

64B8-10.002 Medical Records of Physicians Relocating or Terminating Practice; Retention, Disposition, Time Limitations.

(1) The Board of Medicine and the Legislature recognize the need for maintenance and retention of Medical Records in order to protect and serve patients. For that reason, the Legislature has directed the Board to promulgate rules setting standards that will provide a minimum requirement for retention and disposition of patient records of deceased practitioners and practitioners relocating and terminating practice. However, the Board is concerned that the promulgation of these rules may mislead the licensed physicians. Rule 64B8-10.002, F.A.C., sets forth standards which if not met will constitute a violation of Section 456.058, Florida Statutes, and will subject the physician to disciplinary proceedings by the Department of Health. Physicians should retain records as long as needed not only to serve and protect patients, but also to protect themselves against adverse actions. The times specified in Rule 64B8-10.002, F.A.C., may well be less than the length of time necessary for protecting the physician. Further, the times stated may fall below the community standards for retention in their communities and practice settings and for specific patient needs. For the latter purposes, the physician may wish to seek advice from private counsel or their malpractice insurance carrier.

(2) A licensed physician shall maintain the full and total responsibility for and control of all files and records relating to his patients and his medical practice. All such records shall remain confidential except as otherwise provided by law and shall be maintained in the licensed physician's office or in the possession of the licensed physician.

(3) A licensed physician shall keep adequate written medical records, as required by Section 458.331(1)(m), Florida Statutes, for a period of at least five years from the last patient contact.

(4) When a licensed physician terminates practice or relocates and is no longer available to patients, patients should be notified of such termination, sale, or relocation and unavailability by the physician's causing to be published once during each week for four (4) consecutive weeks, in the newspaper of greatest general circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area, a notice which shall contain the date of termination, sale, or relocation and an address at which the records may be obtained from the physician terminating or selling the practice or relocating or from another licensed physician or osteopathic physician. A copy of this notice shall also be submitted to the Board of Medicine within one (1) month from the date of termination, sale, or relocation of the practice. The licensed physician may, but is not required to, place a sign in a conspicuous location on the facade of the physician's office or notify patients by letter of the termination, sale, or relocation of the practice. The sign or notice shall advise the licensed physician's patients of their opportunity to transfer or receive their records.

Specific Authority 458.309, 456.058 FS. Law Implemented 456.058 FS. History—New 7-3-89, Formerly 21M-26.002, Amended 11-4-93, 1-17-94, Formerly 61F6-26.002, Amended 1-26-97, Formerly 59R-10.002, Amended 3-7-01.