

# *Department of Health*

## *Medical Quality Assurance Commission*

### **Policy Statement**

<i>Title:</i>	<i>Guidelines on Retention of Medical Records when Closing a Practice</i>	<i>Number: MD2013-08</i>
<i>References:</i>		
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<i>Approved By:</i>	<i>Signature on file</i>	
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#### **BACKGROUND:**

Department of Health staff receives numerous telephone calls from practitioners and patients wanting to know the requirements for maintaining medical records when a practice is closed or has moved.

Under RCW 70.02.080, a health care provider must permit a patient to examine or copy the patient's recorded health care information. No statute or regulation addresses how long a physician must retain a patient's medical record, except for RCW 70.02.160, which requires a health care provider to maintain a record of existing health care information for at least one year following receipt of an authorization to disclose that health care information and during the pendency of a patient's request either to examine or copy the record or to correct or amend the record.

#### **POLICY**

A physician continues to have an obligation to patients before, during, and after the closing of the physician's medical practice. A physician may not abandon a patient or abruptly withdraw from the care of a patient, except in cases of death or other incapacity of the physician. A physician should make reasonable provisions for continued care of patients and maintenance or transfer of their records in the event of the physician's unanticipated death or incapacity.

A physician should give written notice to patients prior to the closing of the physician's practice to allow the patients to secure other care. A physician should make sure that the transition to another provider is done with a minimum of disruption to the patient's care

When a physician leaves a group or hospital practice, the patients of the physician must be notified. The

group or hospital should provide the new address of the departing physician if requested by the patient. If the departing physician, rather than the group or hospital, is responsible for notifying the patients the group or hospital should not interfere with the discharge of these duties by withholding patient lists or other necessary information to accomplish the notification.

## **PROCEDURE:**

### **Practitioners affected.**

- Licensees who are in the process of retiring;
- Licensees whose employment is terminated with a specific practice or when the practice is physically moved; or
- Disabled licensee

### **The patient should be notified.**

- 90 days before closing or moving the practice is preferable, but no later than a 30 day notice prior to leaving a practice; or
- Within 90 days after a death of a physician.

### **Which patients should be notified?**

- Active patients; and
- Patient seen within 3 years preceding the date of closing or moving.

### **Notification should be given.**

- Individual letter to the last known patient address and / or;
- Electronically if a normal method of clinical communication with the patient;
- Notice in the practice's local newspaper.

### **What information should be provided to the patient about retrieval of records?**

- Responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address; and
- How the records can be obtained or transferred; and
- How long the records will be maintained before they are destroyed; and
- Cost of recovering records or transferring records as defined in RCW 70.02.

### **Patient records should be retained.**

The Medical Commission concurs with the Washington State Medical Association recommendation that physicians should retain medical records and x-rays for at least:

- 6 years from the date of a patient's death;
- 10 years from the date of a patient's last visit, prescription refill, telephone contact, test or other patient contact;
- 21 years from the date of a minor patient's birth;
- Indefinitely, if the patient is incompetent, if the physician is aware of any problems with a patient's care, or has any reason to believe the patient may be involved in litigation.

A physician should consider whether it is feasible to retain patients' medical records indefinitely. In addition, practitioners should verify length of time required by insurance companies and malpractice carriers for retaining records.

**Where and how should records be maintained?**

- Records should be stored to allow for lawful access and in a place that maintains confidentiality.
- The responsible person, corporation, or legal entity acting in the capacity of custodian of the records must comply with and be subject to federal and or state confidentiality laws and regulations. \
- Medicare and Medicaid require patient records to be accessible if records are stored in a location other than the business address on file with those programs. Post Office boxes and drop boxes are not acceptable addresses for the storage of patient records.

**Disposing of records**

- In order to preserve confidentiality, all records should be destroyed by secure means, such as shredding, when retention is no longer required.

**Storage of Non-paper files**

- Records can be generated and stored by an electronic data system, microfilm, or similar photographic means. The system must be capable of generating a paper copy at the request of the patient. Each electronic record must identify any existing original document or information not included in the electronically stored record.
- Paper records may be destroyed only if electronically stored records can be reproduced without alteration from the original record.