

Students in Clinical Placement and Professional Service Degree Programs

Claims directed against Marquette University students working in clinical programs and health care capacities when providing services as a representative of a Marquette program and/or with an affiliate as part of an approved degree program will be tendered to the University and Marquette University will provide defense and payment. Universities are considered the legal principal in clinical degree relationships and “Students in Practicum” is an exposure that is recognized by all Universities with medical, health care and clinical programs.

Students pursuing a degree with clinical requirements, even when licensed, are generally not considered to be working as “independent professionals” but as University students representing the University program in affiliation agreement. Nevertheless, in the event of student in practicum claims, students are most often taken off initial complaints since liability ultimately falls on the supervisor or the principal entity which receives the benefit of the student’s work and/or was responsible for billing the services and was paid by the client/patient. The organization has allowed the student, while representing the University, to perform the services and cannot avoid being accountable for that decision as a matter of liability. However, there can be gray areas where joint liability can be imposed or an allegation of “failure to teach” implied. In those situations the University is ultimately responsible for the student’s action and the department’s placement of the student into the clinical environment. Students would not be in the clinical setting acting on their own without being under the auspices of the University placement. Universities and businesses generally have more financial assets than students, and plaintiff attorneys see the benefit in redirecting suits to the principal entities responsible either for the student placement or the affiliated entity whose staff may have supervised the student services, or both.

Students in programs **not affiliated or otherwise directed or supervised** by the University.

Problems can arise in defense and payments if the work or services provided by students that are not somehow connected with the University or degree program at the time of injury or damages. For example, if and when a departmental unit chooses to give credit for work experience done previously where there was no connection or any appearance of a student representing MU. Departments may decide to award credit for life situations and work performed in the past or in a personal capacity but would not be responsible for the actions of the individual when working independently from the University. Situations can arise when an individual student may be employed or acting as an independent contractor and licensed professional on their own, or for another entity. These situations may be considered as meeting degree requirements but have not been arranged by, or considered representing, the University.

In non-MU affiliated situations individuals should carefully consider their service relationship as it relates to legal liability and whether they are the principal in the relationship or acting as another’s agent.

- Individuals (licensed, degreed professionals) should be sure to understand or clarify:
 - Ø Whether they are working for the benefit of the other organization or if the firm is acting as facilitator for the individual’s own practice.
 - Ø Whether the clients/patients are the organization’s or considered clients of the individual practitioner. Some arrangements require the professional to act as an independent contractor and do not consider them an employee although they are paid. Individuals should be aware of any type of employment contract or agreement. If they are considered an employee, the employer is responsible for civil liability and claims of clients/patients of their employed agent. However, entities may require individuals to have insurance as a condition of employment, (When representing MU, we would provide the financial responsibility and “insurance”.)

Professional liability insurance may need to be evaluated and purchased by the individual when the student is acting as a defined professional and not representing the University when providing services. This coverage can vary in terms of coverage, conditions, premium and claim management expertise and individuals should work with insurance professionals who can compare and contrast various plans. Not all insurance is equal, and the quality and financial position of the insurer, not just the cost of the premium should be considered. Professional liability coverage is specialty coverage and the expertise of the company in your specific profession and their longevity in this coverage line is important.