

Medical Record Retention

Retaining medical records when a patient is no longer under your care is vital for a variety of reasons, such as being able to reference what medications the patient was on and compliance with treatment, and, in the event of an adverse outcome, these records may prove essential in the defense of a lawsuit.

Factors affecting the length of time that medical records must be retained may include:

- whether the patient is an adult or a child/adolescent;
- how long you must retain a patient's medical record after his/her death by state law; and
- whether you are an outpatient provider or provide care in a hospital.

Psychiatrists often ask how long they must keep a patient's medical records. Psychiatrists must at least retain their patients' medical record for the required period under state law (HIPAA does not include medical record retention requirements). Records should also be retained for as long as the state's statute of limitations for medical negligence. Keep in mind that in some states the statute of limitations period may run longer than the state's record retention requirement. Note also that record retention requirements for minors are typically different from those for adult patients. If you have questions, contact your local attorney, risk manager, or state board of medicine.

Disposing of Records

When it is no longer legally required and you no longer wish to retain the records, it is important that you dispose of the patient's protected health information (PHI) contained in the records in compliance with federal and state laws. Under HIPAA, Covered Entities (CEs) must implement policies and procedures to address records disposal, both for electronic and paper records. Moreover, under HIPAA, any employee (or volunteer) involved in disposing of PHI must receive training on proper disposal.

Although HIPAA does not specify a disposal method, CEs are expected to take reasonable precautions to protect PHI from improper disclosure during disposal and are not permitted to simply abandon/dispose of records in publicly accessible containers. Examples of proper disposal methods may include:

- Shredding, burning, pulping, or pulverizing the records so that PHI in paper records is rendered essentially unreadable, indecipherable, and otherwise cannot be reconstructed.
- Storing PHI in opaque bags in a secure area when using a third-party vendor to pick up PHI for disposal.
- For electronic PHI, clearing (using software or hardware products to overwrite media with non-sensitive data), purging, demagnetizing, or destroying through methods such as disintegration, pulverization, melting, incinerating, or shredding.

There may be other suitable methods for destruction and psychiatrists should consult with a local attorney and/or risk management professional to determine current state/federal requirements for proper disposal of PHI. Additionally, if using an outside vendor to assist with the disposal, a business associate agreement should be in place prior to the vendor assuming possession of the PHI.

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