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Guideline

Closing a Healthcare Practice: Strategies and Risk Management Considerations



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Introduction

A healthcare provider may close a practice for various 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 (a) provide continuity in patient care and appropriate management of patients' health information, (b) protect the provider from potential liability and litigation, (c) ensure the capture of earned income and payment of outstanding debts, and (d) assist staff in transitioning to new employment.

Objectives

The objectives of this guideline are to:

- Provide high-level 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 electronic health records (EHRs) and paper records
- Offer risk strategies and recommendations to help healthcare providers establish smooth and efficient closure plans

Planned Closures

If a practice closure is planned, preparation ideally should start a minimum of 12 months in advance or as soon as reasonably possible. The practice should develop an exit strategy and consider utilizing the services of a management consultant, an accountant, and an attorney.

Additionally, regulations and guidance from state licensing entities can provide exit strategies, which can serve as a roadmap in the months leading up to the closure.

Risk Tip

An integral part of the closure process is consulting with state licensing entities (e.g., medical, nursing, or dental boards) to identify any state-specific closure regulations, such as standards for notifying patients.

Business Processes

When closing a practice, providers should give special attention to all tax-related issues, including payroll taxes. They should maintain all tax returns, documentation ledgers, and accounting records in accordance with state and federal requirements.

Additionally, 1 year prior to the planned date of closure, providers should review contracts and leases. These documents may include managed care contracts, answering service contracts, facility leases, maintenance contracts, office cleaning agreements, hazardous waste disposal contracts, 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 any requirement to purchase or earn "tail" coverage (for claims-made policies). Tail coverage protects providers against all claims arising from professional services performed while the claims-made policy was in effect but reported after termination of the policy.

Providers who plan to practice on a part-time basis should maintain professional liability coverage but discuss possible rate and classification changes with the professional liability company. Practitioners who are planning to do volunteer work that involves the provision of medical or dental care should check to see whether such work is covered by Good Samaritan laws or whether professional liability coverage is still required.

Medical supplies and medications require consideration as well. For medical supplies and stock medications, the practice should check with its local vendor about returning unused, unopened, and unexpired items. For sample medications and vouchers, ask drug representatives about returning any unused items.

States may have additional controlled substance requirements and other mandates for noncontrolled pharmaceuticals relative to termination or relocation of a healthcare practice. For

Risk Tip

When buying or selling a healthcare practice, it is advisable to conduct the purchase or sale through a broker or attorney to ensure due diligence of business processes.

more information, providers should check the controlled substances reporting system and board of pharmacy for the state(s) in which they practice. Any blank prescription pads should be destroyed when the practice is closed.

Communication

Staff

Staff should receive adequate notice about the intended closure. Providers should tell them why the practice is closing, and their service and loyalty should be formally noted. Additionally, providers 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 providers should give written and verbal notice of the scheduled closure within a reasonable timeframe. Below are recommendations for communicating the closure to patients:

- Within 6 months of closing, post announcements throughout the office(s) to inform current patients of the impending closure. Staff can reinforce this message by informing patients when they call and come in for appointments. Billing announcements and patient education handouts also can help reinforce the message.
- Within 90 days of closing, place a brief announcement in local newspapers and on the practice's website and social media sites.
- Within 90 days of closing, mail closure notification letters to active patients via the U.S. Postal Service. Enclose a records release authorization with each letter. For more information, see "Notification Letters" on page 6.
- For 1 to 2 months after closing, keep a message on the practice's voicemail system or answering service 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. A designated person should check messages daily, and all requests should receive prompt responses.

In addition to patient notification, it might be necessary to taper patient scheduling. Tapering would include transitioning patients to new providers of their choice, particularly in situations in which patients have complex conditions.

Depending on patients' insurance coverage, healthcare providers might choose to offer patients a list of providers within their insurance networks; however, choosing a new provider ultimately is each patient's decision. Once a patient

Risk Tip

Providers treating obstetrical patients need to plan at least 9 months prior to closure to manage all of their pregnant patients to term or arrange for appropriate transfer of care.

chooses a new provider, any outstanding diagnostic studies should be rerouted to that practitioner. As the practice prepares for closure, taking on new patients is not advised.

Professional Organizations and Regulatory Agencies

In addition to notifying staff and patients about the closure, the practice should formally notify state licensing entities, state departments of health and public safety, credentialing organizations, professional associations, major insurance carriers, healthcare plans, and other major commercial carriers.

Providers also should notify colleagues in the area regarding the closure, particularly in relation to any local referrals they made to, or received from, other practitioners. Further, they can determine whether any local colleagues are available to take new patients.

Providers should notify hospitals where they have privileges at least 6 months in advance of the closure. They should coordinate completion of any outstanding health records with health records departments. Additionally, they should notify ancillary services — such as laboratories, radiology facilities, etc. — where patients are referred.

If the practice treats patients who receive Medicare or Medicaid benefits, providers must notify the Centers for Medicare & Medicaid Services (CMS) of their decision to leave or close the practice. Additionally, providers who are retiring from practice or terminating the prescribing of controlled substances are required to notify the Drug Enforcement Administration (DEA) in writing to request deletion of their DEA numbers from the system.

Also, they must return the original DEA certification of registration for cancellation and any unused DEA 222 forms. It is advisable to send the forms by certified mail with return receipt requested.

As stated previously, each state may have additional controlled substance requirements and other mandates for noncontrolled pharmaceuticals relative to the closure or relocation of healthcare practices. Each state's controlled substances reporting system and board of pharmacy should be able to provide additional information.

Finally, businesses with which the practice has contracts or leases also should be formally notified of the practice closure at least 6 months in advance. For more information, see the "Notification Letters" section on page 6.

Unplanned Closures

If a practice has to close suddenly — e.g., due to illness, death, or another unforeseen circumstance — the office practice administrator or practice executor should notify patients as soon as possible by telephone and mail. The practice should prioritize calling patients who have scheduled appointments so they can arrange alternative care.

The office's voicemail system or answering service also should be updated 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 another practitioner has agreed to provide temporary coverage, the practice should provide patients with that individual's contact information and other relevant details.

If the practice is closing because the provider has died, the practice administrator or executor also should notify appropriate regulatory agencies, vendors, business associates, professional organizations, and so forth. These organizations should be able to provide further guidance on how to handle any existing obligations.

The executor of the estate is responsible for ensuring proper maintenance of the practice's 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.

Unplanned closures, particularly in relation to a provider's death, can result in complex circumstances. Individual states might have laws or guidance in relation to how these situations should be handled, and practice administrators, executors, and/or family members should consult with legal counsel as needed to ensure due diligence and reduce liability exposure.

Notification Letters

When closing a practice, sending notification letters to both patients and professional organizations is imperative.

Patients

Letters notifying patients about the practice closure should be both professional and sensitive to the possibility that some patients might 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. Additionally, the letter should clearly state patients will receive copies of their health records, not the original records.
- The letter should note whether the practice charges a fee for photocopying and postage related to transfer of health records. Any fees should comply with federal and state laws related to searching, duplication, and transfer of health records. Additionally,

Risk Tip

HIPAA regulations preempt state laws that permit higher fees or additional fees other than reprinting costs. For more information, see the HIPAA frequently asked question [“May a covered entity charge individuals a fee for providing the individuals with a copy of their PHI?”](#)

records should never be withheld until payment for copies is made or because a patient has an outstanding balance.

- In the letter, it might be helpful 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, early identification of new problems, and overall well-being.
- If the practice is being sold, the letter should introduce the successor.
- 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 successor of the practice — but only with the patient's written permission.

Active patients should receive notification letters via standard mail. Active patients are typically those seen during the last 24 months who have not been formally discharged from the practice, unless otherwise specified by the state or organizational policy. Practices should include copies of the letter in patients' health records.

Patients who (a) are being treated for chronic conditions, (b) are considered high-risk or have unique needs, or (c) have been nonadherent should receive notification letters via both certified mail with return receipt requested and standard mail. Practices should retain the signed return receipts and copies of the letter in these patients' health records.

See Appendixes A and B for sample patient notification letters.

Professional Organizations

Practices should send notification letters to professional associations, specialty societies, hospitals where providers have privileges, and local peer groups — especially those with whom providers have a referral/consultant relationship.

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

Disposition of Paper and Electronic Health Records

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

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

Consulting legal counsel 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.

Did You Know?

A healthcare practice can be sold, but health records cannot. However, the purchaser of a practice often will agree to be the custodian of the records. This arrangement will require the seller and purchaser to execute a business associate agreement (BAA).

The seller can designate a custodian and execute a BAA without patient authorization; however, patients do need to know who the business associate is and the address to request records release. Also, patients should be aware that they can contact the state medical, nursing, or dental board regarding the release of their health records.

For more information, see MedPro's article [Transferring Patient Health Records When Selling or Closing a Healthcare Practice](#).

Record Maintenance and Retention

HIPAA requires covered entities, such as healthcare practices billing Medicare, to retain required HIPAA-related documentation for 6 years from the date of its creation or the date when it last was in effect, whichever is later.¹

CMS requires healthcare providers and organizations submitting cost reports to retain patient health records for Medicare beneficiaries for at least 5 years after the closure of cost reports. CMS requires Medicare managed care program providers to retain records for 10 years. Medicaid requirements vary by state.²

Additionally, some states have specific requirements for the retention of patient health records. Often, these requirements are accessible via providers' professional licensing boards. In states that offer no specific requirements, AHIMA recommends that healthcare organizations "keep health information for at least the period specified by the state's statute of limitations or for a sufficient length of time for compliance with laws and regulations."³

For more information, see MedPro Group'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 ensure that a compatible system is in place to retain information in a meaningful format.

Compliance with the HIPAA Privacy Rule and Security Rule must be followed for all computers that store protected health information (PHI). Practices should not sell, give away, or throw away computers unless the hard drives are removed and physically destroyed.

Risk Tip

Healthcare practices that use cloud-based EHRs should carefully review vendor contracts to determine requirements for ongoing record hosting, maintenance, and disposition of records at contract termination.

Record Storage

Providers who plan to retain paper records should store them in rented spaces, at their homes, or with professional trustees who have been contracted to store the records and who will allow the providers access as needed. Check with the state medical, nursing, or dental board to see whether they request that practitioners report the location of stored records.

Risk Tip

Providers who store health records at their homes should secure them in fire proof and waterproof containers.

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, record storage companies 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
- 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, providers should adhere to the HIPAA Privacy Rule and Security Rule to protect patient's PHI.

Record Destruction

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

Paper records should be shredded, incinerated, etc. — preferably by a company that provides such services. The method of destruction should ensure that the records are unreadable and unrecoverable. Providers should retain logs of all destroyed records.

Destruction of electronic records may involve overwriting of electronic media, magnetic degaussing, pulverizing, incinerating, cutting, etc. Practices should select the approach that is appropriate for the type of data they plan to destroy.

Disposition of Other Practice Records

In addition to patient health records, healthcare practices generate various business-related records. Appropriate maintenance and management of these records help reduce organizational risk. Practice's accounting firms or the Internal Revenue Service may offer useful information regarding the retention of business records.

Federal and state government guidelines may specify record-retention requirements for employee files and other personnel information. For questions or advice related to the maintenance of personnel records, healthcare practices should contact their attorneys or management consultants.

Conclusion

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

Resources

- [American Academy of Family Physicians: Closing Your Practice Checklist](#)
- [American College of Physicians: Closing a Practice Checklist](#)
- [American Osteopathic Association: Selling a Solo Practice](#)
- [Missouri Medicine: Continuing Obligations Following the Unexpected Death of a Physician: Things to Keep in Mind](#)
- [Nurse Practitioner Business Owner: How to Close a Practice — The Right Way](#)
- [Physicians Practice: What You Need to Know to Close Your Practice](#)

- U.S. Department of Health and Human Services: Individuals' Right under HIPAA to Access their Health Information 45 CFR § 164.524

Endnotes

¹ 45 CFR 164.316(b)(2); Centers for Medicare & Medicaid Services. (2012, August 21). Medical record retention and media format for medical records. *MLN Matters*, SE1022. Retrieved from www.cms.gov/files/document/mlnpodcastmedicalrecordretentionandmediaformatpdf

² 42 CFR 482.24[b][1]; 42 CFR 422.504 [d][2]; Centers for Medicare & Medicaid Services, Medical record retention and media formats for medical records.

³ American Health Information Management Association. (2013 [last updated]). *Retention and destruction of health information*. Retrieved from www.ahima.org/

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>, and I will no longer be able to provide your <medical/dental> care.

The last day I will see patients is <date>. I will be available for emergency care and scheduled 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 seamless 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>

Appendix B. 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>:

We regret to inform you of the recent passing of <physician name>. Your health and well-being are of utmost importance to the staff at <name of organization>. We encourage you to choose another provider as soon as possible to ensure timely care for your medical needs.

For your convenience, we are 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 wish to select another provider within our practice, please call our office staff at <phone number>. In the meantime, 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. We 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 <physician name> and our staff with your healthcare needs. It has been a pleasure to provide your care, and we wish you the best in the future.

Sincerely,

<Name>

<Title>

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