
*Michelle Leiker, JD*


The *Guide*, which is organized by major topic areas, addresses legal issues that affect health care and includes sections on employment contracts and the HIPAA Security Rule. Each FAQ is an individual PDF and serves as a stand-alone FAQ, which members can search by keyword, print, and download. (Member log-in is required.) The new format is user-friendly and gives the Society the ability to make more frequent updates to individual sections of the *Guide*.

An excerpt of one of the FAQs, “The Physician-Patient Relationship” is included at the end of this article to provide an example of the *Guide’s* content and format.

All FAQs in the *Guide* will be updated on a regular basis, and each PDF file includes a “last updated” date to allow users to see when the FAQ was last updated. The Society will also update individual FAQs on an as-needed basis to address significant changes in the law and will post them directly to the Web site.

While individual sections of the *Guide* can be printed or downloaded for reference, the Society encourages members to revisit the *Guide* periodically to ensure that they have the most up-to-date version of the FAQs. The Society will also continue to provide members timely legal information via the Wisconsin Medical Journal, MediGram, other Society publications and the Society’s Web site. The Society hopes members will continue to rely on these resources for ready access to important legal and other information.

The Society wishes to thank the law firm of Quarles & Brady, which contributed to, and sponsored, the *Guide* by authoring a number of the individual FAQs. These FAQs include a reference to Quarles & Brady.

To explore the *Guide* and take advantage of this benefit of Society membership, visit the Society’s Web site at www.wisconsinmedicalsociety.org. Members with questions regarding the *Guide*, or about accessing information in the *Guide* can contact the Society’s Office of General Counsel.

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**The Physician-Patient Relationship**

When is the physician-patient relationship established?

The physician-patient relationship is usually established when the physician, in response to an express or implied request to treat the patient, agrees to provide professional services. This relationship is, in essence, a contract between the physician and the patient. It is not necessary for the physician and patient to have a formal written contract. The contract between the patient and physician is implied and is enforceable.

Can a physician restrict his or her medical services to one procedure, or to one or more treatments at a particular time or place?

Yes. This limit can be accomplished by requesting that the patient sign a letter to this extent and return a copy to the physician.

Is a physician required to accept every person who requests services?

With a few exceptions, a physician is not required to accept every person who requests services, and specialists are not required to accept patients who have illnesses outside their specialty.

These exceptions include HIV anti-discrimination provisions under Wisconsin law, which make it unlawful and unprofessional conduct to refuse to treat a HIV seropositive patient unless the treatment is outside the scope or competence of the health care professional (Wis. Stat. §§ 252.14(2), 440.20(4)).

Also, the Americans with Disabilities Act prohibits discrimination in the provision of medical services to persons with disabilities.

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Ms Leiker is an Assistant General Counsel at the Wisconsin Medical Society.
services because of a disability, history of or perceived disability, or affiliation with a person with a history of or perceived disability.

If medical care is provided through a managed care system where enrollees may select from a panel of physicians who are under contract with the HMO, PPO, IPA, or other entity, this basic model of an implied service contract may be clouded. The contract that the physician has with the IPA, HMO, PPO or other entity might outline his or her obligation to provide care to enrollees so that the physician’s agreement to enter a physician-patient contract with each enrollee is not necessary for its creation. Physicians should review each contract carefully to determine whether it dictates the terms of the physician-patient relationship.

Our clinic has had prisoners referred to us for treatment. Are we legally obligated to treat them? The Wisconsin Medical Society is not aware of any legal obligation to treat prisoners, but the clinic should check with whomever is referring the prisoners to find out why they are being referred there, in case the clinic is under contract to treat inmates from that facility.

How long is a physician obligated to treat a patient? Once the physician-patient relationship has been established, the physician is obligated to treat the patient until the relationship is terminated or risk another variation of the malpractice tort called “abandonment.” The abandonment doctrine is based on harm suffered by a patient as a result of a physician’s failure to provide treatment during the physician-patient relationship. While a physician is generally under no obligation to accept any or all patients, once the relationship is established, a physician must continue to be available to treat or arrange for treatment of the patient and can be held liable for any resulting harm the patient suffers. The “Closing or Selling a Medical Practice” FAQ contains additional information about patient abandonment.

How does a physician terminate his or her relationship with the patient? Physicians should inform the patient in a clear but proper manner when terminating the physician-patient relationship. The actual manner by which to provide this notice depends on the reason for terminating this implied or expressed contract. As noted above, physicians should consult any managed care contracts to determine if other requirements must be met to effect this termination.

If a former patient calls and requests further services and the physician does not wish to treat that patient, what should the physician do? If a former patient calls and wishes further services but the physician does not wish to further treat that patient, this desire should be made clear to the patient. If the physician verbally advised the patient of this decision, a letter confirming this conversation should be sent to the patient. A copy of the letter sent to the patient should be maintained in the patient’s medical record.

If the physician no longer wishes to provide services to a current patient, how should he or she withdraw from providing care? On occasions when a physician does not wish to continue following a patient’s care, a physician must give the patient proper notice that he or she is withdrawing from the case, and must give the patient a reasonable amount of time to obtain a new physician. Failure to provide sufficient time may result in a claim of abandonment. What is considered a “reasonable amount of time” will depend on the circumstances of the case and the availability of other physicians in the area. The Wisconsin Medical Society suggests that, under most circumstances, the time should be at least 30 days.

To provide a record and protect the physician, a letter should be sent to the patient. During this notification time, the physician should be available to the patient in case of a medical emergency.

If the letter is sent by certified mail with a return receipt requested, the physician will have a record on file showing not only that the patient was notified, but also the date the patient received the notification. Because of the special protection of the disabled, care should be taken when discharging a patient who may be or is affiliated with a disabled person to document the reasons for terminating the relationship. These reasons should not be for the purpose of discrimination arising from the disability.

Can a patient terminate the physician-patient relationship? Yes. The patient may also terminate the physician-patient relationship by discharging the physician. The physician should make an immediate and adequate record of this discharge so there is no future question of patient abandonment. At best, the physician should obtain from the patient a signed statement of the facts and discharge of the physician. The Wisconsin Medical Society suggests, as an alternative, that the physician send a letter to the patient by certified mail, with a return receipt requested, confirming the discharge by the patient.

Editor’s note: The laws and guidelines discussed and referenced in the Guide are provided for informational purposes only and are not intended to serve as legal advice or as a substitute for such.
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