

# CLIENT ADVISORY:

## PATIENT RIGHTS AND CARE ISSUES



All patients are guaranteed certain rights under state and federal law, sometimes referred to as a “Patient Bill of Rights.” Defined generally, patient rights are the basic rules of conduct by and among patients, medical caregivers and the institution. Patient status exists when an individual has requested to be evaluated by, or who is being evaluated by, any healthcare professional. Medical caregivers include hospitals, healthcare personnel, as well as insurance agencies or any payors of medical-related costs.

The scope of patient rights has changed with the evolution of healthcare as an industry, and many times patients do not realize their rights at the time of their care. Examples of patient rights include: (i) the right to healthcare; (ii) patients seeking care at an emergency department have the right to a screening exam; and (iii) if a patient cannot afford care the institution can, nevertheless, not refuse to treat that patient. Further, patients have a right to not be abandoned by their healthcare providers once treatment has commenced and, conversely, legally competent adults have a right to refuse medical treatment.

Patients also have the right to receive open and honest communication with their healthcare providers, as well as

to be advised of their past and present medical status, and a right to informed consent which is a process for obtaining permission before conducting a healthcare intervention. A healthcare provider may need to ask a patient to consent to receive a treatment before providing it.

Providers have the obligation to inform patients with the facts, implications, and consequences of a medical treatment. To give informed consent, the individual concerned must have adequate reasoning faculties and be in possession of all relevant facts. In cases where an individual is provided insufficient information to form a reasoned decision, serious ethical and legal issues may arise.

Impairments to reasoning and judgment that may prevent informed consent include basic intellectual or emotional immaturity, high levels of stress such as PTSD or a severe intellectual disability, severe mental illness, intoxication, severe sleep deprivation, Alzheimer’s disease, or being in a coma. In cases where an individual is considered unable to give informed consent, another person is generally authorized to give consent on their behalf.

Patients also have a right to confidentiality, which is an ethical mandate establishing that all medical provider/patient interactions are confidential. The American Health Insurance Portability and Accountability Act of 1996 (“HIPPA”) is a set of rules to be followed by doctors, hospitals and other health care providers which protect the patient’s rights by assuring that all medical records, medical billing, and patient accounts meet certain consistent standards with regard to documentation, handling and privacy.

HIPAA requires that all patients be provided with access their own medical records, be allowed to correct errors or omissions, and be informed how personal information is shared and used.

Other provisions involve notification of privacy procedures to the patient. Healthcare facilities are required to take affirmative steps to ensure patients' rights are not violated, and when a patient's rights are violated and damages result, legal counsel should be consulted and possibly retained by both the healthcare provider and the patient.

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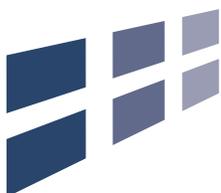
**GARY R.  
PANNONE**  
Managing Partner

Gary R. Pannone is the Managing Partner of Pannone Lopes Devereaux & West LLC and has been representing closely held business owners for thirty years. He is an experienced business lawyer specializing in the areas of business formations, corporate restructuring, mergers, acquisitions, corporate compliance and health care. His practice includes the representation of nonprofit organizations with respect to consolidations, mergers and acquisitions.



**SALLY P.  
MCDONALD**  
Associate

Sally P. McDonald is an Associate with Pannone Lopes Devereaux & West LLC and a member of the Litigation, Employment, Estate Litigation, Corporate & Business, and Health Care Law Teams. Attorney McDonald focuses her practice on providing legal support, advocacy and counsel to clients in her practice areas. In 2013 and 2014, Attorney McDonald was named a Rhode Island Super Lawyers Rising Star by Thomson Reuters, a distinction that recognizes the top 2.5 percent of Rhode Island lawyers under the age of 40 or those in practice for 10 years or less.



**PLDW**

PANNONE LOPES DEVEREAUX & WEST LLC

*counselors at law*