Introduction
The relationship between a physician and his or her patient is created when the patient knowingly seeks the services of the physician, and the physician knowingly accepts him or her as a patient. The relationship is consensual and mutual, and often described as “contractual.” Once created, the relationship imposes legal obligations and duties, so it is important to understand when the relationship begins and when it ends.

Creating the Relationship
The physician-patient relationship is created by mutual consent that may be express or implied. For example, an unconscious accident victim who is brought to the emergency room is not “knowingly” seeking the services of a physician. Yet, the relationship is created when the ER doctor begins treatment. Mutual consent is implied in this case.

Simply making an appointment for the first time with a physician is not usually sufficient to create the relationship, even though there may be mutual consent evidenced by the patient making the appointment and the physician scheduling it. Generally, the duties and obligations created by the relationship do not arise until the physician affirmatively undertakes to diagnose and treat the patient, or affirmatively participates in the diagnosis and treatment. However, an informal opinion (a curbside consultation) offered to a colleague regarding patient care does not create a physician-patient relationship in most jurisdictions.

A physician may decline to accept a patient for any reason that is not illegal. For example, a physician may not refuse to accept a patient based upon race, gender, national origin, religion, or any other illegal discriminatory reason.

Duties Created
Until the relationship is created, the physician does not owe any special duties to the patient, and the patient has no right to sue for a breach of those duties.

If the relationship exists, the physician owes the patient a duty to
• provide medical care that falls within a standard of care,
• obtain consent,
• maintain confidentiality, and
• provide continuity of care.

According to the American Medical Association, patients have a duty to communicate and cooperate with the physician by:
• providing a complete medical history,
• requesting information or clarification about their treatment,
• following agreed upon treatment plans,
• keeping appointments,
• disclosing whether previously agreed upon treatment plans are being followed,
• meeting financial obligations,
• discussing financial hardships with the physician, and
• using medical resources judiciously.
If the physician breaches his or her legal duties to a patient, the patient may sue for medical malpractice. Evidence that the patient failed to meet his or her obligations may minimize or eliminate the physician's liability, particularly if the patient failed to adhere to the treatment plan.

If there is no physician-patient relationship existing at the time of the alleged negligence, the patient has no claim against the physician for medical malpractice. Sometimes the outcome of a medical malpractice lawsuit depends upon if and when the relationship was created, or if and when it was terminated.

**Terminating the Relationship**

There are four ways to terminate a physician-patient relationship.

1. The physician and the patient mutually consent to terminate the relationship.
2. The patient unilaterally dismisses the physician for any reason.
3. The physician terminates the relationship after giving the patient notice and adequate time to find another doctor.
4. There is no longer a need for the physician's services.

**Referrals.** If a patient's problem is beyond the knowledge, technical skill, ability, or capacity to treat with a likelihood of reasonable success, the physician has a legal and ethical obligation to refer the patient to more competent medical help. Referring a patient to another physician does not necessarily end the relationship. Even if the referring physician will never see the patient again, the referring physician still owes certain obligations to the patient. The referring physician must coordinate with the referral physician by sharing the patient's diagnoses, test results, and medical records. Communication between the two physicians is critical for good patient care.

**Consultations.** Specialists often serve as consulting physicians. When a patient no longer needs the services of a consulting physician, that physician should "sign out" in the patient's medical chart to delineate the time frame within which the relationship existed.

**On-Call Coverage.** On call physicians often never see the patient. They may be at home when they receive the call from an ER physician who gives them the patient's vital signs, symptoms, and test results. Based upon this information, the on-call physician may direct the patient's care, and most jurisdictions recognize that a physician-patient relationship is created, even though the on-call physician never examined the patient.

**Coverage.** Physicians are entitled to take time away from their practice. No one expects them to work 24/7. However, turning patients over to colleagues when a physician leaves town for a vacation or medical seminar does not terminate the physician-patient relationship. The out-of-town physician may be subject to liability for the negligence of his or her colleagues if they are acting as his or her agents or if they are acting in concert. Liability may also be imposed if the physician left town knowing that a patient had a continuing need for medical care, but failed to make arrangements for a competent replacement in the physician’s absence.

**Abandonment.** Abandonment is a breach of a physician's duty of continuing treatment. If a physician, without justification, terminates his or her professional relationship with a patient at an unreasonable time or without giving the patient adequate time to find a qualified replacement, the physician has abandoned the patient and may be liable for any damages resulting from the breach of duty.

**Conclusion**

The physician-patient relationship creates more than a special bond between physician and patient. It serves as the foundation for the entire legal and ethical framework within which a physician works. Subsequent tutorials cover the legal and ethical obligations imposed upon physicians when the physician-patient relationship exists.

**Disclaimer:** The information contained in this factsheet is educational in nature and provided as a public service. It is not intended as legal advice nor should it be relied upon as such. The information is based upon Tennessee law, and the law in other states may be different. Laws may change without notice, rendering the information contained in this factsheet inaccurate. If you have specific legal questions, please consult an attorney.

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