn’t want to go, he won’t.

There is some evidence that, in the last extreme, the best approach may be direct confrontation. Get the family to pointedly confront him with the situation. This may break through the denial to realization and acceptance of treatment.

Unfortunately, with the HIPAA restrictions (Health Insurance Portability and Accountability Act), we can’t discuss a case with anyone else without the patient’s permission. Calling the wife behind his back could be risky. If angered, the patient could sue. At his wits end, the doctor finally wrote him a registered letter.

I must emphasize the extraordinary gravity of the doctor sending out a registered letter. That is the gold standard physicians use to give final notice to patients who refuse treatment. I'm not a lawyer but, as it was explained to me, when a person signs for a registered letter, the law recognizes the information in the letter is legally in the recipient's head. Now you know. Such arguments as "I didn't know," "He never told me," "I didn't understand," etc., are, at that point, untenable. As far as the courts are concerned, the information in the letter is legally known to you. If you have a stake in a firm undergoing bankruptcy, you may receive a registered letter advising you of a date by which you must file a claim for a portion of its assets. If you miss the date, that's tough, it's your own fault.

A registered letter is the legal device by which doctors tell their patients, in effect, "I've done all I can, now you're on your own." Of course, it shouldn't be worded in "medicalise," it must be in easily understood lay terms and very specific, i.e., "left untreated, this disease will take your life." It reliably stands up in court to defend the doctor against taking the blame for an unfavorable outcome resulting from the patient ignoring critical advice. It means the doctor has, in effect, given up and, after receiving a registered letter, the patient will likely not hear from him again.

From that point on, the patient will be truly alone with his decision.