Closing or Selling a Medical Practice

What should be considered when selling a medical practice?

If you are selling your practice to another physician, you should make certain the buyer is a licensed physician and eligible to practice in Wisconsin. This information can be obtained by contacting the Department of Regulation and Licensing (DRL) at 608.266.2112 between 7:45 a.m. and 2 p.m. or at https://ice.wi.gov/LicenseLookup/individual.do.

Can medical records be included in the sale of a medical practice?

The sale of a medical practice may include an agreement that the buyer will store and maintain all medical records and have unlimited access to the records of those patients who seek the services of the buying physician. The selling physician should be sure to include language retaining a right of access to the records for a reasonable time after the sale in the event that a malpractice claim or government audit necessitates the selling physician's reliance on the records.

What needs to be done to patient medical records before a practice is sold?

Prior to selling the practice, a physician should ensure that all medical records are appropriately documented. The Wisconsin Medical Society (Society) recommends that physicians document patients' medical records as soon after the medical visit as possible. However, in the event that there is outstanding documentation, the physician should make sure that it is completed. Any outstanding patient billing should also be handled so the submission of claims is as up-to-date as possible.

How is a value established for selling a medical practice?

It is important to value the medical practice. Tangible assets such as examination tables, other medical equipment and furniture should be valued as well as intangible assets such as goodwill. An accountant or valuation expert can assist in determining the fair market value of the business.

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Could the sale of my practice have implications under any laws?

The sale of a medical practice can have implications under the federal Anti-Kickback law as well as the Stark law. Physicians should review the FAQ sections on these laws. It is strongly recommended that physicians also retain an attorney to ensure the proposed sale of a practice does not violate any fraud and abuse laws.

When should I start planning the close of my medical practice?

The close or sale of a business is a significant legal event that should be preceded by careful planning. The length of time spent planning the sale or closure depends on the size and complexity of the business and whether there are several physician partners or it is a solo practice. If the sale or close of a practice is not triggered by a catastrophic event, such as a physician's illness or injury, physicians should start planning the close of the business at least one year in advance of the projected date of closure.

What is a dissolution agreement and how do I create one?

In an office of two or more physicians, it is helpful to have a written agreement that addresses how the business will be dissolved. Some physicians incorporate a dissolution plan into the partnership agreement created when the business is started. If there is no partnership agreement in place, or the partnership agreement fails to specify the dissolution procedure, the physician can create a dissolution agreement any time prior to the planned closure of the practice.

The dissolution agreement would address whether one or more partners can continue to operate the clinic under its original name, and the procedure and timing of the assumption of legal responsibility for the purchase, rent or lease of the building and medical equipment by one or more partners. The agreement would also clarify whether medical records remain with the clinic or whether each physician partner is responsible for taking and maintaining the medical records of his or her individual patients.

What types of professionals should I consult when closing a medical practice?

It's important to assemble a team of professionals to oversee the sale or closure of a practice. An attorney, accountant, valuation expert and malpractice insurance agent can each play important roles. An attorney can review managed care and other contracts and leases, assess compliance with DEA requirements, assist with patient notification and ensure that a sale of the practice does not violate either the Stark or Anti-Kickback laws. An accountant and valuation expert can assist in determining the market value of the business—including the value of the business's goodwill—and can assess the amount of unpaid claims, assist with collection and assess the tax implications the sale or closure is likely to have on the physicians. The malpractice insurance agent can assist with wrapping up details related to professional liability insurance, including tail insurance.

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When should I notify my employees that the practice is closing?

Physicians must often find a balance between giving employees enough notice of closure to allow them to find new jobs and ensuring the clinic remains adequately staffed up to the date of closure. Employees should be told about a planned sale or office closure before patients are notified and certainly before the matter becomes public knowledge. Although the physician can delegate the task of notifying employees about the sale or closure to an office manager, the physician is probably the best person to break the news to employees.

Prior to notifying employees about the impending closure, physicians should have a plan in place to address employee benefit issues. Offices that have clear employee policies in place before the decision to close the practice might find it easier to resolve these issues when wrapping up the practice. Physicians are encouraged to consider issues related to pension, vacation and carryover of vacation, as well as payment for vacation and sick leave, well in advance of a decision to close or sell the practice.

Physicians should also have a policy regarding employment references—whether to give limited references for all employees, providing only the dates of employment, position title and earnings, or provide a complete reference, which would include an assessment of the employee's performance.

Once employees are informed about the decision to close a practice, they might immediately obtain new employment, leaving the physician with little or no staff to wrap up the practice. Therefore, physicians might ask employees to delay the start date with a new employer until after the practice closes. If that is not possible, and employees leave before the practice closes, then physicians should consider whether they can run the practice with temporary workers. It might be helpful to have one employee continue to work for a week or two after the closing date, if necessary, to help resolve last minute problems and paperwork.

Do I have to notify patients when I close my practice?

Physicians closing or selling a practice have both an ethical and legal obligation to notify patients if they can no longer provide services to patients. Because the sale or closure of the practice will end the physician-patient relationship, physicians must provide appropriate notice to avoid a claim of abandonment. A claim of abandonment means the physician must have intentionally and unilaterally terminated an existing physician-patient relationship at an unreasonable time without giving the patient a reasonable opportunity to find another physician. In Wisconsin, the claim of abandonment is treated as malpractice, since courts deem it to be one of the ways a physician can be negligent.

How do the courts treat claims of abandonment?

In *Lowery v. Miller*, 157 Wis. 2d 503, 460 N.W.2d 446 (Wis. App. 1990), the Wisconsin Court of Appeals, in its unpublished decision, stated, "the complaint alleges 'abandonment' and 'medical malpractice.' These are not separate torts. Abandonment of a patient is merely a way in which a physician may be negligent." In the *Lowery* case, the plaintiff, an inmate of Waupun,

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was referred to Mendota Mental Health for treatment of multiple personality disorder. The plaintiff alleged that the physicians at Mendota prematurely and improperly terminated their treatment of him to discredit the multiple personality diagnosis. The plaintiff alleged that the physicians' acts ultimately caused him to suffer physical injuries and the splitting of personalities. The Court of Appeals concluded that the case could not be dismissed on the physicians' motion for summary judgment and that the plaintiff could proceed with his claim of malpractice.

In *McManus v. Donlin*, 23 Wis. 2d 289, 127 N.W.2d 22 (Wis. 1964), the Wisconsin Supreme Court enunciated the standard for abandonment, stating:

> The applicable rule of law with respect to withdrawal from a case by a physician is well-stated in *Ricks v. Budge* (1937), 91 Utah 307, 314, 64 P.2d 208, 211, as follows: 'We believe the law is well settled that a physician or surgeon, upon undertaking an operation or other case, is under the duty, in the absence of an agreement limiting the service, of continuing his attention, after the first operation or first treatment, so long as the case requires attention. The obligation of continuing attention can be terminated only by the cessation of the necessity, which gave rise to the relationship, or by the discharge of the physician by the patient, or by the withdrawal from the case by the physician after giving the patient reasonable notice so as to enable the patient to secure other medical attention. A physician has the right to withdraw from a case, but if the case is such as to still require further medical or surgical attention, he must, before withdrawing from the case, give the patient sufficient notice so the patient can procure other medical attention if he desires.' See, also, 41 Am. Jur., *Physicians and Surgeons*, p. 194, § 72; 70 C.J.S. *Physicians and Surgeons* § 48f(1), p. 965; Anno. 57 A.L.R.2d 432, 439.

In *McManus*, Dr. Dollard treated the plaintiff for third degree burns. The patient was hospitalized and received skin grafts. Doctor Dollard determined that the patient was run down and would have to be built up before he could perform any more skin grafting. He discharged the patient with instructions on how to change the dressings. Five days after the patient's discharge, he was admitted to a different hospital and placed under the care of a new physician. The plaintiff claimed that Dr. Dollard's discharge was negligent and constituted abandonment. The Wisconsin Supreme Court recognized the claim of abandonment in the context of a malpractice action as viable, but concluded that nothing happened to the detriment of the plaintiff during the five-day interval between hospitalizations. The Court also concluded that the plaintiff failed to establish that Dr. Dollard wrongfully withdrew from the case.

In *Tierney v. University of Michigan Regents*, 257 Mich. App. 681, 669 N.W.2d 576 (2003), the plaintiff, who previously had a miscarriage, became pregnant. She began treatment with Dr. van de Ven, who scheduled her for a cerclage. After she was admitted for the surgery, Dr. van de Ven told the plaintiff that he would not perform the procedure because the plaintiff had filed a lawsuit against one of his colleagues. The plaintiff obtained a referral to another obstetrician who performed the cerclage four days later. Plaintiff subsequently had a miscarriage. The lower

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court dismissed the plaintiff's abandonment claim. However, on appeal, the appellate court reversed and remanded the case for further proceedings, concluding that abandonment is a form of medical malpractice.

How much notice do I need to give patients when ending a physician-patient relationship due to closing a practice?

The above cases demonstrate that the success of a claim of abandonment will depend largely on the facts of the particular case, just as other medical malpractice claims are fact specific. The cases do not provide clear guidance regarding what constitutes "sufficient notice." Because there is no bright line rule regarding the amount of notice that should be given, the Society recommends that physicians give patients at least 30 days notice. When selling or closing a practice, it might be possible to give patients more notice, perhaps as much as three months.

What should be included in notification letters to patients?

Notification letters should include:

- The date your office will close.
- Your new address, if you are moving your practice.
- A medical records release form so patients can request a timely transfer of their records to their new treating physician.
- A reminder that prescription renewals are not valid after the physician-patient relationship ends, and that patients should obtain a new prescription from their new treating physician.

Can I notify inactive patients using a different method than I used for my active patients?

Many physicians have both active and inactive patients. Active patients are generally those patients who have been seen by the physician within the past two years; if two or more years have elapsed since the date of the last visit, patients are considered inactive. Physicians should notify both active and inactive patients of the planned sale or closure of the practice.

The method of notification may vary for different types of patients. A physician who has patients with complicated care should consider notifying such patients via certified mail. Active patients (seen in the past two years) should receive notice by first class mail. A clinic may consider enclosing the notice of closure in patients' monthly billing statements.

It may not be necessary for a physician to send the notice to inactive patients via first class mail. Inactive patients could be notified by placing a Class 3 notice in a paper of general circulation in the county in which the practice is located. Class 3 notice means that the notice must appear in the newspaper once a week for three consecutive weeks. The last notice must appear one week before the destruction. Additionally, a physician could post the notice of the office closing in the reception area of the office and on the home page of the practice's Web site.

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What notice do I have to give regarding the preservation or destruction of medical records?

Wisconsin Statute § 146.819 requires physicians who practice independently (solo practice) to provide for the maintenance or destruction (if appropriate) of medical records. They must also notify patients regarding where and by whom the records will be maintained or when the records will be destroyed. When closing a practice, physicians must decide whether to personally retain the medical records or enter into a contract with someone else to maintain the medical records. If the physician decides to have someone else maintain the medical records, the physician must have a written agreement with that person, which, at a minimum, states that all medical records will be maintained in compliance with Wis. Stat. § 146.81 to 146.835 and 45 C.F.R. chapter 164 (See Wis. Stat. § 146.819(1)(a)).

It is helpful to send active patients notice by first class mail so they can make arrangements to receive treatment from another physician. According to Wis. Admin. Code § Phar 7.03, prescription orders containing either specific or PRN renewal authorizations are not valid after the physician-patient relationship ends. Therefore, timely notice to patients that the clinic is closing will afford patients the opportunity to obtain new prescriptions from the new treating physician and ensure that medication regimens are uninterrupted.

Should I keep a record of how I notified patients of the practice closing?

The Society recommends you keep a patient notification log that includes both the method and date of notification for all of your active patients. Be sure to save receipts from certified mail notices and a copy of any public advertisements you have placed. In the event there is a legal dispute regarding whether notice was properly given, evidence of publication will be needed. The affidavit of the editor, publisher, printer or proprietor of the newspaper, or of his or her foreman or principal clerk, as to the publication of any legal notice is deemed to be presumptive evidence of publication. Such an affidavit must be annexed to a copy of the notice clipped from the newspaper. It also must specify the date of each insertion, and the paper in which it was published (Wis. Stat. § 985.12(1)). The fee for an affidavit of publication is $1.

What is considered a medical record?

Wisconsin law defines patient health care records as "all records related to the health of a patient prepared by or under the supervision of a health care provider" (Wis. Stat. § 146.81(4)).

Generally, the medical record includes, but is not limited to the following:

- Patient intake forms, especially if they include a medical history
- Consultations, office notes and impressions
- Examination reports
- Treatment records and tests
- Operation reports
- X-ray reports

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- Prescriptions
- Hospital records
- Emergency department reports
- Laboratory reports
- HIV test results
- Correspondence (generally, correspondence that is relied on for treatment should be considered part of the medical record)

In the past, based on the Wisconsin definition of health care record, the following items, although retained and filed, were not deemed to be an official part of the medical record:

- Bills
- Correspondence not directly related to medical care, such as:
  - Letters about paying the bill
  - Complaints about services received
  - Letters received from agencies or others where a referral was made under mandatory or permissive reporting laws

The HIPAA privacy rule (Privacy Rule) at 45 C.F.R. § 164.501 defines a designated record set as follows:

1. A group of records maintained by or for a covered entity that includes:
   a. medical and billing records about individuals maintained by or for a covered health care provider;
   b. enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
   c. used, in whole or in part, by or for the covered entity to make decisions about individuals.
2. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

The Privacy Rule, with a few limited exceptions, allows individuals (patients) to inspect and obtain a copy of protected health information in a designated record set for as long as the information is maintained. Since the implementation of the Privacy Rule, physicians must view the medical record and the patient's right of access to include billing records and other information that fall within the definition of designated record set.

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Who owns the medical records?

According to Wisconsin law, physicians who create medical records are generally deemed to have an ownership interest in the record, while the patient has a right of access to the information contained in the record. In the case of a solo practitioner, the individual physician owns the record. However, in the case of a clinic with two or more physicians, the clinic, rather than the individual physicians, generally owns the records. When individual physicians leave the clinic, the records remain with the clinic.

Generally, the employment agreement, partnership or operating agreement should resolve the issue of ownership of medical records. If, however, a practice does not have a partnership or operating agreement, or the agreement fails to address the issue of ownership of patient medical records, then an attorney can assist the departing physician in resolving the issue of what happens to the medical records when the physician leaves the practice group or the practice dissolves.

Who is responsible for the confidentiality and security of the medical records after a practice closes?

Physicians are responsible for maintaining the confidentiality and security (physical safety) of the record. That responsibility continues after the practice closes. As mentioned above, physicians may personally store and retain records after the close of the practice or enter into an agreement with another health care professional (sometimes the purchaser of the practice in cases involving a sale) for the other health care professional to maintain and protect the medical records of the practice. The physician should ensure that records are stored in a location that is reasonably safe from fire, water and other hazards. The accessibility of the records should be controlled, so that only authorized persons have access.

Is using a storage company to maintain medical records appropriate?

Many doctors who are closing a practice hire a storage company to care for, and provide the required access to, the medical records. If you elect this option, be sure to research the history and credibility of the company you engage.

What needs to be done with electronic medical records?

The HIPAA Security Rule applies to all individually identifiable health information in electronic format. Physicians must assess risks and vulnerabilities and protect against threats to the security and integrity of the health care record. Physicians may use a variety of means, including firewalls, passwords and encryption, to ensure that electronic medical records are secure. Physicians who have electronic rather than paper medical records must still comply with the laws regarding medical record retention and patient access, which may require retention for several years after the close of the practice.

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Do patients continue to have access rights to their medical records after the practice is closed?

Under Wisconsin law, patients have the right to inspect and obtain copies of their medical records, on payment of a fee, and this right of inspection and access continues after the closure of a medical practice. Therefore, prior to selling or closing a practice, physicians must develop a plan that allows patients to inspect and obtain copies of their records. Prior to the close of the practice, physicians should provide patients with notice regarding where and by whom medical records will be stored. In the case of a solo practitioner, Wis. Stat. § 146.819(2) requires such notice.

Physicians should be prepared to receive many requests for copies of medical records after patients receive notice the practice is closing. Depending on the volume of requests, it might be necessary for the physician to use a medical record copy service or enter into an arrangement with staff members to work extra hours to handle the volume of copy requests. When providing copies of medical records to patients, physicians may charge a copy fee. The Charging for Medical Records FAQ provides more detail regarding the constraints on the amount that physicians may charge for copies of medical records.

Is there any time when I may withhold medical records from a patient or a person authorized by the patient to receive the records?

No. Concealing or withholding a patient's medical record with the intent to prevent release to the patient or to a person with the informed consent of the patient, is prohibited under Wisconsin law. Physicians may not predicate a patient's access to medical records on payment of an outstanding bill for service.

How long must medical records be retained?

Physicians are obligated to retain medical records beyond the time they provide active treatment to patients. Therefore, the close of the practice does not automatically trigger the destruction of patient medical records. Physicians must retain medical records for the minimum period of time specified by state or federal law. Ideally, patient medical records should never be destroyed. However, for most practitioners, this is not realistic. While various laws allow for destruction of medical records after a stipulated period of time, the Society recommends a minimum retention period of 10 years.

The minimum retention requirements outlined by Wisconsin and federal law are as follows:

- **General medical records.** Five years after the last date of service.
- **Worker's Compensation.** Although there are no specific rules relating to retention of worker's compensation records, you should consider that an injured employee has anywhere between six and 12 years to bring a worker's compensation claim.
- **Medicare and Medicaid records.**
  - Five years after payment is received.
  - For rural health clinics, six years after payment is received.

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  - If a record is being audited, the record must be kept until the audit is completed, or five years after payment is received, whichever is later. Note: Termination from participation in either program does not end your record retention responsibilities.

- **Records in litigation.** Records involved in litigation should not be destroyed until the lawsuit has been settled. Many malpractice carriers have their own retention requirements for cases in litigation. Be sure to contact your carrier for their policies.
- **CLIA—laboratory records.** Under the Clinical Laboratory Improvement Act of 1988 and its regulations, laboratories certified by the Health Care Financing Administration must maintain patient test records for the following periods:
  - Regular lab tests: two years
  - Immunohematology: five years
  - Pathology tests: 10 years
- **OSHA—bloodborne pathogen training and exposure records.**
  - Employee training records: three years.
  - Employee exposure records: 30 years after the employee's termination.
  - Background data related to workplace monitoring such as laboratory reports: one year, as long as the sampling results, collection methodology, a description of the analytical and mathematical methods used and a summary of other relevant background data are retained for at least 30 years.
- **Treatment facilities (mental health, drug dependency, alcoholism and developmental disability).** Treatment facilities are required to retain records of individuals who receive treatment for mental illness, developmental disabilities, alcoholism or drug dependency for the following durations:
  - Seven years after treatment has been completed.
  - Minors: until the patient becomes 19, or seven years after treatment has been completed, whichever is later.
  - Audits: if the records are subject to a state or federal audit or relate to a legal action, the records must be retained until the completion of the audit or legal action.
- **Fetal monitor tracings and microfilm copies.** Fetal monitor tracings and microfilm tracings: five years, unless you give the patient a written notice 35 days prior to destruction.

  Note: This retention requirement does not apply if the fetal monitor tracings have been preserved on microfilm, although the same notification requirements apply to destruction of the microfilm copy.
- **Records for mentally disabled, mentally ill and imprisoned minors.** The Wisconsin Supreme Court has ruled there is no statute of limitation for these patients in medical malpractice cases. These records should be retained indefinitely.

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When can medical records be destroyed?

While the Society recommends the retention of patient medical records for at least 10 years, and indefinitely if possible, you may—after the appropriate time periods have elapsed—elect to destroy old records. All physicians who are contemplating the destruction of medical records should make a good faith effort to notify patients of the impending destruction. In the case of solo practitioners, Wis. Stat. § 146.819 requires the physician give notice by either first class mail or by publication prior to destruction.

How should patients be notified that their records will be destroyed?

There are two prescribed ways to notify patients that their records will be destroyed.

- **First class mail.** Notice to patients should be mailed by first class mail to the patient's last known address.
- **Class 3 notice in a local newspaper.** You may also publish a Class 3 notice in a newspaper published in the county in which you practiced. This notice must specify where and when the records may be retrieved. Class 3 notice means that the notice must appear in the newspaper once a week for three consecutive weeks. The last notice must appear one week before the destruction.

How should medical records be destroyed?

Wisconsin Statute § 895.505(2) requires physicians to destroy records containing personally identifiable information (protected health information) as follows:

- Shred the record before disposing of it.
- Erase the personal information contained in the record before the disposal of the record.
- Modify the record to make the personal information unreadable before the disposal of the record.
- Take action that the physician reasonably believes will ensure that no unauthorized person will have access to the personal information contained in the record for the period between the record's disposal and the record's destruction.

Burning the medical record would comply with the above requirements. If an external company performs the destruction, the physician should have a contract with the company that includes an indemnification provision in case of a breach of confidentiality by the destruction company. The contract should also require that the destruction company provide proof of destruction. Physicians may consider requiring the destruction company to post a bond.

Note: Records in any open investigation, audit, litigation or potential litigation should not be destroyed.

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Should I keep a record of what medical records have been destroyed?

Keep a permanent index of destroyed records. The destruction log should include the patient name and identifying number, the dates of service, date and method of destruction, signature of person witnessing destruction and a notation that the records were destroyed in the ordinary course of business. The destruction log would provide a defense against a claim that medical records were destroyed prematurely or destroyed in a manner that did not protect the confidentiality of protected health information.

How should computerized records be destroyed?

Physicians must ensure that computerized medical data is permanently destroyed. Using the standard "delete" method generally results in deletion of the file name, while leaving the data recoverable. Total destruction can be obtained by overwriting the information on the computer and destroying back-up tapes, or by "wiping" the drive with a computer program that is designed to "wipe" away all specified data.

How should drug stocks and prescription pads be disposed of?

The Drug Enforcement Administration has jurisdiction over the disposal of unused controlled substances by DEA registrants. Physicians who have a valid DEA registration can contact the DEA for more information. The Wisconsin DEA office can be contacted by telephone at 414.336.7300.

The registration certificate and unused government order forms (DEA 222c) should be returned to the DEA. The DEA will provide instructions to physicians regarding the specific procedures the physician should follow to destroy any controlled substances. The DEA may in some cases allow the physician to mail the controlled substances to the DEA with the appropriate paperwork.

In other cases, the DEA may allow the physician to destroy the controlled substances in the presence of a badge carrying police officer who witnesses the destruction and signs the appropriate DEA form. In either case, the physician must obtain the approval of the DEA prior to destroying any controlled substances.

Once the physician obtains approval from the DEA, the physician's DEA number (Controlled Substances Registration Certificate), unused government order forms and controlled drugs should be disposed of as soon as possible.

Non-controlled substances and drug samples should be disposed of in a manner that complies with state and federal hazardous waste rules. See The Handling and Treatment of Medical Waste FAQ for information on this issue.

In addition to destroying drug stocks and samples, all prescription pads should be destroyed. Physicians should also retain their narcotics ledger for at least two years in the event of an audit by the DEA.

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What about payments that have not been received as of the practice's closing date?

It is important that physicians make every effort to submit claims for payment as soon as possible after the delivery of service so that most claims are paid prior to the closing of the practice. However, even with careful planning and prompt billing, there are likely to be some unpaid claims at the time the practice closes. It will be necessary to have someone available to accept, record and deposit payments received after the official closing of the practice. Thus, physicians should keep the practice's bank account open well past the closing date. Physicians could consider turning claims over to a reputable collections agency if they remain unpaid after a period of three or four months has elapsed since the first bill. The Department of Financial Institutions can provide a list of licensed collection agencies in various geographic areas of the state.

What needs to be done to maintain my medical license?

If you elect to keep your license in force, you will be required to continue to meet the continuing medical education requirement. This requirement calls for 30 hours of Category 1 credits. The Medical Examining Board requires this regardless of the extent or nature of practice, and there are no exceptions based on age or retirement. See the Medical Examining Board and Licensing FAQ for more information on licensing and renewal requirements.

What needs to be considered relating to my malpractice insurance coverage?

It is very important that you work closely with your insurance agent as you close your practice to ensure you have appropriate coverage for potential claims that may arise after the discontinuation of patient care. Generally, malpractice policies are written on either an "occurrence" or a "claims made" basis. Check with your agent if you are not sure which type of policy you have.

What is a "claims made" insurance policy?

A "claims made" policy only covers claims made during the policy period. Generally, physicians must purchase an extended reporting endorsement known as "tail insurance" for protection after termination of the claims made policy. "Tail insurance" should be maintained until all statutes of limitation have run out. Additionally, it is required for compliance with the requirements of the Injured Patients and Families Compensation Fund.

What is an "occurrence" insurance policy?

An "occurrence" policy covers claims that arise out of occurrences during the policy period irrespective of when the claim is reported or filed. Physicians who change from a "claims made" policy to an "occurrence" policy must obtain "nose," "tail" or prior acts coverage to cover claims prior to the effective date of the occurrence policy.

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Nose coverage is essentially the same as tail coverage. When the extended reporting endorsement is purchased from the new insurance company (policy or carrier that physician is acquiring or joining), it is nose coverage. When the extended reporting endorsement is purchased from the insurance carrier or policy the physician is leaving, it is known as tail insurance. Nose coverage is sometimes referred to as retroactive or prior acts coverage.

How do I continue my Wisconsin Medical Society membership?

The Society urges all physicians who are retired or will be retiring to advise their county and state society, so that an appropriate change in classification can be arranged. Physicians can contact their field representative for more information. We hope that retiring physicians will continue to be active in organized medicine after retirement.

What contracts need to be reviewed and terminated when closing a practice?

When planning to sell or close a practice, physicians should review each contract for specifics relating to terminating the contract. Examples of these might include: office lease, office cleaning/janitorial contract, managed care contracts, answering service contracts and equipment leases. Many of the contract documents should be kept for at least six years after the close of the practice. Other important documents, such as the articles of incorporation and bylaws, and the physician's professional liability policy should be kept indefinitely.

The information provided in this document is for informational purposes only, and is not intended to constitute legal advice. An attorney should be contacted for legal advice or answers to specific questions.

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