

Retaining Medical and Business Records:

When is Enough Enough?

In this increasingly regulated environment, documentation is key. But, what do you do with all of those documents after the immediate need for them is over?

If your practice is like most, you have records in your office and perhaps even in your basement at home. But, like everyone else, you are running out of space. And, with the increasing costs of leasing offsite storage space or using a paper archiving service, you are probably asking whether there is anything that you actually can throw out.

Start By Cleaning House

From a purely legal standpoint, it is always better not to discard documents; if you do they are thereafter unavailable to defend against tax claims, malpractice litigation, overbilling claim, and so on. However, from a business standpoint it's too expensive to keep all documents forever. Further, over time, the need for legal protection decreases as statutes of limits expire. Balancing these two objectives – legal protection and cost efficiency – is a judgment call that varies depending on the type of record involved. The factors are: type of legal claim that may arise; the size of potential liability; length of statute of limitations; amount of space occupied by the records; and costs to archive or scan into the computer. What follows are general guidelines for use by dermatology practice; however, before you shred, a phone call to your local attorney is advised, as many relevant statutes of limits, such as those on malpractice, are state-specific, and cannot feasibly be addressed in this general article.

Special caution is advised with respect to patient records, including X-rays, lab reports and the like. Most states have specific rules requiring these records to be maintained for a number of years, so that patients can access them as needed. For instance, in Pennsylvania, the required maintenance period is seven years from the date of last service, or until the age of majority plus 1 year, whichever is longer. **HOWEVER**, this is not the end of the story. You must also consider the state statute of limitations on malpractice actions. These rules may be complex and may also have longer duration than the basic chart maintenance rules. If you throw out the chart before the statute of limits has expired, you have no record with which to defend yourself in any subsequent malpractice suit. Therefore, you should consult with your local attorney before discarding patient charts. Absent such legal advice, we recommend you retain the chart forever, as indicated below. Fortunately, with advances in scanning technology, it is becoming cheaper and cheaper to retain such important documents for long periods of time, in electronic form.

Where to Keep Records

The next step is to determine how best to store those records you must keep. Records to which you refer often should be kept in your office and likewise for those that you will likely, under

normal circumstances, need to access in the future. For all other records, consider the following options:

Self Storage: Perhaps the easiest way to save the files but lose the clutter is simply to move the clutter off site. For a fee (usually charged monthly), you can simply stash some of your files in a commercially operated "you-store-it" type of facility. This is the least expensive of the storage methods. Beware, however, that in many states, the facility may seize the contents of your storage unit if you are in arrears on the rent.

Archival: An option to self-storage is to hire an archival firm to keep some of your records. This type of company will store your records indefinitely and, when you need a file, will get to you within a day or two. All you have to do is to keep track of your stored inventory and then phone the company.

Optical Scanning. In many ways, this is an ideal solution. Your records will be stored on a computer drive, CD, or other storage device. When you need to refer to a record, you will be able to call it to the screen. If you need to take a physical copy of it somewhere, you will be able to copy it onto a disk or print it out onto paper. The costs of memory are minimal in consideration of the immediate accessibility to this information and the space you save eliminating patient files.

Note, however, that the HIPAA Security Rules require you to take reasonable precautions to safeguard information maintained in electronic form. If records are maintained on your computer, you may need to install password, coding and encryption software to your computer system to limit unauthorized access to confidential patient information and to protect records from corruption by hackers.

Generally, in legal proceedings, the scanned computer version of a document should be as good as the original. However, with respect to patient records, double check with your local attorney. Make sure that the scanned version will have the same validity as the paper original, in terms of being admissible as evidence in a court of law, under your state's rules.

RECORDS RETENTION SCHEDULE (Paper or Scanned)

Medical Records	How Long to Save Originals or Scanned Copies
Patient Charts	Forever *
X-rays	Forever *
Medical correspondence (to patients, to referrers about patients, etc.)	Forever *
Business Records	
Day Sheets, patient billing or fee slips and other original entry items	10 years
Internal monthly summaries, management reports and interim financial reports	3 years
Internal year-end financial and management reports	7 years
Accountants' annual financial reports and underlying schedules, work papers, etc.	Forever **
Third party insurance claims, records and correspondence	10 years
Purchase invoices and paid bills	7 years
Business correspondence:	
a) Routine, low importance	1 year
b) General	3 years
Major legal and important matters	Forever
Expired insurance policies (except malpractice)	3 years
Malpractice insurance policies	Forever
Insurance records, current claims reports and related materials	Forever
Banking Records	
Duplicate deposit slips	1 year
Canceled checks (except as below)	7 years
Canceled checks for major items including: taxes, major asset purchases, real estate improvements, special contracts, etc. (to be filed with papers for the underlying transaction)	Forever
Monthly bank statements	1 year
Employment Records	

Applications (except of employees actually hired)	3 years
Personnel records (including original applications), after termination	3 years
Payroll records and summaries, including payroll tax forms	7 years
Employee time sheets and/or time clock records	7 years

Tax Records

Tax returns and any documents relating to tax audits and adjustments	Forever **
Worksheets, lists, schedules, etc., supporting tax return items- generally	7 years
Documents, receipts, worksheets, etc. as to property (real estate, stocks, bonds, tax shelters, etc.) no longer owned. Keep until property is disposed of	Plus 7 years

Legal Documents

Deeds, mortgages and bills of sale of major items	Forever
Partnership agreements, corporate employment/shareholder agreements, etc. Keep permanently until expired	Plus 7 years
Corporate minute books, charter bylaws and minutes. Keep until you cease being a shareholder	Plus 7 years
Promissory notes receivable and other documents of debt owing to you. Keep until fully paid	Plus 7 years
Original promissory notes which you have paid off - unless returned and marked "Paid"	Forever
Copies of promissory notes payable payment schedules and records of debts you owe (after full payment)	3 years
Canceled stock and bond certificates	7 years

** Unless otherwise advised by your local attorney based on review of state rules regarding chart maintenance and statute of limitations on malpractice lawsuits*

*** There are various time constraints on the ability of the IRS to assess tax after a return has been filed. However, there is no time limit on assessment for returns not filed, and without a copy, you cannot prove that a return was in fact filed. It is also advisable to retain tax and financial records for purposes of establishing tax basis in assets that are later sold.*

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