



# Gilmore

## Medical Records Disposition When Closing a Practice

When a practice closes, the physician or group is responsible for making appropriate arrangements for the disposition of all medical records—regardless of whether the records are in paper or electronic format. The possibility of a lawsuit after a physician has left, or a practice has closed, always exists. To help defend against any future claims, the retention of records is paramount.

Although states may have different guidelines or laws, Gilmore makes the following recommendations for retaining medical records:

**California only**—indefinitely or for at least 25 years after the patient's last visit.

**Adult patients**—10 years from the date the patient was last seen.

**Minor patients**—28 years from the date of birth.

**Mammography patients**—10 years from last mammography.

**Deceased patients**—5 years from the date of death.

Physicians who turn their practices over to replacement physicians should have agreements in place that stipulate the recommended retention time and access capability.

If a physician chooses to destroy clinical records after a set period of time, confidentiality must not be compromised. There are record destruction services that guarantee records are properly destroyed without releasing or compromising the security of any information.

When a practice closes and medical records are transferred, patients should be notified that they may designate a physician or another provider who can receive a copy of the records. If a patient does not designate a physician, records may be transferred to a custodian (a physician or a commercial storage firm).

Custodians who agree to retain records can be physicians, nonphysicians, or commercial storage facilities. Custodial arrangements for retaining records are usually entered into for a fee and should be in writing. A written custodial agreement should guarantee future access to the records for both the physician and patients and should include the following points:

- The custodian will keep and maintain the medical records for the retention times specified above.
- No one can access the information contained in the medical records without a signed release from the patient or a properly executed subpoena or court order.
- The original physician or physician's personal representative will be notified of any change of the custodian's address or phone number.
- Terms apply to all persons in the custodian's employment and facility.
- Copies of medical records will be released to a person designated by the patient only with the patient's written request.
- The custodian will comply with state and federal laws governing medical record confidentiality, access, disclosure, and charges for copies of the records. There are agreed-upon fees for maintaining the records.
- It contains language that addresses any personal practice decisions made by a custodian (retirement, selling, or moving) to ensure the safety of and continued access to the records by the original physician or physician's personal representative.

*This guideline is informational in nature. It is not intended to constitute legal, accounting, or medical advice. It is not intended to establish a standard of care. It does not constitute an insurance company policy. For specific assistance, consult a qualified expert in the area of concern.*