Introduction
These days it is typical for physiotherapists to change employers several times over the course of their career. Unfortunately, all too often the end of an employment relationship can feel like a “bad divorce” once notice is given, and plans are made to notify patients of the upcoming change. Other times, it can begin to feel like siblings bickering, as Physiotherapy Alberta hears from both the employer and employee, with each party raising concerns about the other’s conduct.

The Leaving a Practice Guide was developed to help physiotherapists work through the process of parting ways in a manner that is professional, collegial and holds the patient’s interest at its core. Some things to keep in mind:

• Changing employment arrangements is normal. Neither employers nor employees should expect physiotherapists to stay with an employer forever.

• Physiotherapy Alberta does not intervene in business matters unless there is a public protection issue to address.

• If you have been party to, or tolerated, a questionable professional practice for an extended period and are calling Physiotherapy Alberta to report it as the employment relationship is ending, consider your motivation. Is the behaviour contrary to the standards, or is this a parting shot? Why did it become an issue today?

Issues of note
Two of the biggest issues to address when a physiotherapist leaves a practice are ensuring continuity of patient care and managing patient records. Reflecting on the following underlying principles can help to guide the actions taken when addressing these issues.

1. Client autonomy is paramount and unalienable.
Patients have the right to choose their health-care providers. 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.

2. Privacy is top priority.
Patients have the right to have their personal information remain private. In the era of increasing 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.

What do the Standards of Practice say?
In addition to these principles, there are several standards that physiotherapists must comply with when leaving a practice.

The Client Centered Care Standard requires physiotherapists to value the best interests of their clients.

The Client Assessment, Diagnosis, Interventions Standard includes the requirement to promote continuity in service by collaborating and facilitating clients’ transition from one provider to another.

The Collaborative Practice Standard requires the physiotherapist to communicate effectively with clients, team members, and other stakeholders to facilitate collaboration and coordinate care. The Standard also requires that the physiotherapist treats clients, health-care team members, and other stakeholders with dignity and respect at all times.

Finally, once the physiotherapist has made the move to their new location, he/she and the former employer are both required to comply with the Advertising Standard and to refrain from advertising that questions or diminishes the skills of other providers or the services of other clinics or facilities.

These Standards of Practice represent the minimum expectations that all physiotherapists must meet.

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

• The patient is undergoing active treatment and has upcoming scheduled appointments before the physiotherapist’s employment change.

• The patient has an appointment booked on a date after the physiotherapist’s last day at the practice.
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.

Yours truly,

(Name of physiotherapist/practice owner)

Please choose one of the following options:

1. I wish my file to stay with (name of practice and new physiotherapist). □
2. I would like to know about other physiotherapy practices in my area. □
3. I wish to continue care with (physiotherapist's name) at their new location. □

Patient signature __________________________ Date ____________

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The patient has not attended physiotherapy recently and there are no upcoming appointments booked.

Patients who are undergoing active treatment should be notified of the pending change as soon as possible. It is recommended that this notification be in writing and inform the patient of the change and their options for ongoing treatment. Patients should be provided with enough information to be able to make an informed decision. The patient should also be asked to indicate in writing their preference for ongoing treatment - whether to remain at the current practice or to follow the physiotherapist to their new location - enabling the transfer to a different physiotherapist if necessary.

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

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 pending change. This may be done by email or telephone, and the information shared should follow the same format as the information in the sample letter. 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 the patient calls the practice wishing to re-book with the physiotherapist after their departure, staff must inform the patient that the physiotherapist has left the practice and provide information regarding the physiotherapist's new location, if it is known. If they are not aware of the physiotherapist's new location, they must advise the patient that they may obtain the information through Physiotherapy Alberta's website. Again, 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 in order to avoid a business loss.

Managing records

The practice/employer is typically the custodian of patient records unless otherwise specified in the physiotherapist’s contract. The custodian is responsible to ensure ongoing access to, secure storage and appropriate destruction of patient records. While a physiotherapist may be the custodian of patient records, they should be thoughtful of these requirements and how they will fulfill them before opting to take on this responsibility. It is recommended that employment contracts specify which party will be responsible for record retention and that the custodian will retain the records in a manner consistent with the Standards of Practice. The parties should also have a written agreement in place ensuring the physiotherapist’s ongoing access to patient records in the practice’s custody when necessary.

The basic premise of all patient records is that although the physical record is the property of the custodian, the information contained within the record is the property of the patient. Patients have the right to access and obtain copies of their records, without unreasonable barriers. Although a practice may charge a reasonable fee for the work related to generating a copy of a patient record, these fees should represent the actual costs of generating the chart copy.

Sample Patient Letter

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.

Yours truly,

(Name of physiotherapist/practice owner)

Please choose one of the following options:

1. I wish my file to stay with (name of practice and new physiotherapist). □
2. I would like to know about other physiotherapy practices in my area. □
3. I wish to continue care with (physiotherapist's name) at their new location. □

Patient signature __________________________ Date ____________
Avoiding trouble

- Know the terms of your contract. If you are not sure what they mean, talk to your lawyer.
- When employing restrictive covenants in contracts, seek legal advice regarding their enforceability and reasonableness.
- Agree in advance which party will retain patient records.
- If the clinic will retain the records, have a signed agreement that the clinic will retain the records in a manner consistent with the Standards of Practice, and that the physiotherapist will be able to access the records (or copies thereof) upon request (e.g., to complete a medical-legal 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 employer 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’ 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 they may not use patient contact information for this purpose.

The custodian also must protect private information from unauthorized access or use. When the physiotherapist is no longer an employee of the custodian, they are no longer an authorized user of information in the custodian’s custody and control. The custodian should employ measures to ensure the physiotherapist does not have access to patient information that they no longer have authority to access. Similarly, physiotherapists should 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. Again, 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 Physiotherapist Directory on 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. The letter is specifically worded to avoid favoring either party.

5) My contract includes a non-compete clause that states I cannot work within a 30km radius of my former practice site. Is this OK?

The enforceability and reasonableness of restrictive covenants depends on several factors. Consult your lawyer about the terms of your contract and what they mean for you. In a best-case scenario this should be done prior to signing the contract, not at the time of departure.

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 the practice 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 for their records.