

# Managing Your Practice

## Closing a medical practice upon retirement

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*Physicians who plan to retire and sell their medical practice are advised to retain an attorney who specializes in healthcare law for advice on signing sales contracts, determining appropriate compensation, and selling office equipment. Among other things, the attorney will advise that while physicians may sell the tangible and intangible assets of the practice, including “good will,” they may not “sell” or otherwise transfer patients to another physician without the patients’ consent. Patients must be given the option of choosing another doctor and having a copy of their records sent to the new physician.*

*Others who would benefit from consultation with knowledgeable legal counsel before retirement include physicians who intend to close their practice without selling any of its assets, those who are retiring from a group practice or a medical corporation or partnership, and executors of the estates of deceased physicians. This MIEC advisory offers general information about closing a practice, but it is not intended as legal advice. Additional assistance about closing a medical practice may be available from county, state and national medical associations.*

**Notifying patients.** There are several ways to notify patients about an impending retirement. The most direct way is to send a letter to patients you have seen during the past three years,

or longer. The letter tells patients when the practice will close and asks them if they want a copy of their medical records forwarded to another physician. (Sample letters on page 3 can be adapted to individual needs and be photocopied.) Include an authorization for the release of a copy of the records to another doctor. State laws permit patients to request that a copy of their medical chart be sent to them. You may charge the patient for a copy of the records, or you can waive the fee as a gesture of good will. Allowable copying charges vary by state. Contact MIEC’s Loss Prevention Department for assistance. If the patient authorizes you to send the chart to another physician, MIEC suggests that you provide the copy to that physician without charge.

Post signs in your reception and treatment rooms several months in advance of your retirement date. Have record release authorization forms available for those who request them.

**Advertisements.** An advertisement in local newspapers is an effective way to reach large numbers of patients. This step may be unnecessary if you send all “active patients” a retirement notice. There is no rule concerning how many ad insertions suffice, so use your judgment. Newspaper advertising rates usually are based on a series of insertions; choose what seems most feasible for your situation.

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### Custody and Transfer of

**Medical Records:** If you sell your practice, you may designate the purchaser of your practice as custodian of your records. **You may not sell patients' records or "transfer" patients automatically to his or her care.** You may recommend to your patients that they continue treatment with the new doctor, but patients can select any physician they wish.

It is prudent to specify in the purchase contract that the buyer: (a) agrees to be custodian of your records, and will maintain them in a safe place; (b) will make a copy available to patients and to any doctor to whom a patient requests a copy be sent; and, (c) will make them available to you in the event you need them in connection with litigation. The purchase agreement also should specify that the buyer/custodian will preserve the records for at least ten years, and that the records may not be destroyed without your consent. *Please see MIEC's Managing Your Practice Advisory Number 1, "How long do we have to keep medical records," for information about state-specific requirements for retention of medical records.)*

If you do not sell your practice, you may still designate a physician or other responsible person to be custodian of your records. This person must keep the records for the required period of time; make them available to you, the courts, and to patients, upon presentation of an appropriate authorization or subpoena. Whether or not a fee is paid to the custodian of records, MIEC recommends that you and the custodian sign a written agree-

ment that has been drafted by a knowledgeable healthcare law attorney, and which spells out the terms of the custodianship.

You may act as your own custodian of records. Store the records in a safe place.

**Phone Service:** Physicians who are closing their practice completely upon retirement might want to retain an answering service for 3-6 months. (If another doctor purchases your practice, ask his or her staff to take your calls and inform patients of your retirement. Include this provision in the sale contract.) Alternatively, when you close your practice and terminate telephone service, ask the phone company to refer calls to your home telephone for several months. A telephone answering machine with an appropriate message can handle the calls.

**Notify managed care plans.** If you have managed care contracts and have been assigned patients under a capitation or gatekeeper arrangement, notify the plan of your impending retirement. Depending on the terms of your agreement, the plan may re-assign the patients to another physician. If so, modify the suggested retirement letter to inform managed care patients how soon the plan will let them know the name and address of their new doctor and who to call for further information about the plan.

**Notify MIEC.** Before retirement, notify MIEC's Underwriting Department and arrange for "tail coverage" an extension of your professional liability policy. Tail

coverage is offered at no charge to retiring physicians. This coverage insures you for malpractice claims reported *after* your retirement, but which involve treatment that occurred while your regular liability policy was in effect.

If you plan to close your medical practice, but continue to offer medical services to patients, you may qualify for part-time coverage. Ask an underwriter for further information.

### Get advice from MIEC

#### Loss Prevention Department

Oakland, CA  
510/428-9411 (Bay Area)  
Outside 510: 800/227-4527  
Fax: 510/420-7066  
E-mail: [lossprevention@miec.com](mailto:lossprevention@miec.com)

#### Home Office (Oakland)

510/428-9411 (Bay Area)  
Outside 510: 800/227-4527  
Fax: 510/654-4634  
E-mail: [claims@miec.com](mailto:claims@miec.com)  
E-mail: [underwriting@miec.com](mailto:underwriting@miec.com)

#### Hawaii Claims Office

Honolulu, HI  
Phone: 808/545-7231  
Fax: 808/531-5224

#### Idaho Claims Office

Boise, ID  
Phone: 208/344-6378  
Fax: 208/344-7192

#### Visit MIEC on the Internet:

[www.miec.com](http://www.miec.com)

Visit the Loss Prevention section at our website to download newsletters, articles, forms and other helpful information.

### **SAMPLE LETTER TO PATIENTS TO ANNOUNCE RETIREMENT**

Dear Patient:

After \_\_\_\_\_ years of serving you and other patients, I have decided to retire from active medical practice. Accordingly, I will close my office permanently on \_\_\_\_\_. Between now and then, I will be happy to forward a copy of your records to a physician of your choice. If you are unable to select a physician in the interim period, I will gladly send a copy of your records to you.

I am enclosing two copies of an authorization for the release of records. Please complete the authorization and return one copy to me; the other copy is for you. If you need help in selecting a new physician, you may call the referral service of the \_\_\_\_\_ Medical Society.

I extend to you my best wishes for your health and happiness.

Sincerely,

### **SUGGESTED LETTER TO PATIENTS IF PRACTICE IS SOLD**

Dear Patient:

As of \_\_\_\_\_, I will retire and transfer my practice to Dr. \_\_\_\_\_. She/he will be in custody of the medical records of all of my former patients, and would be pleased to continue your medical treatment, if you choose. Of course, you have the right to choose any physician you wish. If you would like your records transferred to another physician, please indicate that doctor's name on the enclosed authorization, sign the authorization and return one copy to this office.

***Include a brief paragraph summarizing the qualifications of the physician purchasing the practice.***

I have enjoyed the privilege of being your physician and thank you for the opportunity. If you have any questions, please call my office.

Sincerely,

**AUTHORIZATION TO TRANSFER RECORDS**

Date: \_\_\_\_\_

To: *(Your own Name)*, MD

I hereby authorize you to transfer or make available all medical records or reports relating to my care to the following physician: \_\_\_\_\_, MD, at \_\_\_\_\_.

This authorization is valid for one year. I acknowledge receipt of a copy of this authorization.

\_\_\_\_\_  
*(Patient's signature)*

**AUTHORIZATION TO SEND A COPY OF RECORD TO PATIENT**

Date: \_\_\_\_\_

To: *(Your own Name)*, MD

I hereby authorize you to transfer copies of all medical records or reports relating to my care to me at the following address: \_\_\_\_\_. I agree to pay reasonable clerical and copying costs for these records.

I acknowledge receipt of a copy of this authorization for my records. This authorization is valid for one year.

\_\_\_\_\_  
*(Patient's signature)*