



CLOSING THE PRACTICE

Medical Protective Clinical Risk Management Department

SEPTEMBER 2013

For questions, products, or services, please contact 800-4MEDPRO or visit <http://www.medpro.com/>. This document should not be construed as medical or legal advice. Since the facts applicable to your situation may vary, or the laws applicable in your jurisdiction may differ, please contact your attorney if you have any questions related to your legal obligations or rights, application of state or federal laws, contract interpretation, or other legal questions that may potentially impact the applicability of the information provided in this document.

CONTENTS

- INTRODUCTION 2**
- OBJECTIVES..... 2**
- PLANNED CLOSURES..... 2**
 - Business Processes 2**
 - Communication 3**
 - Staff3*
 - Patients.....3*
 - Professional Associates.....4*
- UNPLANNED CLOSURES..... 4**
- NOTIFICATION LETTERS..... 4**
 - Patients 4**
 - Professional Affiliations 5**
- DISPOSITION OF PAPER AND ELECTRONIC HEALTH RECORDS 6**
 - Record Maintenance and Retention 6**
 - Special Considerations for Electronic Health Records.....6*
 - Record Storage.....7*
 - Record Destruction 7**
- CONCLUSION 7**
- RESOURCES 8**
- APPENDIX A. SAMPLE PATIENT NOTIFICATION LETTER..... 9**

INTRODUCTION

A healthcare provider may close a practice for a variety of reasons, such as retirement, relocation, career change, sale of the practice, illness, or death. Regardless of the precipitating factor, a process for orderly closure helps:

- Provide continuity in patient care and appropriate management of patients' health information;
- Protect the provider from potential liability and litigation;
- Ensure the capture of earned income and payment of outstanding debts; and
- Assist staff in transitioning to new employment.

OBJECTIVES

The objectives of this guideline are to:

- Provide an overview of considerations for both planned and unplanned practice closures;
- Offer guidance and standards for developing closure notification letters;
- Discuss key components and processes related to the disposition of patient records, including both paper and electronic health records (EHRs); and
- Offer risk strategies and recommendations that will help providers establish a smooth and efficient plan for closure.

PLANNED CLOSURES

If the practice closure is planned, preparation is recommended to start a minimum of 12 months in advance. The practice should develop an exit strategy utilizing the services of a management consultant, an accountant, and an attorney. This strategy will serve as a road map in the months leading up to the closure.

Business Processes

When closing a practice, special attention should be given to all tax-related issues, including payroll taxes. All tax returns, documentation ledgers, and accounting records should be maintained in accordance with state and federal requirements.

Additionally, 1 year prior to the planned date of closure, contracts and leases should be reviewed. These may include managed care contracts, answering service contracts, facility leases, maintenance contracts, office cleaning agreements, etc. The review also should include third-party payer relationships, patient collections, and determinations as to how mail will be forwarded.

The practice's professional liability coverage also should be reviewed to identify any notice requirement for terminating coverage and, if the provider has a claims-made policy, the requirements to purchase or earn "tail coverage." Tail coverage, applicable to only claims-made policies, allows a provider to report claims first made after a policy termination date; however, the claim must result from an event that occurred on or after the retroactive date, but prior to the policy termination date.

If the provider is planning to practice on a part-time basis, he or she should maintain professional liability coverage, but discuss possible rate and classification changes with a Medical Protective sales representative or an independent agent.

Communication

Staff

Staff should receive adequate notice about the intended closure. They should be told why the practice is closing, and their service and loyalty should be formally noted. Additionally, the provider should develop planned responses that staff can use to communicate with patients about the closure.

Patients

Patient well-being should be a primary concern when a practice is closing, and ample written and verbal notice of the scheduled closure should be provided within a reasonable timeframe. Below are recommendations for communicating the closure to patients:

- Six months prior to closing, post announcements throughout the office(s) to inform current patients of the impending closure. Staff can supplement this awareness by informing patients when they call and come in for appointments. Billing announcements and patient education handouts can also help reinforce the message.
- Ninety days prior to closing, place a brief announcement in local newspapers and, if applicable, on the practice's website and/or social media sites.
- Ninety days prior to closing, mail closure notification letters, via the U.S. Postal Service, to active patients. Enclose a records release authorization with each letter. For more information, see the "Notification Letters" section on pages 4–5. (**Note:** Providers treating obstetrical patients need to plan at least 9 months prior to closure to manage all of their pregnant patients to term.)
- One to two months after closing, keep a message on the practice's answering machine or voicemail system about the closure. The message should announce the date the office closed and provide information about how patients can request copies of their records, obtain prescription refills, find new providers, and obtain emergency treatment. Messages should be checked daily, and all requests should receive prompt responses.

Professional Associates

In addition to notifying staff and patients about the closure, the practice should formally notify the state board of medicine, state departments of health and public safety, major insurance carriers, healthcare plans, and other major commercial carriers.

Hospitals where the provider has privileges should be notified at least 6 months in advance. The provider should coordinate completion of any outstanding medical records with the medical records department(s).

Businesses with which the practice has contracts or leases also should be formally notified of the closure at least 6 months in advance.

For more information, see the "Notification Letters" section on below.

UNPLANNED CLOSURES

If a practice has to close suddenly — e.g., due to illness or death — the office practice administrator or practice executor should notify patients as soon as possible by telephone and mail.

The office's answering machine or voicemail message should be changed to provide notice to patients. The message should include a statement directing patients to go to the local emergency department (ED) if they need immediate care. Additionally, the practice should inform the local ED of the circumstances and of the possible increased patient load.

If the practice is closing because the provider has died, the executor of the estate is responsible for ensuring proper maintenance of the records. General paperwork and mail should be carefully reviewed for any unfinished paperwork that requires a personal signature. Documents such as unsigned death certificates, insurance forms, etc., should be returned to the appropriate agency stating that the provider's signature is no longer available.

NOTIFICATION LETTERS

When closing a practice, it is important to send notification letters to both patients and professional associates.

Patients

Letters notifying patients about the practice closure should be both professional and sensitive to the possibility that some patients may be upset or worried about the impending separation.

Consider the following when writing patient notification letters:

- Patients should be told why the practice is closing, unless the reason is of a sensitive or private nature.
- The letter should include a health records release authorization form and a self-addressed, stamped envelope for the patient to return the form. The letter should explain the purpose of the form and specify a timeframe for completing and returning it.
- The letter should note whether the practice charges a fee for photocopying and postage related to transfer of health records. State laws often specify whether such fees may be charged.
- In the letter, it may be useful to include the phone number of the local medical society or a community health services referral hotline.
- The letter should thank patients for their loyalty and should emphasize the importance of continued healthcare for appropriate management of known illnesses and early identification of new problems.
- If the practice is being sold, the successor should be introduced in the letter.
- Patients should be reminded that health records are confidential and that copies of their records will be directed to a provider of the patient's choosing or to the replacement physician within the practice — but only with the patient's written permission.

Patients seen during the last 24 months who have not been formally discharged from the practice should receive notification letters via standard mail. Copies of these letters should be retained/scanned in the patients' charts.

Patients who (a) are being treated for chronic conditions, (b) are considered high-risk or have "special issues," or (c) have been noncompliant should receive notification letters via both certified mail with return receipt requested and standard mail. The signed return card receipts and copies of the letter should be retained in the patients' charts.

See Appendix A for a sample patient notification letter.

Professional Affiliations

Notification letters should be provided to professional associations, specialty societies, hospitals where the provider has privileges, and local peer groups — especially those with whom the provider has a referral/consultant relationship.

The provider may want to inquire about dues for continued membership in professional associations; often, these are discounted for retired members.

DISPOSITION OF PAPER AND ELECTRONIC HEALTH RECORDS

When closing a practice, provisions should be made for both electronic and paper health records. These provisions should take into account:

- State laws regarding record retention, disposal, historic record protection, and statutes of limitation;
- State licensing standards;
- Medicare and Medicaid requirements;
- Federal laws governing treatment for alcohol and drug abuse (if applicable);
- Guidelines issued by professional organizations;
- The needs and wishes of patients; and
- The needs of physicians, other providers, and public health organizations for follow-up and research.

Consultation with an attorney can assist in determining appropriate disposition of health records when closing a practice. Also, the American Health Information Management Association (AHIMA) offers a number of resources related to record management. To learn more, visit www.ahima.org.

Record Maintenance and Retention

Most states require maintenance of medical records for 7 years; however, providers are advised to use this guideline as a minimum rather than as a standard.

Also, certain records should be maintained for as long as possible, including pediatric records, records for patients who complained about the outcome of their care, records for cases in which the provider was displeased with the outcome, records for cases involving implanted devices, and records for patients involved in research.

For more information, request a copy of Medical Protective's *Record Retention* guideline.

Special Considerations for Electronic Health Records

EHRs require planning for archiving and retention. Because many practices convert to EHR systems in stages, they may have historical paper records as well. Bringing both paper and electronic records together is an important component of record maintenance.

During the acquisition or closure of a practice, health information management and information technology professionals should work together to reconcile paper and electronic records and to ensure that a compatible system is in place to retain information in a meaningful format.

Computers that store protected health information should not be sold, given away, or thrown away unless the hard drive is removed and physically destroyed.

Record Storage

If the provider plans to retain paper records, they should be stored in a rented space, at his/her home, or with a professional trustee who has been contracted to store the records and who will allow the provider access as needed.

Companies that specialize in record storage are available in many communities. When contracting with a record storage company, specific provisions should be negotiated and included in the written agreement. For example, the company should agree to:

- Keep all information confidential;
- Allow providers, patients, and other legitimate users access to the information;
- Return or destroy the records at the end of the mutually agreed upon retention period; and
- Protect the records against theft, loss, unauthorized destruction, or other unauthorized access.

Regardless of how and where health records are stored, and whether they are paper or electronic, they must be secured to protect patients' health information.

Record Destruction

In the course of reviewing records, the practice may determine that some records can be destroyed. Paper and electronic health records scheduled for destruction/deletion should be logged by name, social security number, and last date of service.

A paper shredder can be used to destroy hardcopy records, or the practice may wish to find a qualified vendor who can dispose of the records. The provider should retain a log of all destroyed records.

CONCLUSION

The considerations for closing a practice are just as important as the considerations for opening a practice. Even if a provider is ready to take this step, it can be an emotional and stressful time.

Having processes in place for managing various activities associated with closure — such as contract review, communication, and disposition of records — may reduce potential risks and help ensure a smooth and orderly closure process.

Medical Protective risk management consultants are available to help healthcare practices prepare for closure. To speak with your risk management consultant, call 800-4MEDPRO.

RESOURCES

- AHIMA: Protecting Patient Information after a Facility Closure (Updated) — http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_049257.hcsp?dDocName=bok1_049257
 - Appendix C: States with Laws, Regulations, or Guidelines Pertaining to Facility Closure — http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_049255.hcsp?dDocName=bok1_049255
- Medical Protective: *Protector*, Summer 2011 (Focus on Selling a Practice) — available by logging on at www.medpro.com
- Oklahoma State Board of Medical Licensure and Supervision: Closing or Relocating the Physician's Practice — http://www.okmedicalboard.org/download/512/Closing_relocating_office.pdf
- The American Congress of Obstetricians and Gynecologists: Closing Down a Medical Practice: Guidelines and Considerations — http://www.acog.org/About_ACOG/ACOG_Departments/Practice_Management_and_Managed_Care/Closing_a_Practice

APPENDIX A. SAMPLE PATIENT NOTIFICATION LETTER

<Practice/Organization Name>

<Address 1>

<Address 2>

<City, State ZIP>

<Date>

<Patient Name>

<Address 1>

<Address 2>

<City, State ZIP>

Dear <Patient Name>:

For business reasons, I have decided to close my practice at <name of organization>. Thus, I will no longer be able to provide your medical care.

The last day I will see patients is <date>. I will be available for emergency care and schedule appointments until the closing date.

Your health and well-being are of utmost importance to me and my staff at <name of organization>. I encourage you to choose another provider as soon as possible to ensure uninterrupted care.

For your convenience, I am including contact information for the local county medical society (<phone number>) and <name of local hospital> provider referral service (<phone number>). These organizations can help you find a new provider. If you have a medical emergency, please dial 911 or go to the nearest emergency department.

As a reminder, your health records are confidential. A copy of your records can be released to you or your new provider with your written permission. I have enclosed an authorization form for this purpose. Please complete the form and return it in the self-addressed stamped envelope by <date>.

Thank you for trusting me with your healthcare needs. It has been a pleasure to provide your care, and I wish you the best in the future.

Sincerely,

<Name>

<Title>