Retention and Destruction of Medical Records

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While ideally medical records should be kept forever, this is not always practical. To ensure that present and future patient needs are adequately met, and that allegations of malpractice can be successfully defended, follow these guidelines.

Retention guidelines
Have a written retention and destruction policy in place, and train employees in its use. The physician must approve the policy. Indicate the date the policy was written or revised, and keep copies of former policies. Consider any material related to patient care to be part of the record (such as billing records, appointment schedules, etc.).

- **Adult patients:**
  - Ten years after the last contact with the practice

- **Minor patients:**
  - Ten years after the last contact with the practice OR
  - Four years beyond the patient’s 18th birthday, **whichever is longer**

- **Deceased patients:**
  - Five years after the patients’ death

- **Incompetent patients, whether adult or minor**
  - Retain records indefinitely OR
  - Five years after the patient’s death

- **Incident that could lead to litigation or record request from attorney/administrative agency:**
  - Until the matter has been fully resolved AND
  - Only with the advice of OMIC or your assigned attorney
    - This prevents allegations of spoliation of evidence

Other laws and regulations may apply in some circumstances (e.g., Medicare, OSHA, managed care patients). Check with the appropriate authority to ensure that your retention policy meets their guidelines.
Destruction of medical records

- The physician must approve any decision to purge and destroy records.
- Keep a list of destroyed records that includes: the patient’s name and birthday, the date of the last visit, and the date the records were destroyed.
- The method of destruction must protect the confidentiality of this information, such as shredding or burning.
- Disposing of records in the trash does not provide adequate protection, and could lead to allegations of breach of confidentiality.

OMIC’s Risk Management Department can be an important source of information and support for policyholders engaged in these evaluations and discussions. Please call 1.800.562-6642, option 4 or email us at riskmanagement@omic.com. We are also happy to answer questions about our protocols from non-policyholders.