

A Guide to Negotiating Service Contracts with Collection Agencies

Healthcare Edition



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insidePatientFinance.com

Phone: 240.499.3834

E-mail: editor@insidePatientFinance.com | Website: www.insidePatientFinance.com

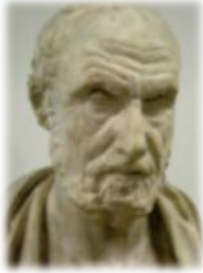
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"In purity and according to divine law will I carry out my life and art."

-- From the Hippocratic Oath

Chasing patients to collect medical debts probably wasn't the "purity" the ancient Greek physician Hippocrates had in mind when he penned his famous oath back in the late 5th century BCE. But while Hippocrates didn't mention debt collectors explicitly in his oath, he likely didn't begrudge them the right to be paid either.

2,400 years later, getting patients to pay their medical bills hasn't gotten any easier. So it's hardly surprising that so many doctors, hospitals, and other healthcare providers have turned to medical debt collection agencies. These agencies didn't exist in Hippocrates' time; but to the extent they liberate doctors from money problems so they can concentrate on their "art," Hippocrates would have probably welcomed the third-party medical collection agency.

The Keys to Successful Outsourcing of Medical Debt Collection

Of course, the driving force behind outsourcing of medical debt collection is cash flow. Stated simply, outsourcing medical debt collection improves collections and enhances efficiency.

At least it has the *potential* to.

While it has proven effective for many healthcare providers, there's no guarantee outsourcing will work for *your* organization. For the strategy to work, you must:

1. Select the right medical debt collection agency; and
2. Negotiate the right collection services agreement with the agency.

The first installment in this series talked about the first challenge. (See [A Guide to Selecting a Debt Collector, Healthcare Ed., How to find collection agencies and the top 10 criteria for evaluating debt collectors.](#)) This Information Briefing tackles the contract issues.

The Importance of Negotiating the Right Medical Collection Agreement

Services contracts with your vendors *are* important no matter what function you're outsourcing or what industry you're in. The terms of the services contract go a long way in determining whether you get the fair and expected return from your arrangement. Many a creditor has seen the advantages of low collection fees go up in smoke because the contract was bad.

The right contract is even more important when the debts collected are *medical* debts.

Extra Liability Risks: In addition to general commercial laws like the [Fair Debt Collection Practices Act](#) (FDCPA) and [Fair Credit Reporting Act](#) (FCRA), medical debt collection is subject to specific healthcare

regulation, most notably the privacy protections of the [Health Insurance Portability and Accountability Act](#) (HIPAA).

The Ethical Dimension: Debt collection requires not simply compliance but sensitivity and recognition that debtors are the client's customers. And when the debtors are not simply customers but *patients*; and when the creditors are also healthcare providers; carrying out the collection process with dignity and respect becomes not only a business but an ethical imperative.

The Community Dimension: Doctors, hospitals, and other healthcare professionals and institutions must be guided by not just the doctor-patient relationship but the mission to serve the community.

The good news is that healthcare providers have worked with medical debt collection agencies for decades and in the vast majority of cases, the collaboration has yielded positive business results without breaking any laws or ethical principles. The bad news is that sometimes things do go wrong and medical debt collection agencies employ tactics that embarrass their clients.

Whether the product of a rogue collection agency or an innocent misunderstanding, missteps in medical collection make for great media copy. Witness the recent spate of media reports about abusive tactics employed by medical debt collection agencies. (See, for example, Huffington Post, "[Debt Collection Agents Working At Hospitals Under Fire For Aggressive Tactics And Privacy Breach](#)," and New York Times, "[Debt Collector Is Faulted for Tough Tactics in Hospitals](#)").

The Bottom Line: The stories may be true, false, or exaggerated; all of that is beside the point. The important thing for purposes of this Briefing is that you run the risk of incurring this kind of publicity when you engage a collection agency. The risk is eminently manageable, of course. The first step is to [select a good collection agency](#).

But that's not enough. Once you select that agency, you need to make an active effort to define the terms of your relationship. Thus, while acknowledging the important contributions made by medical debt collection agencies, healthcare industry leaders like the American Hospitals Association (AHA) have called on providers to "define the standards and practices to be used by outside collections agencies acting on their behalf and obtain from such agencies written assurances of compliance."