

CLOSING OR RELOCATING THE PHYSICIAN'S OFFICE



Oklahoma State Board of
Medical Licensure and Supervision

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CLOSING THE PHYSICIAN'S OFFICE

At some point in every physician's career it becomes necessary to close or relocate a medical practice. If relocating to another site in the same patient area, the problems are mainly in logistics and making sure the patient base knows about the move. If the relocation is out of the patient area, the problems are similar to those of closing a medical office.

If the closing has been anticipated and planned for, as in the case of a retiring physician, the closing should present relatively few problems. However, if the closing is unexpected, as in the case of a deceased or disabled physician, the situation is both traumatic and full of problems and questions that require quick solutions or answers.

This pamphlet is designed to give some answers to the most pressing questions that arise during an office relocation or closing process. It covers such questions as ... "What do we do with the medical records?" ... "Can we still collect the accounts receivable?" ... "How do we notify the patients about the closing (relocation)?" ... "What state and federal agencies need to be notified about the change and what do we need to tell them?" ... "Who can dispose of unused drugs and medications legally?" ... "How do we get off all of the junk mail lists?" ... etc.

We have attempted to give current information, in addition to contact addresses and telephone numbers if additional information is needed. Given the complexity of many of the current issues, we recommend you contact a lawyer experienced in health care law to assist you.

PRESERVATION OF MEDICAL RECORDS

One major problem that always arises whenever it becomes necessary to move or close a physician's office is what to do with patient records. Since these are very important and confidential documents, they must be carefully preserved in some manner.

If a physician is leaving the area and is in a partnership, it is common practice to leave the records in the possession of the partner. If the physician is staying in the area, but changing office locations, it is common practice for the partnership to divide up the records in some equitable fashion. However, it must be remembered that according to most legal authorities, the medical record of each patient is the property of the practice as a whole, not of the individual physicians in the partnership, and it is the patient's right to determine where his or her medical record is to go.

In any event, all of the physician's patients should be advised that they have the right to have their medical records sent to a physician of their choice. Patient notification may be accomplished through a sign in the reception area, a note on the billing statement, or a small advertisement in a newspaper of general distribution in the community.

It is not advisable to turn the original record over to the patient. If at all possible it should be transmitted to another physician. Realizing that there will be preparation and mailing costs involved in such a transfer, very few patients will object to paying a minimum amount for this service.

If a patient wishes to obtain a copy of their original medical record, it is their legal right to do so. Okla-

homa law provides that a medical office may charge \$1.00 for the first page and \$0.50 for each page thereafter for a copy of the record. Items that must be reproduced photographically can be charged for at the actual cost of the copy, up to a maximum of \$5.00 per image. (See **Oklahoma Statutes, Title 76, Section 19.**)

(Note: It is considered less than professional to charge another treating physician for a copy of a patient's medical record. Billing the patient for the copy is acceptable. However, transfer of the record copy to the treating physician should not be delayed for any reason.)

If a deceased physician was in solo practice, i.e. there is no surviving partner to keep the records, any original record of a patient that has not been seen in the past seven (7) years can be given directly to the patient with relative safety. This is one major exception to the general rule of not giving the original record to the patient. For patients that have been seen in the last seven years, the record should be handled as outlined above.

The medical record of an individual includes any and all medical and clinical data on the individual, including EKG tapes, x-rays, laboratory reports, etc. In some offices it may be necessary to gather up a patient's entire record from several different filing locations.

It is not necessary to transmit financial data to another physician along with the patient's medical record. However, it is both legal and ethical to do so.

Whenever a physician is leaving or has left practice and the actual office is being closed, several differ-

ent methods of patient notification may be used. A letter placed in the patient's monthly billing notice is one method. Since most patients do not receive a monthly notice, it is common practice to place a dignified advertisement in two or three editions of the local, general circulation newspaper notifying the general public, as well as past and present patients, of the office closing and that medical records will be sent to another physician of the patient's choice.

Of course, the method that will assure maximum notice is a direct letter to the last known address of each patient in the file. Obviously, this could become prohibitively expensive and is really not necessary for all patients. The important thing is to preserve the records so that they will be available when needed.

For patients that are under current care: i.e. taking a prescribed medication that requires refills, having a pre-scheduled treatment or examination time, or having a test or procedure scheduled; special attention must be given to notifying them as quickly as possible that the physician is no longer available and they need to make immediate arrangements for a new physician. For those patients that are scheduled to be seen in the next few days (up to 14 days) a phone call works best. For other patients scheduled in the future, notice by direct mail is recommended.

There are a couple of laws regarding the length of time certain parts of the medical record are to be saved, but there is no law setting the specific amount of time that all medical records should be preserved.

The length of time to keep records may require a subjective analysis of the physician's type of practice. Factors to consider include whether duplicate records exist elsewhere, the potential for litigation against the

physician, and the type of practice, i.e., whether it is a high professional liability risk type of practice.

However, legal authorities have recommended that in Oklahoma, medical records should be kept for a minimum of ten years from the last time the patient was seen, no matter if they are an adult or a minor. In addition, records of patients who were minors when treated (patients under 18 years of age), should be preserved until two years after the patient reaches majority at 18 years of age, or until at least their 20th birthday or for 10 years from the last time the patient was seen, whichever time is the longer.

After the maximum number of records have been forwarded to either other physicians or the patients, the storage location of the remainder of the records should be made known, **in writing**, to the following organizations: the Oklahoma State Board of Medical Licensure and Supervision; the Oklahoma State Medical Association, to be included in the physician's membership record; the county medical society, if it maintains a permanent business office; and to other physicians, hospital administrators, hospital medical record departments, clinic and office managers, and pharmacies in the area.

Specific federal and state laws call for the preservation of financial records. As a general rule, most financial records may be safely destroyed after seven years. However, the minutes and other financial "books" of a business or corporation must be retained permanently.

The destruction of any record, medical or financial, should only be done with the advice of competent legal counsel. Advice regarding the destruction of medical records may be sought from the Oklahoma State

Medical Association or the Oklahoma State Board of Medical Licensure and Supervision. See page 10 for information regarding compliance with the HITECH Act of 2009 if records are maintained electronically.

HIPAA COMPLIANCE

With the advent of the Federal law known as HIPAA (Health Insurance Portability and Accountability Act of 1996) and its requirements for special protection for health and medical information, additional steps are now necessary to preserve the privacy and confidentiality of such information stored on computers.

Whenever a medical office is closing and it has patient health information stored on its computers, it is recommended that the hard drives be removed from the machines and physically destroyed. Computer technicians say that erasing a hard drive does not remove the information stored on it and it is possible to recover much of the data. The only way to prevent this is to break-up the disks in the hard drive. (National security experts say that a used computer should never be sold, given away, or thrown away with its hard drive intact.)

HITECH COMPLIANCE

The Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) should be reviewed and complied with if medical records are maintained electronically. This was added to the HIPAA law and regulation requirements in 2009 to become effective in 2010.

HIPAA mandated the adoption of standard unique identifiers for health care providers and health plans. The purpose of these provisions is to improve the efficiency and effectiveness of the electronic transmission of health information. The Centers for Medicare & Medicaid Services (CMS) has developed the National Plan and Provider Enumeration System (NPPES) to assign these unique identifiers.

The NPI Enumerator is responsible for assisting health care providers in applying for their NPIs and updating their information in the NPPES.

The NPI Enumerator may be contacted as follows:

(800) 465-3203 (800) 692-2326 (TTY)

E-mail: customerservice@npienumerator.com

NPI Enumerator
PO Box 6059
Fargo, ND 58108-6059

The NPI Enumerator should be notified upon the physician's ending a practice at death, both as the physician's identifier number and the entity.

Two specific requirements of the HITECH addi-

tions to HIPAA apply when closing or relocating a practice:

- 1) If an office is maintaining medical records electronically, it is required to honor a patient's request for an electronic copy of his/her medical record, which must be transmitted directly to an entity or person specified by the patient. The request must be honored within 30 days. Any fee charged for the transfer must be reasonable. (It should be noted that Oklahoma does not have a statutory fee for electronic transfer of records.)
- 2) The physician's office is required to honor a patient's request to not disclose protected health information to a commercial health plan if the information solely concerns an item or service that the patient has paid for in full out-of-pocket

ACCOUNT RECEIVABLE

Accounts receivable must be dealt with whenever it becomes necessary to close a physician's practice. On occasion the simplest thing to do is leave the office open, or set up a smaller office in a nearby facility, and allow the physician's bookkeeper or accountant to continue collecting the accounts for some time.

If the physician was in a partnership and the practice is going to remain open, it is often simpler to allow the partnership accountant or bookkeeper to continue collecting until as much as possible has been recovered.

Occasionally, when it becomes necessary to close out the accounts receivable of a deceased physician, the administrator of the estate will recommend that the accounts be "sold" to a collection agency at a discount price and then leave the agency the responsibility of collecting the unpaid amounts. This procedure is **not recommended** for medical accounts.

The AMA's Ethical and Judicial Council, the organization directly concerned with interpreting the Principles of Medical Ethics, has stated that "The physician may not 'sell' delinquent accounts to a collection agency and may not enter into any arrangement under which the physician would lose complete control of the delinquent account or the method of its collection." The physician is admonished to give due consideration to the patient's ability to pay the fee which is due, before turning it over to an ethical collection agency. If the physician or family "sells" medical accounts, all control is lost and may subject patients or former patients to the tactics and methods

of aggressive collection which might bring the medical profession into disrepute and even destroy the “good name” of the physician.

There are a number of collection agencies in Oklahoma that specialize in collecting fees for professionals, specifically for physicians. Their reputations are usually well-known to the state medical association and the various county medical society offices.

INSURANCE

One of the first actions taken by an administrator of a deceased person's estate is to collect all of the various insurance policies and notify the companies of the person's death. This same procedure should be followed in the case of the death of a physician. However, occasionally a physician will simply quit business and fail to notify companies insuring the practice.

If a physician closes an office, he obviously no longer needs premise or business liability coverage, and should notify the company. This may even entitle him to a rebate on paid premiums. Other possible savings can be found in the timely termination of overhead expense policies, disability income policies, and even professional liability policies.

As an example, the savings in premium costs for a professional liability policy may be substantial whenever a physician who has been classified as a high-risk surgeon leaves private practice to become a medical director or in-house physician for a large company doing no surgery. This reduces the insurance company's risk, and the physician may be eligible for the same amount of coverage at a reduced premium.

FINAL PAPERWORK

Whenever a physician's office is forced to close unexpectedly, as in the case of death or disability, his or her general paperwork area and mail should be carefully searched for any unfinished paperwork requiring a personal signature. Such things as unsigned death certificates, insurance physical forms, etc., should be gathered up and returned to the appropriate agency with a note stating that the physician's signature is no longer available.

Whenever a physician is voluntarily closing the office, "unfinished paperwork" isn't such a problem.

Tax records and entity organizational documents should be kept for at least six years from the date a final tax return was filed for the practice so as to be available in case of an audit by the Internal Revenue Service. Leases on equipment, cars, or buildings should be reviewed and complied with as to termination provisions. Software license agreements should be terminated or transferred to the new owners. Any leases or contracts personally granted must be released by the company to which the personal guarantee was given.

DISPOSAL OF EQUIPMENT

It is sometimes possible to sell a medical practice, intact, to another physician or to some other organization. In such case, the purchasing physician or organization may agree, as a part of the purchase, to preserve the medical records of the first physician's patients. The new owner of the practice might even purchase the accounts receivable of the office ("sale" of accounts receivable to another physician is acceptable) or agree to try to collect them, and may even agree to keep the first physician's original staff together. However, this "perfect" disposition of a practice seldom occurs.

Whenever it becomes necessary to dispose of medical equipment, there are a number of avenues available. A simple notice on the local hospital doctors' bulletin board will quite often bring quick results. The notice should list the equipment, its general condition, the expected price, or a notation that the "best offer" is going to get it.

In areas where the county medical society has a bulletin or other publication, the person wishing to dispose of the material might consider placing an ad. Miscellaneous advertising space is also available in state medical journals.

Another method of disposal of medical equipment is to call the various physician and hospital supply firms in the area. Often they will take the equipment on consignment and will attempt to find a buyer in return for a percentage of the selling price.

One alternative not to be overlooked is the possibility of donating the used medical equipment to a

charitable institution and then taking an appropriate tax deduction. One advantage of this method is that you can usually dispose of the equipment and office supplies very quickly.

JOURNALS AND ADVERTISING MAIL

It may take up to a year for information that a physician is retired, deceased, or has closed a medical practice to reach all of the various mailing lists. Unfortunately, there is no central clearing office that can remove names from all lists. However, the American Medical Association, if requested to do so, will notify all users of its mailing list to remove a name.

A little patience and about a year's time may bring an end to the flow of mail, or you may write "deceased-return to sender" or "no longer in practice," on each piece and mail it back. While the latter course might entail some effort initially, it will rapidly and effectively cut off the flow.

MEDICAL SOCIETY DUES

Many medical societies have a provision in their bylaws for refunds of dues in the event of the death of a member or if a member finds it necessary to leave the area encompassed by the association. As an example, the Oklahoma State Medical Association Bylaws specify, "When a dues-paid member of the association leaves the state or otherwise changes his membership classification during the first six months of the calendar year, January 1 to July 1, he may request and receive a refund of one-half of the dues paid to the state association." It goes on to say that if he leaves during the second half of the year he is not entitled to a refund. Many county and specialty societies have similar provisions. However, many physicians prefer not to ask for dues refunds, especially from their professional societies.

AGENCIES TO NOTIFY

Whether a physician dies, or is simply changing addresses, there are certain agencies that need to be notified as soon as possible. Some notifications are required by law, others are good publicity, and some just make good sense.

The Oklahoma Board of Medical Licensure and Supervision requires by law a physician's current address (mailing or practice). The Board's address is 101 NE 51st Street, Oklahoma City, OK 73105. (405) 962-1400.

Federal law requires that the Drug Enforcement Administration be notified any time a physician changes his principal place of practice or becomes deceased. In the latter case, the DEA number needs to be terminated. In the former case, a new DEA number needs to be issued for the physician's new address. Changes should be sent to the Drug Enforcement Administration, Division Office, 10160 Technology Blvd East, Dallas, Tx, 75220, (214) 366-6900.

Oklahoma law requires that a physician must have not only a DEA registration, but also be registered with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control and receive a OBNDD number. This registration number is assigned to the physician at his principle place of practice. In the event that a physician's address changes, he should notify the OBNDD Director at 440 NE 39th Street, Oklahoma City, OK, 73105, (405) 521-2885 or (800) 522-8031.

The Oklahoma State Medical Association, specialty societies, and county medical societies, would like to be notified as soon as possible. Quite often these

organizations are called upon to vouch for a physician-member. In addition, they quite often publish a scientific journal, newsletter, bulletin, and/or membership directory that needs to receive an address change. The Oklahoma State Medical Association may be contacted at 313 NE 50th, Oklahoma City, OK 73105 (405) 601-9571.

The American Medical Association maintains a national registry of physicians. Whether a physician is a member of the AMA or not, the AMA needs his or her current address. This is a little known function of the AMA that has thwarted several thousand “phony” medical doctors over the years. The association maintains extensive files on medical licenses issued, medical school graduates, “phony physicians,” and current and past addresses of physicians. Address and practice status changes may be sent to the American Medical Association, 515 State Street, Chicago, Illinois 60610, (312) 464-5759.

Oklahoma law requires that whenever a physician goes into practice in an area, they must register their medical license with the County Clerk in the county of their practice. If moving to another county in the state of Oklahoma, the physician must re-register with that County Clerk. Other states have similar provisions.

Because the lag time between the filing of a claim and its final payment by Medicare, Medicaid and Oklahoma Blue Shield, other health insurance companies, and the various managed care organizations, physicians are encouraged to notify these agencies whenever they change addresses.

Address changes to Medicare may be submitted by contacting the Regional CMS Provider Enrollment Specialist, (214) 767-6419.

Medicaid in Oklahoma is handled through the Oklahoma Healthcare Authority, Medical Services Division, 4545 N. Lincoln, Suite 124, Oklahoma City, OK 73105, (405) 522-7300.

Because of its extensive field staff, Oklahoma Blue Shield usually knows about address changes. However, they too should be notified at 1215 South Boulder, Tulsa, OK 74102, (918) 560-3500.

Address change notification should also be sent to the other insurance companies and managed care plans (including HMOs) that the physician finds most often in their practice. The office staff will be able to identify these companies.

All insurance companies doing business in the state of Oklahoma must register with the office of the Oklahoma Insurance Department. That office will furnish insurance company addresses. It may be contacted by writing to Insurance Commissioner, P.O. Box 53408, Oklahoma City, OK 73152. (405) 521-2828

In the larger cities, upon the death of a physician, the administrators of the various hospitals in which he or she may have had privileges should be contacted immediately. This will assure coverage of any patients in the hospital, and will minimize confusion in emergency room and other coverage areas. In the smaller towns this is usually not necessary because "everyone knows" almost immediately.

CONTROLLED SUBSTANCES ACT

Federal regulations concerning the Controlled Substances Act provide that in the event the registration of any purchaser of such items is suspended, revoked, or voided (because of death, ceasing of legal existence, discontinuance of business or professional practice, or because he changes his name or address as shown on his registration)... all unused order forms for schedules I & II drugs shall be returned to the nearest office of the Drug Enforcement Administration (DEA). Order forms are known as DEA Form 222.

DEA Oklahoma City
9900 Broadway Extension
Oklahoma City OK 73114
(405) 475-7500

DEA Tulsa
7615 E. 63rd Pl.
Suite 250
Tulsa OK 74133
(918) 459-9600

All controlled dangerous substances records and inventories must be maintained at least two years.

In the event it becomes necessary for any person to dispose of controlled substances, such person may contact the regional DEA director for authority and instructions. In the event the person disposing of the material is not a registrant (example, the administrator of a physician's estate), he must submit to the regional director a letter stating his name and address, the name and quantity of each controlled substance to be disposed of, and registration number of the person who possessed the controlled substance prior to the applicant.

The regional director shall authorize and instruct the applicant to dispose of the substance in one of the following manners: (1) by transfer to a person reg-

istered under the act and authorized to possess the substance; (2) by delivery to an agent of the bureau or to the nearest bureau office; (3) by destruction in the presence of an agent of the bureau or other authorized person; (4) or by such means as the regional director may determine to assure that the substance does not become available to unauthorized persons.

VOLUNTEERING YOUR PROFESSIONAL TIME

Many physicians chose to retire from active practice, but choose not to surrender their license. In fact, many practice management experts recommend that physicians should keep their license current as long as possible, even after retirement. It is far easier to keep the license current than it is to get a license reissued after it has been voluntarily surrendered.

The reason for keeping the license is simple: After closing their office, many retired physicians find that they really do not want to give up the practice of medicine completely and they begin to look for ways to “stay in practice.” If they cannot find a part-time paying position, then they will look for some not-for-profit organization that needs volunteer doctors to maintain a “free” medical service or clinic.

The Oklahoma Legislature has acknowledged the contributions made by these volunteer physicians by creating a “special volunteer medical license” to be issued by the Oklahoma State Board of Medical Licensure and Supervision in those situations where a retired physician has voluntarily surrender his or her regular license.

The special license is used by the Medical Board without the payment of any fee (application, license, or renewal), without any CME requirement, for a fiscal year or part thereof, and is renewable annually upon Board approval.

A physician seeking the special volunteer license must complete a special license application, similar to the regular application, and document that they have been previously fully licensed in Oklahoma or some other state of the United States and have not been the

subject of any medical disciplinary action in any jurisdiction.

The applicant must also acknowledge and document that practice will be exclusively and totally devoted to providing medical care to needy and indigent person in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps*. In addition, the physician must acknowledge that they will not receive any payment or compensation, either direct or indirect, while rendering service under the special volunteer license.

*(*Note: The Medical Reserve Corps is a component of the Citizen Corps, which is part of the USA*

CLOSING OR RELOCATING A PRACTICE

Patient Notification Letter

(Inside address)

Dear *(name)*:

I will no longer be able to care for your medical needs after *(date)*. I will be closing [relocating] my practice on that date and plan to [retire – move my practice to *(location)*].

Enclosed is an authorization for release of your medical records to another physician of your choice. Please complete the form, sign it, and return it to my office. I can then forward your medical records to any physician you select.

The following is a list of local physicians that have indicated a willingness to accept new patients. I am offering this list for your convenience. You need not select any physician on this list: *(list physician names, addresses, and phone numbers)**

When selecting a new physician, please remember to take into consideration your medical insurance or health care plan and make sure your new physician is a provided under your coverage.

I hope this notice will give you time to attend to prescription refills, chose a new physician, transfer records, and, if you so wish, for a final visit with me!

Yours truly,
(Name), MD

**This list is not a legal requirement. However it is recommended. A physician closing an office should give all patients sufficient notice to secure alternate care without delays so as to avoid an abandonment suit. This list helps prove the availability of alternate care. If you do provide a list, please remember to check with your colleagues for their permission to be listed.*

OFFICE CLOSING NEWSPAPER ADVERTISEMENT

One way to get the notice of a medical office closing to the maximum number of present and former patients is through an ad placed in a local newspaper of general circulation. If the newspaper is published daily, the ad might run for up to a week. If the newspaper is published weekly, the ad should run in at least two consecutive issues.

The ad itself does not need to be very big. It is recommended that it be two columns wide and four to five inches deep, with a box around it to make it stand out on the page.

Sample copy for ad

Dr. (*name*) Announces the Closing of His Office

(*Name*), MD announces the closing of his medical practice on (*date*) and that he will no longer see patients after that date. His office will begin immediately to transfer patient medical records to other physicians upon patient request.

Patients should call Dr. (*name*)'s office as soon as possible to make arrangements for the forwarding of their medical records to another physician of their choice.

**(area code) (phone number)
(office name and address)**

