



Governor Brian Schweitzer

Montana

Department of Labor and Industry

Business Standards Division

STATEMENT ON PHYSICIAN OBLIGATION TO RETAIN PATIENT MEDICAL RECORDS

The Montana Board of Medical Examiners has been asked whether a physician's obligation to retain patient records may be limited to a finite period of time consistent with the requirements of 24.156.625(u) Administrative Rules of Montana (ARM). To clarify the Board's position on this issue, the Board offers the following observations and conclusions.

As set forth in 24.156.625(u), ARM, "[f]ailing to transfer pertinent and necessary medical records to another licensed health care provider, the patient or the patient's representative when requested to do so by the patient or the patient's legally designed representative" constitutes unprofessional conduct.

Notwithstanding the foregoing duty to transfer medical records upon request, various and conflicting provisions govern the period of time medical records, in general, are maintained. For example, the entire hospital record must be maintained for not less than 10 years following the date of the patient's discharge or death (37.106.402, ARM). For malpractice considerations, a physician should retain medical records for 5 years from the date of injury (27-2-204, Montana Code Annotated). However, records which demonstrate the extent, nature and medical necessity of services provided to Montana Medicaid recipients must be maintained for a period of at least 5 years and 3 months from the date on which the service was rendered or until any dispute or litigation concerning the services is resolved, whichever is later (37.85.414, ARM).

The foregoing sections contemplate that the patient's records be maintained for the amount of time necessary to accomplish specific statutory or regulatory objectives, including (but not limited to) the effective location and transfer of such records. Thus, the Board advises that licensed physicians should maintain adequate written medical records for each patient for a period of at least 7 years from the date of the last clinic contact with the patient, except that physicians should make every effort to retain birth and immunization records until the patient reaches the age of 25.

This position statement is intended by the Board to advise physicians regarding what constitutes a reasonable amount of time for the retention of patient records.

The Montana Board of Medical Examiners
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