

Optometry Coding & Billing Alert

You Be the Expert: Plan on Keeping Medical Records Long-Term

Question: How long should I keep old medical records?

Florida Subscriber

Answer: It depends on the state you live in, but no matter where you are, you should plan to hang onto old patient charts for a long time.

Many states stick with a seven-year rule, says consultant **Joan Elfeld, CPC**, president of Medical Practice Support Services Inc. in Denver, but check your state laws to be sure.

The amount of time you must retain a medical record has to do with the statute of limitations for your state, says attorney **Rebecca Williams** with Davis Wright Tremaine in Seattle.

If your state's statute of limitations is seven years, that means a patient has seven years from the time she saw you to file a malpractice charge, so you had better hold onto that record for the full term in case you need to defend yourself, Williams says.

It is extremely important that you have the medical record in question should a malpractice suit arise, says attorney **Michael Roach** with Michael C. Roach Associates in Chicago. If you can't produce the record, a judge can say the claim against you is undisputed, and then you're up the creek without a paddle, he says. Aside from state requirements, some medical societies have suggested retention policies, Roach says.

The American Health Information Management Association recommends that physicians retain records for 10 years after the most recent encounter, Williams says. And HIPAA requires you to retain items in the "designated record set" (i.e., the medical record and anything else used to make decisions about a patient's care) for six years, says attorney **Kristen Rosati** with Coppersmith Gordon Schermer Owens/Nelson in Phoenix.

Tip: You should have a written policy on record retention, and you must follow it consistently, Roach says. It should be an integral part of your compliance plan.

Furthermore, you should have a policy on how you will handle record destruction. "That helps protect the physician against accusations that records were destroyed to hide something," Williams says.