

PATIENT ACCESS CHALLENGES

Obtaining Medical Records from Closed Practices

Scenario 1:

"My primary care doctor and cardiologist need more information on the chemotherapy regimen that was used to treat my cancer ten years ago. I called the oncologist's number, and it was disconnected. I checked online and it seems his office closed years ago. Why didn't anyone let me know? How do I get a copy of my records now?"

Scenario 2:

"I stopped by my doctor's old office. It was no longer a doctor's office. The receptionist had no information for me. I desperately searched for the other physicians that also used to be in the practice to no avail. I called the Department of Health. I searched for my doctor on the internet, Facebook, and LinkedIn hoping I could find him and ask how I could get a copy of my medical records. What if I never get in touch with him? I need copies of my medical records to include in my social security disability application. Without them, I'm afraid my application will be denied."

Scenario 3:

"My doctor passed away. She was in a solo practice and didn't use electronic medical records. It was all paper charts. I didn't know where to go to get a copy. I was able to find some contact information for her surviving family members online hoping they could help me. I felt so guilty bothering someone who is grieving the loss of their loved one so I could get access to my medical records. It shouldn't be this complicated."

Barriers to Access Overview: Obtaining Medical Records from Practices that are Closed

Physician practices close for several reasons. Physicians may merge with another practice or hospital system. They may sell or close their practice for financial reasons, such as in the event of the negative financial consequences incurred because of the [COVID-19 pandemic](#). Physicians may retire. They may get sick and pass away. In short, while there are numerous reasons that a practice may close, patients and their families may encounter significant barriers to obtaining medical records if a physician's practice closes and there isn't a robust plan in place to provide patients easy access to their records.

When the Practice is Permanently Closed

The Health Insurance Portability and Accountability Act (HIPAA) gives patients the right to access and get copies of their medical records. Unfortunately, many patients struggle to exercise this right when their physician's practice has closed. This is most concerning in settings that—for whatever reason—do not use electronic health records (EHRs), such as in behavioral health practices, many independent practices, and some practices and clinics in rural settings. This is because patients may live far from the location where they received care or simply have one less method available to them to access information absent access to an online patient portal or smartphone app facilitating access to an EHR.

Medical record retention requirements, in general, are not specified by [HIPAA](#), but rather [state laws](#). The American Health Information Management Association (AHIMA) provides a guidance on [Protecting Patient Information after a Facility Closure](#) and a resource on [state laws](#) governing medical records retention after the closure of a practice or facility. Relevant agreements, such as physician employment and services contracts,

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could also govern record availability upon practice closing. State statutes of limitations, and/or hospital policies and procedures, can also impact record retention and availability.

Physicians should contact the Medical Board of the state in which they practice as part of their practice closure strategy. If a physician decides to store medical records with a custodian, patients still have a right to request access to a copy as per HIPAA, so long as the records are available as per state laws and other agency and organizational regulations for retention. AHIMA also has a resource with more information on [Retention and Destruction of Health Information](#) that may be useful for physicians to review. While HIPAA protects a patient's right to privacy and medical information for up to [50 years after the patient's death](#), state laws on the duration of time that clinicians must retain medical records vary from state to state.

One of the most common access challenges patients face is failure to realize that their physician's practice is closing or has closed. Physician practices should make every effort to inform patients of a practice closure or when a physician ceases to practice medicine with ample time for the patient to obtain a copy of their medical records.

Ensuring Continuity of Care & Medical Records Coordination

Plans for closing, selling, or retiring from practice and what to do with medical records should begin at practice start-up. The American Academy of Family Physicians (AAFP) has a [resource](#) for physicians starting, selling, and closing a practice. Its [Closing Your Practice Checklist](#) highlights the importance of having a proactive plan for medical records retention. Physicians must plan for safe, HIPAA-compliant storage of both paper and electronic medical records, as well as imaging and [pathology samples, tissue blocks, and slides](#), if their office should close. State Medical Boards must be notified of anticipated closures. Physicians must confirm how long records need to be stored as per state and other applicable laws and requirements.

Patients should be notified by a [letter](#) at least 60 days (or greater when required by applicable law) in advance of an upcoming office closure, where possible. The letter should specify the date of the anticipated closure, the option to transfer records to another physician, the option to obtain a personal copy, and the contact information of the appointed custodian overseeing medical records storage. The AMA also recommends that all physicians who plan to close their practice [provide their local post office with a forwarding address](#) in case a patient needs to contact them in the future.

Closing practices should encourage patients to either transfer their records to another physician's office or to pick up a copy with instructions on best practices for coordinating one's care from this juncture. This can be done via written correspondence and a copy of this letter should be placed in each patient's chart. Patients who are diagnosed with high-risk conditions, who are actively undergoing aggressive treatments, or who require routine follow-ups should have their [letters sent with a return receipt request](#) to minimize any disruptions in care or continuity of care. Every attempt should be made to notify the patient about the office's closure or the physician's departure from medical practice. Physicians should also consider contacting any specified emergency contacts, patient advocates, personal representatives, legal guardians, or executors of the estate of the forthcoming office closure or cease of medical practice in an attempt to coordinate medical records and continuity of care.

Physicians should include an [Authorization for Use and Disclosure of Health Information](#) letter ([AMA Patient Records Electronic Access Playbook](#), Appendix C, p. 92) with the notification letter for the patient's convenience. If the practice is a Part 2 provider under 42 CFR Part 2, it should also include an [Authorization for Substance Use Disorder Records](#) ([AMA Patient Records Electronic Access Playbook](#), Appendix C, p. 94). The patient may complete these forms to authorize the transfer of records to another physician or to specify if a patient wishes to pick up a copy of their records.

It is critically important to notify patients and their carepartners of the office closure and emphasize the importance of getting a copy of one's records while the office is still open. While the office is still open, someone will be available to answer any patient questions, concerns, and provide guidance for any uncertainties on the next steps. Once the practice closes, patients are left with no point person for assistance. This should be avoided at all costs.

When Patients Are the Last to Know

Most individuals do not obtain copies of their medical records as they are generated. Much of the general public incorrectly assumes that their medical records will be readily available in a longitudinal, comprehensive fashion when they need them. EHRs are not comprehensive, nor do all physicians and practices have them. When a physician's practice closes, it can cause a significant barrier to access, breakdowns in trust in medicine, as well as trauma for patients who may need their health information.

The implementation of the [21st Century Cures Act](#) and [Information Blocking Regulations](#), as well as the rise of the [digital app economy in health care](#), will help reduce barriers that patients face in accessing their health information. This transformation will be incremental, not a magic fix. Physicians can serve as access champions by proactively structuring their patient access workflows to ensure patients have seamless, actionable access to their health information as is their right under HIPAA. This effort should also take into account [privacy and security considerations](#) to maintain patients' trust in how their data is being stored and used.

When patients find out that their doctor's office has already closed or that their doctor is no longer in practice, they have no choice but to resort to what is often an uncoordinated effort in hopes of tracking down their medical records. Here are some strategies patients use in their quest to find their medical records, directly and indirectly, in the event their doctor's office has closed:

- Search the physician's or practice's website online.
- Contact the local library to search archived newspapers for announcements.
- Contact their insurance company to search for claims and health information that may offer insights about their care.
- Contact their old doctor's office or practice location in hopes a current employee there may have a lead on where they may get their medical records.
- Call their local chamber of commerce, borough hall, or local Department of Health looking for more information.
- Search for their old doctor, their practice colleagues, and/or office staff on social media such as Facebook, LinkedIn, Instagram, or Twitter.
- Contact their imaging centers and labs to individually request imaging and bloodwork results.

These strategies and tactics can quickly become an immense undertaking and burden for patients hoping to track down their health information. Many patients may not have the means and ability to take on such barriers to access. Physicians must recognize how social determinants of health, language barriers, limited English proficiency, low health literacy, and poor digital literacy negatively impact and prevent individuals from accessing records from closed practices. By better understanding and recognizing these barriers to access ahead of time as part of one's practice opening strategy or medical records retention strategy, physicians can significantly alleviate unnecessary burdens and barriers to patient access.

All physicians should commit to sharing best practices for preventing patient access barriers from legal, regulatory, and practical standpoints to Do No Harm and continue to protect all patients' best interest even when they may no longer be in practice.

Key Takeaways

- All physicians should have a comprehensive plan for medical records retention at the start of their practice. Like the rationale for preparing advance directives, it's never too early to plan until it's too late.
- Patients should be made aware of the realities of how difficult it may be to get copies of records **after** a practice has closed. Physicians should cultivate a doctor-patient relationship that supports an actionable health information and data-sharing partnership with the patient.
- Physicians should encourage patients to obtain copies of their medical records throughout their care. Workflows at physician practices should be modernized and automated to comply with the [Cures Act](#) and [Information Blocking Regulations](#).
- Physicians should carefully consider all the different avenues that patients and their carepartners may need to explore should they need access to their medical records and the practice has already closed. Reviewing these steps from the patient perspective may help make your practice closure plan more

robust to prevent patients and their carepartners from needing to reverse engineer the wheel in gaining access to their records.

- All physicians should commit to sharing best practices for preventing patient access barriers to protect the best interest of all patients even when they may no longer be in practice.

FAQs

1. Why would patients need medical records that are not recent or even from a few years ago?

There are many reasons that patients and their primary carepartners need access to their medical records, even if they are not recent. First of all, it is the law and patients' right under [HIPAA](#) to have access to their medical records. Achieving a patient's health care goals often requires the entire care team, including the patient and their carepartners, have access to the patient's medical health history. Some of the reasons patients may need access to their records include:

- Preparing a personalized, comprehensive, longitudinal timeline for their care coordination
- Preparing to participate in shared decision-making at appointments
- Appealing insurance denials
- Preparing advance directives and discussing end of life care
- Preventing dangerous delays in care
- Checking for medication errors to improve patient safety
- Avoiding redundancy in care, such as unnecessarily repeating tests or imaging
- Preventing billing errors and fraudulent claims
- Researching potential clinical trials for treatment planning
- Contributing data to scientific research

2. When we talk about patients having access to their medical records, are we also talking about radiology imaging, films, pathology slides?

Yes, data that has been collected as part of the patient care journey, including imaging and pathology, is part of the patient's medical record. These components need to be considered when designing a robust medical records retention and access plan in the event of an office closure.

3. Can patients file a complaint if they do not get a copy of their medical records from a closed practice?

Yes, patients may [file a formal complaint](#) with the U.S. Office for Civil Rights, the agency that enforces HIPAA, if they cannot get a copy of their medical records.

Additional References

AAFP: [Closing Your Practice Checklist](#)

AAP: [Managing the Practice: Records Retention](#)

AHIMA: [Protecting Patient Information After a Facility Closure](#)

AMA: [4 Must-Dos Before Physicians Retire](#)

ONC: [Information Blocking FAQs](#)

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