

# Closing a Practice

Here are the essential tasks, especially post-COVID-19.

BY DEBRA PHAIRAS

Copyright © 2021 by American Association for Physician Leadership®.

There may be many reasons why a physician needs to close a practice, particularly in light of COVID-19. Many senior physicians or those with pre-existing health conditions are reluctant to return to practice. Physicians also may choose to close a practice because they are retiring, starting up a new practice, accepting a position elsewhere, selling the practice, or getting divorced, or due to illness or death. Physicians may be surprised to discover the many responsibilities that accompany their decision to close the practice.

Many people will be affected by the closure of the practice. These include your patients, your staff, referring physicians, your spouse or significant other, your heirs, insurance companies, hospitals, and vendors.

## Death

The most heartbreaking reason for closing a practice is the unexpected death of the physician. The spouse or heirs are grieving, yet at the same time, there are many responsibilities they must deal with. The most loving thing a physician can do for the family is to make sure they are fully educated and prepared to close the practice if the need should arise. A living trust is an essential estate plan-

ning tool to avoid probate and taxes. Don't put this off! Please keep a copy of this article with your trust and will. Have your heirs immediately call your local Medical Society. They can assist your spouse, heirs, executor, or estate trustee in many ways. Ensure that your heirs can locate passwords, bank accounts, safe deposit boxes, credit cards, income tax reports, lease agreements, staff employment data, and malpractice insurance and all health,

## Moving, Retiring, Selling, or Transitioning the Practice

If there is enough time—for example, more than one year—it is best to try to sell or transition the practice. If you do not either sell it or find a custodian of records, the physician or estate will be responsible for retention of the medical records for as long as the malpractice carrier wishes them to be retained. This responsibility also includes release of information requests from the patient to

**Selling the practice or finding a custodian of records will relieve the physician or estate of maintaining records.**

life, and disability insurance policies.

In the case of a physician's death, it is wise to have another physician see his or her patients as soon as possible. This person can be either a colleague or a locum tenens physician. A spouse can legally run the practice and bill for the deceased physician for six months after death in California; please check the laws in your state regarding spouses or heirs continuing the practice. This gives the estate time to either sell or close the practice while still having income flowing in. All of the notification tasks outlined when retiring or moving also must be done if death is the reason for closing the practice.

copy or send records to a new physician.

There is a misconception that only seven years is required; it can, however, be 10 or more years. Your own malpractice carrier recommendations and state laws should be followed. This can be a significant burden! One of the first tasks is finding out your malpractice carrier's current records retention guidelines. In one practice, the manager shredded all records more than seven years from date of service, but the malpractice carrier guidelines were 10 or more years.

Selling the practice or finding a custodian of records will relieve the

*Continued on page 98*



*Closing (from page 97)*

physician or estate of maintaining records. In both scenarios, a legal agreement should be prepared that spells out the responsibilities of the buyer or custodian of records, including length of retention, access to the records for the departing physician in the case of a professional liability claim, and “hold harmless” (i.e., free release of liability) agreements for both parties.

once showed me a retirement letter that complained about insurance companies, fear of malpractice, and other negative reasons for retiring. This is sour grapes and not recommended! Your patients want to be reassured that you loved being a physician and enjoyed taking care of them. It is also a good idea to take out an ad in the local paper announcing your retirement, which also helps prove you did not abandon patients. It is also recommended to send

---

## Your patients want to be reassured that you loved being a physician and enjoyed taking care of them.

---

### Notifying Patients, Other Physicians, and Staff

The departing physician will need to write a letter to “active” patients to avoid abandonment. A physician can’t simply put a sign up “Retired, gone fishing!” Most malpractice carriers suggest giving 45 days’ notice prior to closing the practice. There is no absolute guideline defining “active” patients, but usually those seen in the last two to three years of patient care are sufficient. Any surgical or cancer follow-up patients should receive the letter. Patients who have previously been legally terminated from the practice through the withdrawal from care process are not required to be notified.

If you are selling or engaging a custodian of records, you can combine the notice with an introduction to the purchasing or custodian of records physician. If the patient does not wish to transition to the recommended physician, you can offer a release of information form to transfer the records and also charge the patient for copying records according to your state requirements. For example, California guidelines allow the practice to charge \$4.00 per quarter hour of time plus \$0.25 per page. Record-release requests must be compiled within 15 working days in California. Check your state laws.

Consider writing a note to thank your patients for entrusting you with their healthcare and telling them you are grateful to have been a part of this patient care for these years. A physician

out a letter to your referring physicians in the community to notify them as well.

When to tell staff your plans to close the practice also presents a dilemma. It is recommended that you do so a few days or a week prior to sending out the letter to patients. You may wish to offer a small severance bonus to encourage them to stay until the closing of the practice. You also need to arrange for continued billing and collection work after the close of the practice. Notify 401k or pension administrators regarding rollover for these plans. You will need to issue the final paycheck with all vacation accruals paid. If you provide health insurance, the brokers will need to be alerted to send out COBRA information to your staff. Maintain employee files indefinitely. If any staff members had a needle stick while working in your practice, OSHA guidelines for staff record retention should be followed. OSHA requires retention of records for 30 years.

### Payers, Hospitals, Landlord, and Vendor Notification

Medicare, Medi-Cal, insurance payer companies, independent physician associations, and hospital privileging usually require a 90-day notice of closing a practice. Your landlord may require a 30- or 60-day notice. You may be able to extend your lease on a month-to-month basis until the practice closes. Vendors may require advance notice of discontinuance of services, particularly biohazard waste.

### Drugs and Medications

If you keep controlled drugs in the practice, you must keep a record of inventory for three years after closing the practice. Also, you should not throw away any drugs, especially controlled drugs, into waste receptacles. There are companies that will remove controlled drugs. Two times per year, in April and October, anyone can take controlled drugs to participating police departments free of charge for them to dispose of these drugs.<sup>1</sup>

If you no longer wish to practice medicine in any capacity, you must deactivate your DEA number (after you have disposed of all drugs) and your medical license in your state. Have any prescription pads professionally shredded.

### Mail, Banking, and Billing

Decide where you wish your mail to go, and notify the U.S. postal service of the address. Cancel telephone, Internet, and utility accounts, and close any websites. Keep your bank account open for at least a year for practice checks to be deposited. Arrange to continue collection activities, either with your billing service or with a staff person. Speak with your CPA regarding when you should close or wind down a corporation.

### Checklist and Timeline

Creating a checklist of these tasks with a timeline countdown to the actual closing of the practice is recommended so you do remember all of these important tasks and successfully close the practice. **PM**

### Reference

<sup>1</sup> U. S. Department of Justice Drug Enforcement Administration. National Prescription Drug Take Back Day. [www.deadiversion.usdoj.gov/drug\\_disposal/takeback/index.html](http://www.deadiversion.usdoj.gov/drug_disposal/takeback/index.html).



**Debra Phairas** is President, Practice & Liability Consultants, LLC email: [dphairas@practiceconsultants.net](mailto:dphairas@practiceconsultants.net); website: [www.practiceconsultants.net](http://www.practiceconsultants.net).