

POLICY FOR RETENTION OF MEDICAL RECORDS

The formal recommendation for retention of medical records for all ProHealth and Argus Managed offices is that records be kept for 10 years from the date of last encounter with the patient for adult patients and Minors' records should be kept longer in those cases where the ten (10) elapses before the minor has reached the age of 18. In no event should a minor's records be destroyed until at least one (1) year after the minor has reached the age of 18. In addition, the records of pregnant women should be retained long enough to assess the effects of medication or treatment received on the fetus, requiring retention at least until the child reaches the age of majority.

*Most IPA contracts now require that the patient's medical record be maintained for 10 years.

Following the Medical Board of CA recommendations:

Starting January 1, 2024, the [Medical Practice Act](#) requires a physician to maintain medical records for at least seven years after their last date of service to a patient (see Business and Professions Code section 2266). In addition, please note that other areas of the law establish longer record retention schedules under certain situations or conditions. For example, a ten-year retention period is required pursuant to [Welfare and Institutions Code section 14124.1](#) (relating to certain Medi-Cal patients).

Medi-Cal

Each provider, as defined in Section 14043.1, of health care services rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, shall keep and maintain records of each service rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, the beneficiary or person to whom rendered, the date the service was rendered, and any additional information as the department may by regulation require. Records required to be kept and maintained under this section shall be retained by the provider for a period of 10 years from the final date of the contract period between the plan and the provider, from the date of completion of any audit, or from the date the service was rendered, whichever is later, in accordance with Section 438.3(u) of Title 42 of the Code of Federal Regulations.

Following are the California Medical Association recommendations:

Option 1: Retain Records Indefinitely

Physicians may need medical records after prolonged periods of time have elapsed, and it would be difficult if not impossible for a physician to predict in which cases medical records may become necessary.

Option 2: Retain Records at Least Ten Years After Last Date Patient is Seen, with Exceptions

Some physicians will find it impractical to maintain medical records indefinitely, and despite the risk, destroying records after a certain period of time has elapsed. In the event the physician decides to institute some policy for the destruction of medical records, there are several matters which deserve consideration.

Option 3: Retain Records 25- Years After Last Date Patient is Seen

Because it may be difficult to keep track of these differing retention periods, you may wish to consider adopting an across-the-board retention period of twenty-five (25) years after the last date of treatment. This twenty-five (25) year period has the additional advantage of providing a greater measure of protection against the possibility that records will be destroyed before a suit is filed. It must be emphasized, however, that in the unlikely event a claim is filed after records are destroyed, and it may be difficult, if not impossible, to defend the case adequately.

Licensed Clinical Laboratories

Business & Professions Code § 1271.1 imposes a risk of liability upon owners of licensed clinical laboratories for failure to maintain medical records, reports, cytology slides and cell blocks for the required periods of time. Business & Professions Code §§1271 and 1274 require that medical records, cytology slides, cell blocks and all correspondence concerning all cases of HSIL, adenocarcinoma or other malignant neoplasm, be retained by licensed clinical laboratories for a minimum of five (5) years, and cytology reports (including a report correcting errors in a previous report) for a minimum often (10) years. Specifically, if the laboratory ceases operation and a person is injured as a result of the inability to obtain any of the records and tissue samples just mentioned due to the clinic's failure to retain them for the minimum statutory period, that person may sue on the grounds of "abandonment of records." Personal liability may be imposed upon:

- a) Any or all partners of the clinic in the case of a general partnership;
- b) Any or all general partners of a limited partnership; or
- c) In the case of a corporation, the chairperson of the board, the chief executive officer, and/or the president of the corporation. Note that this constitutes a rare example where, in a particular circumstance, a statute specifically removes protection from personal liability usually afforded principals of a corporation

