Physicians considering closing their practices, whether to retire, relocate or join another physician practice, often consult the North Carolina Medical Society for advice. These physicians often ask about what kind of notice they are required to give their patients, how that notice should be given, and in what time frame. While the North Carolina Medical Society can provide direction, there are no state laws that specifically relate to closing a practice. However there are several organizations that provide guidelines on this subject. These guidelines, while not law, serve as a resource for physicians to follow when the decision is made to close a practice.
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Departures From or Closings of Medical Practices

North Carolina Medical Board Position Statement

Departures from (when one or more physicians leave and others remain) or closings of medical practices are trying times. They can be busy, emotional, and stressful for all concerned: practitioners, staff, patients, and other parties that may be involved. If mishandled, they can significantly disrupt continuity of care. It is the position of the North Carolina Medical Board that during such times practitioners and other parties that may be involved in such processes must consider how their actions affect patients. In particular, practitioners and other parties that may be involved have the following obligations.

Permit Patient Choice

It is the patient's decision from whom to receive care. Therefore, it is the responsibility of all practitioners and other parties that may be involved to ensure that:

- patients are notified of changes in the practice, sufficiently far in advance (at least 30 days) to allow other medical care to be secured, which is often done by newspaper advertisement and by letters to patients currently under care (Sample letter Attachment A);
- patients clearly understand that the choice of a health care provider is the patients’;
- patients are told how to reach any practitioner(s) remaining in practice, and when specifically requested, are told how to contact departing practitioners; and
- patients are told how to obtain copies of or transfer their medical records (Sample form Attachment B).

Provide Continuity of Care

Practitioners continue to have obligations toward patients during and after the departure from or closing of a medical practice. Except in case of the death or other incapacity of the practitioner, practitioners may not abandon a patient or abruptly withdraw from the care of a patient. Therefore, patients should be given reasonable advance notice, sufficiently far in advance (at least 30 days) to allow other medical care to be secured. Good continuity of care includes preserving, keeping confidential and providing appropriate access to medical records.* Also, good continuity of care may often include making appropriate referrals. The practitioner(s) and other parties that may be involved should ensure the requirements for continuity of care are effectively addressed.
No practitioner, group of practitioners, or other parties that may be involved should interfere with the fulfillment of these obligations, nor should practitioners put themselves in a position where they cannot be assured these obligations can be met.

(Excerpted from www.ncmedboard.org)

* NOTE: The Board’s Position Statement on the Retention of Medical Records applies, even when practices close permanently due to the retirement or death of the practitioner.

(Adopted January 2000)
(Amended August 2003)

**Resources**

North Carolina Medical Board
P.O. Box 2007
Raleigh, NC  27619-007
Telephone: (919) 326-1100 or (800) 253-9653
Fax: (919) 326-0036
Website:  www.ncmedboard.org

Sample Patient Letter (see attachment 1)

Sample Authorization to Transfer Medical records (see attachment 2)
Record Retention

Generally medical records should be retained as long as there is available space. It is therefore important that every medical practice have a policy on record retention, letting medical considerations and continuity of care guide the decision making process. You should check with your medical liability insurance carrier and legal representative prior to finalizing it.

Currently there is no State of North Carolina legal requirement for the retention of physician office medical records. It is recommended by the North Carolina Medical Society to maintain these records at least according to the Statute of Limitations in North Carolina. (The North Carolina General Statutes do not address a retention period for medical records, but rather a Statute of Limitations)

The basic statute of limitations is three (3) years following a wrongful injury, but there are several exceptions to this rule outlined below.

- If an injury is not readily apparent the statute extends to four (4) years from the last act of treatment.
- If a foreign object with no therapeutic purpose is left in the patient’s body, the retention period may extend to ten (10) years from the last act of the physician.
- A minor can wait until the age of 19 to file an action.
- This period does not apply if the injury occurs to a person who is insane or an out of state defendant.
- There is the “continued course of treatment” exception that states if a patient is treated over an extended period of time, the statute of limitations does not start until the date of the last treatment.

Overall, the longest possible time period for a malpractice action to be filed is ten (10) years for adults and (19) hears for minors.

Additional guidelines on specific medical record retention time frames:

- Medicare/Medicaid, six (6) years from the last date of service.
- HIPAA, minimum of six (6) years so patients can obtain access to their records and for disclosure accounting purposes. This is defined as the “designated record set,” which includes the medical record itself, including records obtained by other providers (if used in medical decision making), and financial records, including Explanation of Benefits.
- Diagnostic images, five (5) years from date of procedure.
- Fetal heart monitor, ten (10) years after the infant reaches the age of majority (18 years old).
• Minor patient, when he/she reaches age of majority (18 years old) plus seven (7) years.
• Operative notes, register of surgical procedures, chemotherapy records, immunization records, master patient indexes, birth and death records, and basic statistical data should be retained permanently. If this is not possible for indexes and statistical data, the guideline for retention would be ten (10) years and annual summary reports should be complied and maintained permanently.

The North Carolina Health Information Management Association recommends that whenever possible, medical records should be retained permanently either in their original form, microfilm, optical disk, or electronic data storage medium. This recommendation is based on the increasing importance of the medical records to the health care provider, not only for continued care but for legal purposes. In the event you transfer original medical records to another physician, you should have a written agreement to ensure that the other physician will permit you to have access to the medical records for a reasonable period of time (and will maintain the records in accordance with all federal and state requirements).

Before records are destroyed, some form of notice to patients should be given. If letters to the last known address of the patient are not feasible, a notice in the local newspaper should be sufficient. When a decision is made to destroy medical records, incineration or shredding are the preferred methods. Precautions must be made in compliance with HIPAA regulations to protect confidential patient information so it can only be viewed with proper authorization.

The North Carolina Medical Board position on records retention is also a good reference point:
Retention of Medical Records

North Carolina Medical Board Position Statement

The North Carolina Medical Board supports and adopts the following language of Section 7.05 of the American Medical Association’s current Code of Medical Ethics regarding the retention of medical records by physicians.

7.05: Retention of Medical Records
Physicians have an obligation to retain patient records which may reasonably be of value to a patient. The following guidelines are offered to assist physicians in meeting their ethical and legal obligations:

1. Medical considerations are the primary basis for deciding how long to retain medical records. For example, operative notes and chemotherapy records should always be part of the patient’s chart. In deciding whether to keep certain parts of the record, an appropriate criterion is whether a physician would want the information if he or she were seeing the patient for the first time.

2. If a particular record no longer needs to be kept for medical reasons, the physician should check state laws to see if there is a requirement that records be kept for a minimum length of time. Most states will not have such a provision. If they do, it will be part of the statutory code or state licensing board.

3. In all cases, medical records should be kept for at least as long as the length of time of the statute of limitations for medical malpractice claims. The statute of limitations may be three or more years, depending on the state law. State medical associations and insurance carriers are the best resources for this information.

4. Whatever the statute of limitations, a physician should measure time from the last professional contact with the patient.

5. If a patient is a minor, the statute of limitations for medical malpractice claims may not apply until the patient reaches the age of majority.

6. Immunization records always must be kept.

7. The record of any patient covered by Medicare or Medicaid must be kept at least 6 years.

8. In order to preserve confidentiality when discarding old records, all documents should be destroyed.
9. Before discarding old records, patients should be given an opportunity to claim the records or have them sent to another physician, if it is feasible to give them the opportunity.

(Excerpted from www.ncmedboard.org)

Please Note:
(a.) North Carolina has no statute relating specifically to the retention of medical records.
(b.) Several North Carolina statutes relate to time limitations for the filing of malpractice actions. Legal advice should be sought regarding such limitations.

(Adopted 5/98)
Business Records

You are required to keep many records pertaining to the business aspect of your closing your practice. You may wish to consult an attorney to help you determine how long you should retain business records including, but not limited to, payroll records, personnel files, accounts payable invoices and credits, contracts, shipping and billing records, earnings records, insurance coverage, and OSHA records. HIPAA privacy regulations require you to retain HIPAA documentation (e.g., acknowledgement of receipt of privacy practice notice, requests for amendments, workforce training documentation) for a period of at least six (6) years.

In North Carolina, financial documentation should be retained for at least three years after an income tax return has been. Generally, unless fraud or a tax return issue is involved, the Internal Revenue Service cannot assess additional tax beyond that period.

Resources

North Carolina Medical Board
P.O. Box 2007
Raleigh, NC  27619-007
Telephone: (919) 326-1100 or (800) 253-9653
Fax: (919) 326-0036
Website:  www.ncmedboard.org

Internal Revenue Service
Telephone: (800) 829-3676
Website: www.irs.gov

North Carolina Department of Revenue
Telephone: (800) 228-8443
Website:  www.dor.state.nc.us

North Carolina Secretary of State
P.O. Box 29622
Raleigh, NC  27626-0622
Telephone: (919) 807-2000
Website: www.seceratary.state.nc.us\Corporations\n
NC Department of Labor
4 West Edenton Street
Raleigh, NC  27601
Telephone: (919) 808-2796, or (800) NC-LABOR
Website: www.nclabor.com
OSHA
Raleigh Area Office
4407 Bland Rd.
Suite 210
Raleigh, NC  27609
Telephone: 9919) 790-8096
Fax: (919) 790-8224
Website: www.osha.gov

North Carolina’s Worker’s Compensation Program

Website:  www.comp.state.nc.us

North Carolina Medical Society
Membership Department
P.O. Box 27167
Telephone: (919) 833-3836 02 (800) 722-1350
Website: www.ncmedsoc.org
Insurance

Professional Liability Insurance

Your policy should be examined to determine whether it is written on an Occurrence or a Claims Made basis. Consult your liability carrier. If the policy is written on an Occurrence basis, the insured is covered indefinitely for events that occurred when the insurance was in effect. If the policy was on a Claims Made basis, only those claims made while the policy was in force will be covered and you should either continue coverage or purchase coverage extension (“tail” coverage) to protect yourself until all statutes of limitation have run. You should retain copies of your professional liability insurance policies, including those that have been canceled or expired. Ask your professional liability insurer whether discounts are available for retired physicians.

Office Insurance

You should not cancel the property damage and general liability insurance for your office until you have disposed of the physical assets of the office, or the premises are vacated. Consult with your insurance company or agent at an early date.

Resources

Medical Mutual Insurance Company
P.O. Box 98028
Raleigh, NC  27624
(919) 872-7117
(800) 662- 7917

GE Medical Protective Company
200 Regency Parkway
Suite 295
Cary, NC  27511
(800) 633-2285

The Doctors Company
185 Greenwood Road
Napa, CA  94558
(800) 421-2368

MAG Mutual
3825 Piedmont Road Building 8
Suite 600
Atlanta, GA  30305
The North Carolina Medical Society endorses the Medical Mutual Insurance Company of North Carolina for the various types of commercial land personal insurance products they offer, including business owners’ insurance (worker’s compensation, etc.), homeowner’s office overhead disability, life, and health.
Medicare, Medicaid, and other third party payors

If you are retiring you will need to voluntarily deactivate your Medicare billing number. You can accomplish this with the Centers for Medicare and Medicaid services (CMS) form 855I (Medicare Federal Health Care Provider/supplier Enrollment Application for Individual Health Care Providers). The instructions for Form 855I specify the sections you will be required to submit. If you are relocating to a new location or practice, complete (CMS) form 855R for re-assignment of benefits as a Medicare provider.

The North Carolina Department of Health and Human Service’s Division of Medical Assistance (Medicaid) requires that the provider may terminate this agreement with or without cause at any time upon 30 days written notification.

You should review your provider contracts with other third party payors (or have them reviewed by an attorney) to determine the method of terminating such contracts.

Resources

Medicare
CIGNA Healthcare
(866) 520-4007
www.cignamedicare.com

Medicaid
NC Division of Medical Assistance
(919) 855-4050
www.dhhs.state.nc.us/dma
Narcotics Registrations

- DEA Registration
- Dispensing Physician Registration
- Disposal of Drug Stocks

If you are retiring you must notify the DEA and request that your DEA number be deleted from the DEA system. You should return your DEA certificate of registration for cancellation. In addition, you may notify the DEA of your retirement by sending a letter (certified mail, return receipt requested) to the DEA. If you are moving to a new practice within North Carolina, you must update your address before beginning to dispense or prescribe controlled substances. Contact the DEA in Greensboro at (336) 547-4219.

In North Carolina a prescription drug dispensing physician must contact or write a letter (certified mail, return receipt requested) to the North Carolina Board of Pharmacy to cancel their state drug dispensing license.

DISPOSAL OF UNWANTED DRUGS

21 NCAC 46 .3001 PROCEDURE FOR DISPOSING OF DRUGS
(a) All registrants under G.S. 90-85.21 shall develop and implement policies and procedures to insure that all out-dated, improperly labeled, adulterated, damaged or unwanted drugs or drug containers with worn, illegible or missing labels are destroyed or disposed of so as to render them unusable.
(b) Any permit holder in possession of outdated, adulterated or unwanted drugs other than controlled substances may dispose or destroy such drugs by returning them to the manufacturer, by incineration at a properly permitted facility, or by any other means approved by the Board which will assure protection against unauthorized possession or use. Destruc tions under this Paragraph taking place at the permit holder’s premises shall be witnessed by a licensed pharmacist and documented.
(c) Any permit holder in possession of any controlled substance and desiring or required to dispose of such substance may file a written request on a form provided by the Board for authority and instructions to dispose of such substance. If destruction under this Paragraph takes place at the permit holder’s premises such destruction shall be jointly witnessed by at least two licensed pharmacists approved by the Board. All de structions of controlled substances shall be documented and the document shall be retained by the permit holder for a period of at least three years. Copies of the document shall be sent to the Drug Enforcement Administration.

History Note: Authority G.S. 90-85.6; 90-85.21;
Resources

DEA Office
1801 Stanley Road
Suite 201
Greensboro, NC 27407
Telephone: (336) 547-4219
Fax: (336) 547-4209
Website: www.deadiversion.usdoj.gov

North Carolina Board of Pharmacy
6015 Farrington Road
Suite 201
Chapel Hill, NC 27517
Telephone: (919) 246-1050
Fax: (919) 246-1056
Website: www.ncbop.org
Accounts Receivable

Not all your patients will have paid bills by the time your practice is closed. Prior to closing send notices to all patients who still have open accounts with you. It may be necessary to have someone available to accept, record, and deposit payments received after the official closing of your practice. You may wish after a suitable waiting period of three or four months, to turn those accounts still unpaid over to reputable collection agency.

Accounts Payable

Notify all utilities, suppliers and service providers of your intent to retire or relocate and subsequent need to terminate their supplies and/or services. Ensure all final payments and credits have been made to and from any entity providing your office with ongoing supplies and services.

Office Lease

In the event you have the right to sublet the premises (e.g., your lease permits you to sublet the premises, or you obtained the landlord’s consent), you may not be automatically released from the liability of your lease. You should examine your lease with respect to this issue, and if necessary try to obtain from the landlord a release from further liability for rent and damages. If you own an office condominium or building, you should consult with an attorney and/or financial consultant to plan an appropriate disposition of the premises.
To Sell or to Close

If you practice in a partnership or corporation with other physicians, you may have a “buy and sell” agreement in place that provides for the buyout of a retiring partner/shareholder. If you do not have a “buy and sell” agreement in place, you will have to negotiate the purchase price for your interest in the practice. If you are a solo provider the decision is to close the practice or to sell it. If the decision is to sell, the practice must be appraised, a price determined, a buyer found and the transfer of property made. You may wish to hire a broker to sell your practice, sell it yourself through word of mouth, by advertising in trade journals or by contacting residency and fellowship training programs to locate potential buyers.

These activities require legal input. You should also consult with an accountant concerning the complex tax considerations involved in the disposition of a practice. The manner of sale, the method of sales price allocation to the assets of the practice, and various other factors can have significant tax ramifications.
Taxes

Income Taxes

Copies of your income tax returns and all supporting documentation, including ledgers and accounting records should be preserved until the Internal Revenue Service can no longer assess additional tax. For federal returns filed on time and containing all correct and pertinent data, this is usually three (3) years: for returns where gross income has been understated by 20 percent or more, it is six (6) years.

Payroll Taxes

Final returns and payments of all Federal and social Security Taxes must be made after the last employee has been terminated and the last payroll paid.
Employees

Notify your employees of your plan to sell or close the practice. Though the time and manner of notifying employees of your intent is an individual consideration, treat them fairly. Many have worked for you many years in a loyal and competent fashion. Use your office Policy and Procedure Manual to review your obligations concerning vacation time, sick pay, insurance benefits, pension plans, and other benefits. If employees have employment contracts review them (or have them reviewed by an attorney) to ensure you are meeting all your contractual obligations. Be sure to make arrangements for adequate help until you can complete the process of winding down your practice.
Professional Memberships

We hope you will continue to be active in organized medicine. The North Carolina Medical Society urges all physicians who are retired or will be retiring, or are relocating out of the state to contact their county or state society of their present or future status so that an appropriate change in classification can be arranged. If you decide to resign some of your professional society and/or hospital memberships, a letter to each organization should suffice to cover the resignations.
The Retired Physician

North Carolina Medical Board Position Statement

The retirement of a physician is defined by the North Carolina Medical Board as the total and complete cessation of the practice of medicine and/or surgery by the physician in any form or setting. According to the Board's definition, the retired physician is not required to maintain a currently registered license and SHALL NOT:

- provide patient services;
- order tests or therapies;
- prescribe, dispense, or administer drugs;
- perform any other medical and/or surgical acts; or
- receive income from the provision of medical and/or surgical services performed following retirement.

The North Carolina Medical Board is aware that a number of physicians consider themselves “retired,” but still hold a currently registered medical license (full, volunteer, or limited) and provide professional medical and/or surgical services to patients on a regular or occasional basis. Such physicians customarily serve the needs of previous patients, friends, nursing home residents, free clinics, emergency rooms, community health programs, etc. The Board commends those physicians for their willingness to continue service following “retirement,” but it recognizes such service is not the “complete cessation of the practice of medicine” and therefore must be joined with an undiminished awareness of professional responsibility. That responsibility means that such physicians SHOULD:

- practice within their areas of professional competence;
- prepare and keep medical records in accord with good professional practice; and
- meet the Board's continuing medical education requirement.

The Board also reminds “retired” physicians with currently registered licenses that all federal and state laws and rules relating to the practice of medicine and/or surgery apply to them, that the position statements of the Board are as relevant to them as to physicians in full and regular practice, and that they continue to be subject to the risks of liability for any medical and/or surgical acts they perform.

(Excerpted from www.ncmedboard.org)

Conclusion

In addition to the resources listed above, you may wish to consult the AMA’s guide entitled “Closing Your Practice.”

If you have any questions about retirement issues or need assistance with closing your practice, or any of the resources referred to in this guide, contact the North Carolina Medical Society at (800) 722-1350.
Attachment A

Letter for Physicians Discontinuing Practice

Date

Patient Name
Street Address
City, State   Zip code

Dear Patient:

Please be advised that because of ____________________________________________
(my retirement, other reasons)
I am discontinuing the practice of medicine on __________.  I shall not be able to
attend to you professionally after that date.  ____________________________ (date)

I suggest that you arrange to place yourself under the care of another physician.
If you are not acquainted with another physician, I suggest you contact the North
Carolina Medical Society.

I shall make my records of your case available to the physician you designate.
Since the records of your case are confidential, I shall require your written
authorization to make them available to another physician.  For this reason, I am
enclosing an authorization form.  Please complete the form and return to it to me.

I am sorry that I cannot continue as your physician.  I extend to you my best
wishes for your future health and happiness.

Yours very truly,

________________________, M.D.
Attachment B

Authorization To Transfer Records

Date: ______________

To: __________________, M.D.

I hereby authorize you to transfer or make available to ______________, M.D.
at_________________________, all the records and reports relating to my case.

(address)

Signed: _______________________________