



American Professional Agency



RISK MANAGEMENT



IN THIS ARTICLE

Disposing of Records

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CONSIDER THIS...

Medical Record Retention

Retaining medical records may be important for a variety of reasons, such as understanding what medications the patient was on previously and compliance with treatment. In the event of an adverse outcome, this information may be vital in the defense of a lawsuit.

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

- Whether the patient is an adult or a child/adolescent;
- Laws related to retaining a patient's medical record after his or her death; and
- Whether an outpatient provider or hospital holds the records.

Psychiatrists often ask how long they must keep a patient's medical records. Psychiatrists must retain their patients' medical records for the required period of time 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 runs longer than the state's record retention requirement.

When treating minors, keep in mind that most states have different retention requirements than those pertaining to adult patients. Further, there can be substantial variation among states as to the specific requirements for minor patients. As always, if you have questions regarding medical record retention requirements, contact your local attorney, risk manager or state licensing board.

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 particular 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.
- Maintaining labeled prescription bottles and other PHI in opaque bags in a secure area.
- Using a disposal vendor as a business associate to pick up and shred or otherwise destroy PHI.
- 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 and 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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