

# Issues for the Retiring Physician



## MASSACHUSETTS MEDICAL SOCIETY

Massachusetts Medical Society  
Office of the General Counsel  
860 Winter St.  
Waltham, MA 02451  
(781) 434-7242  
[legalservices@mms.org](mailto:legalservices@mms.org)

**T**his information has been prepared by the Massachusetts Medical Society's Office of General Counsel as an educational resource guide to acquaint members with some of the issues that confront the retiring physician.

Retirement from medical practice involves several steps, including, but not limited to: notifying the Massachusetts Board of Registration in Medicine and patients of the intention to retire, making decisions about insurance policies, selling or winding down the medical practice, and fulfilling record keeping responsibilities.

The following checklist will help members start to sort through some of the issues that a retiring physician may face. It provides references to a variety of resources that may be useful in connection with the retirement process. Note that the information provided is necessarily selective and lists only some of the issues involved in retiring from a medical practice. It does not constitute legal advice. It is intended for use as a general reference guide only. A private attorney should be consulted about all legal matters.

### **Notify the Massachusetts Board of Registration in Medicine of your intent to retire.**

You may obtain a copy of the *Application to Retire from the Practice of Medicine* from the Board of Registration in Medicine. In addition to submitting this form, you must also submit a written statement, signed under the penalties of perjury, detailing your knowledge of any present or future complaints against you and containing an expression of agreement that you will make your patient records accessible in accordance with the Board's regulations. As an alternative to retiring and relinquishing your license to practice medicine, you may wish to renew your license and request inactive status (physicians with an inactive license are not subject to the Board of Registration in Medicine CME requirements). Also, some physicians may choose to discontinue practice but wish to maintain an active license for personal or professional reasons. Both active and inactive licensure status is subject to the Board's biennial license renewal process (including renewal fee). Contact the Board of Registration in Medicine for more information.

#### **Resources**

- Massachusetts Board of Registration in Medicine, 200 Harvard Mill Square, Suite 330 Wakefield, MA 01880, Phone: (781) 876-8200, Fax: (781) 876-8383
- Massachusetts Board of Registration in Medicine Regulations: 243 CMR 2.06(3) (Requirements for Inactive Status) and 243 CMR 2.06(4) (Retirement from the Practice of Medicine) <http://www.mass.gov/eohhs/docs/borim/reg-243-cmr-2.pdf>
- Massachusetts Board of Registration in Medicine Application to Retire from the Practice of Medicine <http://www.mass.gov/eohhs/docs/borim/physicians/app-retire.pdf>

### **Notify your patients of your plan to retire.**

Your patients have a right to, and you have a legal and ethical duty to provide, continuity of health care. Failure to provide continuity of care could result in an allegation of patient abandonment. As a matter of good professional practice, you should notify your patients of your intent to retire so that they will have adequate time to find another physician. It is appropriate for you to refer them to another physician, their health plan, or to a referral service. In addition to notifying your patients by mail, you may wish to place a notice in your local newspaper to inform your patients (and others) of your retirement.

#### **Resources**

- AMA Medicolegal Forms with Legal Analysis: Documenting Issues in the Patient-Physician Relationship, Karla L. Kinderman, J.D., LL.M, 1999
- AMA Ethical Opinion 7.03 "Records of Physicians Upon Retirement or Departure From a Group"

<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion703.page>

- AMA Ethical Opinion 8.11 “Neglect of Patient”  
<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion811.page>
- AMA Ethical Opinion 8.115 “Termination of the Physician-Patient Relationship”  
<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion8115.page>-- Massachusetts Medical Society, 860 Winter Street, Waltham, MA 02451-1411, 781-893-4610 or -3800
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000
- Sample Patient Letters (see Exhibit 1 below)
- Sample Authorization to Transfer Medical Records (see Exhibit 2 below)

**Notify your employees of your plan to retire and review your obligations concerning vacation time, sick pay, insurance benefits, pension plans, and other benefits.**

The time and manner of notifying employees of your intent to retire is an individual consideration that will vary from practice to practice and may depend upon the employment contracts you have with your employees. Review existing employment contracts (or have them reviewed by an attorney) to ensure that you are meeting all of your contractual obligations, including notice requirements for terminating the contract. Be sure to make arrangements for adequate help until you can complete the process of winding down your practice.

**Notify the U.S. Drug Enforcement Administration (DEA) and the Massachusetts Department of Public Health (DPH) about your intention to retire, and arrange for disposal or transfer of controlled substances with these agencies.**

You must notify the DEA of your retirement and request that your DEA number be deleted from the DEA system. This notification can be made by sending a letter to the DEA, or by making a notation of “non-renewal due to retirement” on your DEA renewal form (if the renewal form is due around the time you intend to retire). You also must notify DPH of your retirement. This notification can be made by sending a letter to the DPH Drug Control Program, along with a copy of your medical license. In addition to sending these notifications, you must follow DEA and DPH instructions concerning the disposing and transferring of controlled substances, drug samples, and other medications. You may wish to contact DEA and DPH for further instructions.

**Resources**

- U.S. Drug Enforcement Administration: Boston Field Division, JFK Federal Building, 15 New Sudbury Street, Room E-400, Boston, MA 02203, Diversion Number: (617) 557-2191, Diversion Fax: (617) 557-2126, General Registration Number: 1-800-882-9539  
<http://www.deadiversion.usdoj.gov/>
- Massachusetts Department of Public Health: Drug Control Program, 305 South Street, 2nd Floor, Jamaica Plain, MA 02130, Telephone: (617) 983-6700, Fax: (617) 524-8062  
<http://www.mass.gov/eohhs/provider/licensing/facilities/drug-control/>

## Arrange for the retention of medical and business records.

### **Medical Records**

The Massachusetts Board of Registration in Medicine requires you to retain all patient medical records for a minimum of seven years from the date of the last patient encounter and in a manner that permits former patients and successor physician's access to the medical records during this period. When the patient is a minor on the date of the last patient encounter, the physician must retain the patient's records for a minimum period of seven years from the date of the last patient encounter or until the date that the minor patient reaches the age of 18 years, whichever is the longer retention period. In the event you have medical records that were created by another provider and you have relied on those records in the course of providing treatment to your patients, you should retain those records in the same manner that you would retain the records that you created. You may satisfy the Board's record retention requirements by entering into a written agreement with a successor physician or medical records management company whereby the other party is required to maintain your records in accordance with all federal and state requirements with which you must comply (e.g., the other party must maintain each patient record for at least seven years from the date your last encounter with the patient).

Medical records document the care and treatment you have given to your patients, and proof of these may be important in the event that there is a future malpractice action concerning such care. In the event there is a pending lawsuit or you have reason to believe that a malpractice claim may be filed against you, you should think about retaining the relevant medical records beyond the required minimum period of time. You may wish to consult legal counsel about this issue. In the event you transfer original medical records to another physician, you should have a written agreement to ensure that the other physician will permit you to have access to the medical records for a reasonable period of time (and will maintain the medical records in accordance with all federal and state requirements).

### **Business Records**

You are required to keep many records pertaining to the business aspect of your practice after you retire. You may wish to consult an attorney to help you determine how long you should retain business records including, but not limited to, payroll records, personnel files, accounts payable invoices and credits, contracts, shipping and billing records, earning records, and OSHA records. The HIPAA privacy regulations require you to retain HIPAA documentation (e.g., acknowledgment of receipt of privacy notice, requests for amendments, workforce training documentation) for a period of at least six years.

### **Resources**

- Massachusetts Board of Registration in Medicine Regulations: 243 CMR 2.06(4)(d)  
<http://www.mass.gov/eohhs/docs/borim/reg-243-cmr-2.pdf>
- HIPAA Regulations (42 C.F.R. 164.530(j)(2))  
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=0ad06dcf6c2c096f2c443ed096cd8dcd&rgn=div8&view=text&node=45:1.0.1.3.77.5.27.15&idno=45>
- AMA Medicolegal Forms with Legal Analysis: Documenting Issues in the Patient-Physician Relationship, Karla L. Kinderman, J.D., LL.M, 1999
- AMA Ethical Opinion 7.03 "Records of Physicians Upon Retirement or Departure From a Group"  
<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion703.page>
- AMA Ethical Opinion 7.04 "Sale of a Medical Practice"  
<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion704.page>
- AMA Ethical Opinion 7.05 "Retention of Medical Records"

<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion705.page>

- Sample Authorization to Transfer Medical Records (see Exhibit 2 below)
- Massachusetts Board of Registration in Medicine, 560 Harrison Avenue, Boston, MA 02118, 617-654-9800
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000

### **Contact your professional liability insurer. Determine if you need to purchase a reporting endorsement or “tail” coverage.**

It is possible that after you have retired, you may be sued for malpractice arising from treatment rendered while you were still in practice. In the event you have claims made professional liability insurance coverage (as opposed to occurrence based coverage), you may need to purchase additional insurance to ensure that you and your practice will be covered in the event a medical malpractice claim is filed against you in the future. It is very important that you maintain adequate professional liability insurance coverage and comply with Massachusetts Board of Registration in Medicine requirements concerning professional malpractice liability insurance. You should retain copies of your professional liability insurance policies, including those that have been canceled or have expired. Ask your professional liability insurer whether discounts are available for retired physicians. If you have discontinued your practice, but you maintain an active license to practice medicine (so that you may occasionally write prescriptions, for example), you must maintain your professional liability insurance. The Board of Registration in Medicine requires this as a condition of rendering any direct or indirect patient care in the Commonwealth.

#### **Resources**

- Massachusetts Board of Registration in Medicine Regulations: 243 CMR 2.07(16)  
<http://www.mass.gov/eohhs/docs/borim/reg-243-cmr-2.pdf><http://www.massmedboard.org/Regs-243CMR.pdf>
- Massachusetts Board of Registration in Medicine, 200 Harvard Mill Square, Suite 330 Wakefield, MA 01880, Phone: (781) 876-8200, Fax: (781) 876-8383

### **Notify your accountant.**

Discuss the retirement process with your accountant and determine what steps need to be taken from an accounting perspective.

### **Notify the insurance company that issues your office insurance of your closing date.**

You should not cancel the property damage and general liability insurance for your office until you have disposed of the physical assets of the office, or the premises are vacated. You should consult with your insurance company or agent at an early date.

### **Tighten your collection practices so when you retire you will not have to be concerned with follow-up on accounts and insurance claims.**

This may require a conversation with your billing and collection agent.

### **Examine your office lease, and be sure you have a right to sublet (or have an “escape clause”) so you can vacate the premises when you retire or shortly thereafter.**

In the event you have a right to sublet the premises (e.g., your lease permits you to sublet the premises, or you have obtained the landlord’s consent), you may not be automatically released from liability under your

lease. You should examine your lease with respect to this issue, and, if necessary, try to obtain from the landlord a release from further liability for rent and damages. If you own an office condominium or building, you should consult with an attorney and/or financial consultant to plan an appropriate disposition of the premises.

### **Plan the sale of your medical practice.**

If you practice in a partnership or corporation with other physicians, you may have a “buy and sell” agreement in place that provides for the buyout of a retiring partner/shareholder. If you do not have a “buy and sell” agreement in place, you will have to negotiate the purchase price for your interest in the practice. If you are in solo practice, you may wish to hire a broker to sell your practice, or sell your practice yourself through word of mouth, by advertising in trade journals or by contacting residency and fellowship training programs to locate potential buyers. Some physicians have found it advantageous to take on an associate for a year or two prior to retirement, with the intent that the associate will buy the practice upon retirement. You should consult with an accountant or other tax advisor concerning the complex tax considerations involved in the disposition of a practice. The manner of sale, the method of sales price allocation to the assets of the practice, and various other factors can have significant tax ramifications.

#### ***Resources***

- AMA Buying, Selling, and Owning the Medical Practice: The Physician’s Handbook to Ownership Options, Max Reiboldt, CPA, 1996 [an updated version will be available from the AMA by the end of 2003]
- AMA Ethical Opinion 7.04 “Sale of a Medical Practice”  
<http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion704.page>
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000

### **Obtain final statements from suppliers.**

Ensure that all final payments and credits have been made to and from any entity providing your office with ongoing supplies and services (e.g., software vendor, office supplies vendor, medial supplies vendor).

### **Notify utility companies of your closing date.**

Ensure that all final payments and credits have been made.

### **Notify professional associations.**

You should notify the Massachusetts Medical Society, your district medical society, the American Medical Association, and any specialty boards and/or societies of which you are a member of your decision to retire. You will not be subject to the dues and assessments of the Massachusetts Medical Society if you have been a regular member for at least five consecutive years prior to requesting senior status, and either (i) you have attained age 60 prior to January 1 of the year of your request, and have retired from active practice, or (ii) you have attained age 70 prior to January 1 of the year of your request, and carry on a practice workload of 20 hours per week or less. You will remain subject to the dues and assessments levied by your district medical society. You should contact the AMA and any specialty boards and/or societies of which you are a member to determine your financial responsibilities as a retired physician.

#### ***Resources***

- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000

- American Medical Association Member Benefits and Services  
<http://www.ama-assn.org/ama/pub/membership/membership-benefits.page>
- Massachusetts Medical Society, 860 Winter Street, Waltham, MA 02451-1411, 781-893-4610
- Massachusetts Medical Society Membership Services  
[http://www.massmed.org/AM/Template.cfm?Section=Member\\_Benefit\\_Guide&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=17&ContentID=26221](http://www.massmed.org/AM/Template.cfm?Section=Member_Benefit_Guide&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=17&ContentID=26221)
- Massachusetts Medical Society Bylaws (Section 2.201)  
<http://www.massmed.org/corporatedocuments>

**Contact the local Social Security office if you are approaching age 62.**

Your local office should be able to provide you with information about Social Security benefits and Medicare.

***Resources***

- Social Security Administration, 1-800-772-1213  
<http://www.ssa.gov>

**Change your mailing address and cancel subscriptions.**

This document was compiled by the Massachusetts Medical Society, Office of the General Counsel at and is available online at: <http://www.massmed.org/retirement>



# Exhibit 1

## Sample Patient Letters

**Sample 1:** *If you are closing your practice (i.e., no other physician is taking over your practice), the following letter may be appropriate.*

Dear Patient:

I am writing to let you know of my plan to retire. The effective date of my retirement will be \_\_\_\_\_.

It is important that you make arrangements to receive quality medical care. If you need assistance in finding another physician, I suggest that you contact your health plan or the Massachusetts Medical Society customer service line. The customer service line operates Monday through Friday from 8:00 a.m. until 4:00 p.m. The telephone number is (781) 893-4610, ext. 5515.

Once you have a new physician, he/she will need copies of your medical record in order to treat you. I cannot release copies of your records unless I have your authorization, so I have enclosed an authorization form for you to sign. Please fill it out and send it to me as soon as you know who your new physician will be. If you wish to have a copy of your medical record transferred to a new physician, you may be charged a reasonable fee to cover the cost of duplication.

Thank you for your cooperation.

I extend my best wishes to you for your future.

Yours truly,

\_\_\_\_\_  
(Signature of MD)

**Sample 2:** *If a physician is taking over your practice, the following letter may be appropriate.*

Dear Patient:

This letter is to inform you that I will be retiring effective \_\_\_\_\_, at which time I will no longer be able to treat you.

Dr. \_\_\_\_\_ will be taking over my practice when I retire. Dr. \_\_\_\_\_'s background is

\_\_\_\_\_  
\_\_\_\_\_.

Your medical records will continue to be on file at my office. If you decide to become a patient of Dr. \_\_\_\_\_, you will need to sign an authorization form the next time you're in the office, and your medical record will be officially transferred to Dr. \_\_\_\_\_.

If you wish to find another physician, I suggest that you contact your health plan or the Massachusetts Medical Society customer service line. The customer service line operates Monday through Friday from 8:00 a.m. until 4:00 p.m. The telephone number is (781) 434- 7311.

If you decide to be treated by a physician other than Dr. \_\_\_\_\_, I will need your authorization before I can transfer copies of your records to the new physician you have selected. A reasonable charge will be made to cover costs of the transfer. Please fill out the enclosed form and send it back to me as soon as possible.

I wish you all the best for the future.

Sincerely,

\_\_\_\_\_  
(Signature of MD)

## Exhibit 2

### Sample Authorization to Transfer Medical Records

I hereby authorize Dr. \_\_\_\_\_ to make all of my medical records and reports  
(retiring physician)

available to Dr. \_\_\_\_\_ located at \_\_\_\_\_.  
(new physician) (new physician's address)

Patient Name (please print): \_\_\_\_\_

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_