



ALABAMA STATE BOARD OF MEDICAL EXAMINERS

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RECOMMENDED PROCEDURE IN CLOSING/DISCONTINUING A MEDICAL PRACTICE

1. Notify the Alabama Board of Medical Examiners in order to:
 - a. Advise of a change in your status.
 - b. Advise of a change in your mailing address
 - c. Request legal removal and disposal of any unused medications. This is especially important for controlled substances in order for them to be legally removed from your Federal and State Inventory.

2. Provide some type of notice of the office closing. It is suggested that the notice to your active patient base be conducted by direct mail out (form letter) to the patients at their last known address. In addition, it is suggested that some type of public advertisement be issued about the closing of your practice. Such advertisement might be placed in your area newspaper. The notice of the office closing should include the following:
 - a. Intended date of closing.
 - b. Instructions to patients as to how medical records (copies) can be transferred to another physician, or provided to the patient to deliver to the physician of their choice. NOTE: Any patient records that have not been duplicated and transferred should be made available for a reasonable period of time, after the office closing. After that time you should notify this Agency of the arrangements you have made for records storage, and how they can be retrieved (if needed) at a later date. It is recommended that the patient records be maintained and available for 10 years.
 - c. If your medical practice and records are being assumed by another physician, your public/patient notice should include the name, address, and telephone number of that physician.

3. Notify the Drug Enforcement Administration of the closing of your medical practice and of any change in your address.

4. After the closing of your practice, place a written notice of the closing on the door, or other visible area, of the office or building. The notice should contain instructions to patients as to where the medical records are located and how copies can be transferred/obtained. The same instructions should also be made available to any leasing agent, new tenant, or the owner of the building.

*The foregoing procedures are intended to aid you in properly closing your office, or discontinuing your medical practice. These steps should give you a reasonable method for providing copies of records to patients, or to the physicians they designate. **UNLESS YOUR PRACTICE IS BEING ASSUMED BY ANOTHER PHYSICIAN**, it is suggested that **COPIES** of the records be provided or transferred and that you maintain your **ORIGINAL** records. The proper transfer of medical information, and the careful maintenance of your records, may be the most important aspects of your office closing. It is important to the patients as it insures that they will be able to obtain continuing health care in a timely manner. It is important to you as it may protect you, from a liability standpoint, at some time in the future. Without the availability of your original records, you may be vulnerable.*

Physicians' Obligations on Closing or Leaving a Medical Practice

Some items to consider when a physician closes or leaves a medical practice:

Board Rule 540-X-9-.10(3) states, "When a physician retires, terminates employment or otherwise leaves a medical practice, he or she is responsible for ensuring that active patients receive reasonable notification and are given the opportunity to arrange for the transfer of their medical records. A physician or physician group should not withhold information from a departing physician which is necessary for notification of patients. A physician or the estate of a deceased physician transferring medical records in connection with the sale of a medical practice should notify the physician's active patients that the records are being transferred and should provide the patient with information sufficient to secure the transfer of the medical record."

AMA Ethical Opinion E-7.03 states, "When a physician retires or dies, patients should be notified and urged to find a new physician and should be informed that upon authorization, records will be sent to the new physician. Records which may be of value to a patient and which are not forwarded to a new physician should be retained, either by the treating physician, another physician, or such other person lawfully permitted to act as a custodian of the records."

The patients of a physician who leaves a group practice should be notified that the physician is leaving the group. Patients of the physician should also be informed of the physician's new address and offered the opportunity to have their medical records forwarded to the departing physician at his or her new practice location. It is unethical to withhold such information upon request of a patient. If the responsibility for notifying patients falls to the departing physician rather than to the group, the group should not interfere with the discharge of these duties by withholding patient lists or other necessary information."

Medical Licensure Commission Rule 545-X-4-.06 states as an example of unprofessional conduct, "The refusal by a physician to comply, within a reasonable time, with a request from another physician for medical records or medical information when such request is accompanied by a properly executed authorization of the patient."

AMA Ethical Opinion E-8.115 states, "Physicians have an obligation to support continuity of care for their patients. While physicians have the option of withdrawing from a case, they cannot do so without giving notice to the patient, the relatives, or responsible friends sufficiently long in advance of withdrawal to permit another medical attendant to be secured."

AMA Ethical Opinion E-7.01 states, "The interest of the patient is paramount in the practice of medicine, and everything that can reasonably and lawfully be done to serve that interest must be done by all physicians who have served or are serving the patient. A physician who formerly treated a patient should not refuse for any reason to make records of that patient promptly available on request to another physician presently treating the patient. Proper authorization for the use of records must be granted by the patient. Medical reports should not be withheld because of an unpaid bill for medical services."

Section 34-24-338 of the Code of Alabama states, "If any registrant shall change his address during the year for which any certificate of registration shall have been issued by the commission, such registrant shall, within 15 days thereafter, notify the commission of such change, whereupon the commission shall issue to such registrant without additional fee, a duplicate registration certificate for such new location."

The American Medical Association publishes a book entitled *Closing Your Practice* which contains sample letters, forms and checklists. For more information, go to <http://www.ama-assn.org/>, click "Products and Services," then "AMA Press Catalog." ■

Opinion 10.01 - Fundamental Elements of the Patient-Physician Relationship

From ancient times, physicians have recognized that the health and well-being of patients depends upon a collaborative effort between physician and patient. Patients share with physicians the responsibility for their own health care. The patient-physician relationship is of greatest benefit to patients when they bring medical problems to the attention of their physicians in a timely fashion, provide information about their medical condition to the best of their ability, and work with their physicians in a mutually respectful alliance. Physicians can best contribute to this alliance by serving as their patients' advocate and by fostering these rights:

- (1) The patient has the right to receive information from physicians and to discuss the benefits, risks, and costs of appropriate treatment alternatives. Patients should receive guidance from their physicians as to the optimal course of action. Patients are also entitled to obtain copies or summaries of their medical records, to have their questions answered, to be advised of potential conflicts of interest that their physicians might have, and to receive independent professional opinions.
- (2) The patient has the right to make decisions regarding the health care that is recommended by his or her physician. Accordingly, patients may accept or refuse any recommended medical treatment.
- (3) The patient has the right to courtesy, respect, dignity, responsiveness, and timely attention to his or her needs.
- (4) The patient has the right to confidentiality. The physician should not reveal confidential communications or information without the consent of the patient, unless provided for by law or by the need to protect the welfare of the individual or the public interest.
- (5) The patient has the right to continuity of health care. The physician has an obligation to cooperate in the coordination of medically indicated care with other health care providers treating the patient. The physician may not discontinue treatment of a patient as long as further treatment is medically indicated, without giving the patient reasonable assistance and sufficient opportunity to make alternative arrangements for care.
- (6) The patient has a basic right to have available adequate health care. Physicians, along with the rest of society, should continue to work toward this goal. Fulfillment of this right is dependent on society providing resources so that no patient is deprived of necessary care because of an inability to pay for the care. Physicians should continue their traditional assumption of a part of the responsibility for the medical care of those who cannot afford essential health care. Physicians should advocate for patients in dealing with third parties when appropriate. (I, IV, V, VIII, IX)

Issued June 1992 based on the report "[Fundamental Elements of the Patient-Physician Relationship](#) , " adopted June 1990 (JAMA. 1990; 262: 3/33); Updated 1993.

Opinion 8.11 - Neglect of Patient

Physicians are free to choose whom they will serve. The physician should, however, respond to the best of his or her ability in cases of emergency where first aid treatment is essential. Once having undertaken a case, the physician should not neglect the patient. (I, VI)

Issued prior to April 1977; Updated June 1996.

Opinion 8.115 - Termination of the Physician-Patient Relationship

Physicians have an obligation to support continuity of care for their patients. While physicians have the option of withdrawing from a case, they cannot do so without giving notice to the patient, the relatives, or responsible friends sufficiently long in advance of withdrawal to permit another medical attendant to be secured. (I, VI)

Issued June 1996 (formerly included in Opinion 8.11).

Opinion 7.01 - Records of Physicians: Availability of Information to Other Physicians

The interest of the patient is paramount in the practice of medicine, and everything that can reasonably and lawfully be done to serve that interest must be done by all physicians who have served or are serving the patient. A physician who formerly treated a patient should not refuse for any reason to make records of that patient promptly available on request to another physician presently treating the patient. Proper authorization for the use of records must be granted by the patient. Medical reports should not be withheld because of an unpaid bill for medical services. (IV)

Issued prior to April 1977

Opinion 7.02 - Records of Physician: Information and Patients

Notes made in treating a patient are primarily for the physician's own use and constitute his or her personal property. However, on request of the patient, a physician should provide a copy or a summary of the record to the patient or to another physician, an attorney, or other person designated by the patient.

Most states have enacted statutes that authorize patient access to medical records. These statutes vary in scope and mechanism for permitting patients to review or copy medical records. Access to mental health records, particularly, may be limited by statute or regulation. A physician should become familiar with the applicable laws, rules, or regulations on patient access to medical records.

The record is a confidential document involving the patient-physician relationship and should not be communicated to a third party without the patient's prior written consent, unless required by law or to protect the welfare of the individual or the community. Medical reports should not be withheld because of an unpaid bill for medical services. Physicians may charge a reasonable fee for copying medical records. (IV)

Issued prior to April 1977; Updated June 1994

Opinion 7.03 - Records of Physician upon Retirement or Departure from a Group

A patient's records may be necessary to the patient in the future not only for medical care but also for employment, insurance, litigation, or other reasons. When a physician retires or dies, patients should be notified and urged to find a new physician and should be informed that upon authorization, records will be sent to the new physician. Records which may be of value to a patient and which are not forwarded to a new physician should be retained, either by the treating physician, another physician, or such other person lawfully permitted to act as a custodian of the records.

The patients of a physician who leaves a group practice should be notified that the physician is leaving the group. Patients of the physician should also be informed of the physician's new address and offered the opportunity to have their medical records forwarded to the departing physician at his or her new practice location. It is unethical to withhold such information upon request of a patient. If the responsibility for notifying patients falls to the departing physician rather than to the group, the group should not interfere with the discharge of these duties by withholding patient lists or other necessary information. (IV)

Issued prior to April 1977; Updated June 1994, June 1996 and February 2002

Opinion 7.04 - Sale of a Medical Practice

A physician or the estate of a deceased physician may sell the elements that comprise his or her practice, such as furniture, fixtures, equipment, office leasehold, and goodwill. In the sale of a medical practice, the purchaser is buying not only furniture and fixtures, but also goodwill, ie, the opportunity to take over the patients of the seller. A patient's records may be necessary to the patient in the future not only for medical care but also for employment, insurance, litigation, matriculation, or other reasons. Therefore, the transfer of records of patients is subject to the following:

- (1) The physician (or the estate) must ensure that all medical records are transferred to another physician or entity who is held to the same standards of confidentiality and is lawfully permitted to act as custodian of the records.
- (2) All active patients should be notified that the physician (or the estate) is transferring the practice to another physician or entity who will retain custody of their records and that at their written request, within a reasonable time as specified in the notice, the records (or copies) will be sent to another physician or entity of their choice.
- (3) A reasonable charge may be made for the cost of locating, duplicating, and mailing records. (IV)

Issued July 1983; Updated June 2000

Opinion 7.05 - Retention of Medical Records

Physicians have an obligation to retain patient records which may reasonably be of value to a patient. The following guidelines are offered to assist physicians in meeting their ethical and legal obligations:

- (1) Medical considerations are the primary basis for deciding how long to retain medical records. For example, operative notes and chemotherapy records should always be part of the patient's chart. In deciding whether to keep certain parts of the record, an appropriate criterion is whether a physician would want the information if he or she were seeing the patient for the first time.
- (2) If a particular record no longer needs to be kept for medical reasons, the physician should check state laws to see if there is a requirement that records be kept for a minimum length of time. Most states will not have such a provision. If they do, it will be part of the statutory code or state licensing board.
- (3) In all cases, medical records should be kept for at least as long as the length of time of the statute of limitations for medical malpractice claims. The statute of limitations may be three or more years, depending on the state law. State medical associations and insurance carriers are the best resources for this information.
- (4) Whatever the statute of limitations, a physician should measure time from the last professional contact with the patient.
- (5) If a patient is a minor, the statute of limitations for medical malpractice claims may not apply until the patient reaches the age of majority.
- (6) Immunization records always must be kept.
- (7) The records of any patient covered by Medicare or Medicaid must be kept at least five years.
- (8) In order to preserve confidentiality when discarding old records, all documents should be destroyed.
- (9) Before discarding old records, patients should be given an opportunity to claim the records or have them sent to another physician, if it is feasible to give them the opportunity. (IV, V)

Issued June 1994

Section 12-21-6.1**Reproduction and delivery of medical records.**

(a) The following words and phrases used in this section shall have the following meanings:

(1) ACTUAL COSTS. The cost of material and supplies used to duplicate the medical record, the labor costs, and other costs associated with duplication of the medical records.

(2) PERSON. Any medical provider or company or other legal entity that maintains medical records.

(b)(1) Notwithstanding any other provision of law, any person required to release copies of medical records may condition the release upon payment by the requesting party of the reasonable costs of reproducing the medical records.

(2) The reasonable costs of reproducing copies of written or typed documents, or reports shall not be more than one dollar (\$1) for each page of the first 25 pages, not more than 50 cents (\$.50) for each page in excess of 25 pages, and a search fee of five dollars (\$5). If the medical records are mailed to the person making the request, reasonable costs shall include the actual costs of mailing the medical records.

(3) A person may charge in addition to the fees allowed in subdivision (2) of this subsection the actual cost of reproducing X-rays and other special medical records.

(4) Unless other arrangements for payments are made between the requesting party and the person supplying the medical records, the requesting party shall pay the fees charged for reproduction and delivery of the medical records prior to delivery of the medical records.

(c) The provisions of this section shall not apply to records subpoenaed by the State Board of Medical Examiners.

(d) This section shall not affect any fees or costs currently paid by state agencies.

(Acts 1994, No. 94-609, p. 1124, §§1, 2.)

For physicians who are retiring, leaving a practice, selling a practice, or deceased, what are the responsibilities in transferring medical records and notifying patients?

[Opinion 7.03, "Records of Physicians Upon Retirement or Departure from a Group"](#) specifies that when a physician leaves a practice "...patients should be notified and urged to find a new physician and be informed that upon authorization, records will be sent to the new physician." When the physician is leaving a group, the patient "should also be notified of the physician's new address and offered the opportunity to have their medical records forwarded to the departing physician at his or her new practice."

When a practice is being sold, [Opinion 7.04, "Sale of a Medical Practice"](#) recommends that patients should be notified, and the records should be transferred to another physician who will, upon written request, send copies to a physician of the patient's choice.

In addition, individual states may have regulations pertaining to the transfer of medical records and the notification of patients. You can contact your state licensing board or medical society to find out what the regulations are in your particular state. [Contact information of the licensing boards](#)  in all 50 states.

My physician has said that I will need to find a new doctor, is that ethical?

In general, the AMA Code of Medical Ethics states that physicians are free to choose whom to serve (see [Principles of Medical Ethics](#), Principle VI), but that "physicians have an obligation to support continuity of care for their patients" ([Opinion 8.115, "Termination of the Patient-Physician Relationship"](#)). Once a patient-physician relationship has been established, the physician should not neglect a patient (see [Opinion 8.11, "Neglect of Patient"](#)). Opinion 8.115 provides guidance on how physicians should proceed in circumstances when it is necessary to terminate the patient-physician relationship.

Physicians and patients wanting to know more about the appropriate mechanism for terminating a patient-physician relationship should also determine if there are any applicable laws pertaining to the amount of notice required, documentation, etc. You should contact your state licensing board or medical society to find out what the regulations are in your state. [Contact information of the licensing boards](#)  in all 50 states.

Can my physician refuse to see me because of an unpaid bill?

The general AMA policy on billing is [Opinion 6.05, "Fees for Medical Services."](#) This Opinion does not specifically address whether a physician might refuse to see a patient due to an unpaid bill. However, [Opinion 8.11, "Neglect of Patient"](#) states, "Once having undertaken a case, the physician should not neglect the patient." Refusing to see a patient might be considered neglect, unless the physician appropriately terminated the patient-physician relationship. [Opinion 8.115, "Termination of the Patient-Physician Relationship"](#) states that the physician should provide "notice to the patient, the relatives, or responsible friends sufficiently long in advance of withdrawal to permit another medical attendant to be secured."

In addition, there may be specific regulations in your state that pertain to unpaid bills or the termination of the patient-physician relationship. You should contact your state licensing board or medical society to find out what the regulations are in your state. [Contact information of the licensing boards](#)  in all 50 states.