

Closing a Medical Practice

Medical-Legal Guidelines

This article is designed to assist LSMS members who are planning to retire or close their medical practices. Each physician's practice is unique, and the circumstances under which the practice is being closed are also unique, therefore, these guidelines must be adapted for the unique needs of the physician's practice. The information presented in this document should be regarded only as guidelines. This document is for informational purposes only and does not constitute legal advice and is not a legal opinion.

Once a physician has established a physician-patient relationship, the physician can not abandon the patient. Abandonment is the unilateral termination of the physician-patient relationship by the physician without giving the patient adequate notice of such termination and without giving the patient sufficient time to establish a relationship with a new physician. Therefore, the first step in closing your practice should be to develop mechanisms to provide notice of the closing to your patients, including those in nursing homes and other healthcare facilities.

The physician must make all efforts to provide reasonable notice of the closing to as many of his or her patients as reasonably possible before closing the office doors. How much notice is required depends on: the type of practice; the health status of the patients in the practice; the needs of your patients for continuing care; and, whether there are other physicians in the area that can continue the care of your patients. For example, the period of time for a patient in an urban area to find a new physician may be significantly shorter than for patients in rural areas. The nature and severity of the patient's condition may also affect the determination as to what is a reasonable notice period. As a general rule, physicians should give 45 to 60 days notice before closing a practice. However, this period could be shorter or longer depending on the type of practice, the number of patients in the practice and how sick the patients are, the location of the practice, and the availability of other physicians of the same or similar specialty that are willing to accept new patients.

Once you decide what is a reasonable notice period for your practice, the next question is how to get the notice out to your patients. There is no statute, regulation or case in Louisiana on this subject, but to avoid a claim of abandonment, the physician must provide some form of effective notice that the practice is closing as of a certain date. Such notice can be accomplished by sending a form letter or postcard to your patients and by placing an advertisement for a period of two weeks in your local newspaper. The letters and the advertisement should provide your patients with general information about the closing, such as, when the practice will close, how copies of medical records can be obtained and/or how to have the records transferred to another physician. If another physician is taking over your practice, you should mention this in your letter. However, you should tell the patient that they are not obligated to use this physician. In your notice, you should tell your patients that your office can assist them in finding a new physician. Make sure that your office has a list of physicians with phone numbers and addresses they can provide to your patients if asked.

In summary, the notice letter should include at least the following information:

- a. the date the practice will close;
- b. the name of the physician taking over the practice, if applicable;
- c. names of physicians that would be willing to accept new patients or other sources of physician referral;
- d. how copies of medical records can be obtained or transferred to another physician;
- e. an authorization form for the patient to sign for release of their medical records; and
- f. where the medical records will be stored after your practice is closed.

Patients should also be notified and/or reminded that the practice will be closing when they come in for appointments or when they call the office. A notice of the closing should also be posted in the

waiting area. There will be certain patients that will need specialized notice, because of their inability to communicate, cognitive problems or other special needs. It is also advisable to send a letter by certified mail to all of your patients that have serious or chronic medical conditions.

When closing your practice, you must make arrangements for the storage, maintenance, and safekeeping of your patients medical records for a legal minimum of six (6) years after the last time you treated the patient. In the case of minors, you should keep the records until they reach the age of twenty-one (21) and six (6) years has passed since the last time you treated the patient. For example if the last time you treated Jane Doe was three (3) years ago and she was eighteen (18) years old at that time, you must retain her records for an additional three (3) years or until Ms. Doe is 24 years old. It is advisable for physicians to contact their malpractice carrier for guidelines on the retention of records. Patients have a legal right of access to a copy of their medical records, but only with a signed authorization. Never give a patient or anyone else the original medical record, only release copies with valid signed authorizations. It is appropriate and legal for you to charge for the copying of medical records. Most physicians charge about twenty-five (25) cents per page for medical records when they are closing their practices.

You should consult with your attorney, your accountant or business advisor regarding the closing of your practice as soon as possible. You will have numerous and serious legal and financial issues to deal with as you close your practice, which will require the expertise of these professionals. If you are in a partnership or a medical corporation, you should consult your attorney and your partnership agreement or your articles of incorporation to make sure you have followed the procedures set out therein for leaving the partnership or winding up the affairs of the corporation. You should also review your lease or tenant agreement with your attorney. It is advisable to review any other contracts or legal obligations that you and/or your practice may have with your attorney.

You must notify the following entities that you will be closing your practice:

1. Louisiana State Board of Medical Examiners;
2. Louisiana Narcotic and Dangerous Drug Enforcement Administration;
3. Federal Drug Enforcement Administration;
4. Your medical malpractice carrier;
5. Any other insurance carrier covering your practice or building;
6. Medicare;
7. Medicaid;
8. Any managed care companies you have contracts with at the present time. (Review your managed care contracts for guidance on termination of such contracts);
9. Any other person or business that you or your practice has contracts with at the time; and
10. The LSMS and your parish medical society and any other professional association in which you hold a membership.

As stated earlier, this document is only in the form of guidelines. Every practice is different and will have other matters that must be taken care of before the practice can be closed. Please feel free to contact the LSMS Department of Legal Affairs if you need any further assistance or information.

Disclaimer

This information is provided for informational purposes only and with the express understanding that 1) no attorney-client relationship exists or is created hereby, and (2) Neither the LSMS nor its attorneys are engaged in providing legal advice.