

LSBME Statement of Position

Maintaining medical records when a practice is closed or has moved November 20, 2008

LSBME receives numerous telephone calls from practitioners and patients wanting to know the requirements for maintaining medical records when a practice is closed or has moved. There is no provision in state law relating directly to this circumstance at the present time. However, the following should be noted.

Physicians may not abandon patients. Accordingly a physician should give written notice to patients who have been seen within the 3 years preceding the date of closure or moving to enable the patient to arrange for care with another provider and/ or obtain copies of their medical records. The notice should be sent to the last known address of the patient no less than 90 days before closing or moving the practice. The notice should specify who to contact for a copy of the record or to request transfer of records and the cost of copying or transferring records. The Board should be notified as well. Failure to notify patients when a practice is closing or moving depending on the circumstances may be considered abandonment of the patient which is a violation of the Medical Practice Act (LRS 40: 1285 A (17)).

Physicians must provide patients or their representatives with copies of their medical records and radiographic studies upon payment of reproduction costs and handling charges as a matter of state law (LRS 40:1299.96) (footnote 1). The law gives the physician a period of time to comply with a request for their medical records (15 days) and includes a provision to compel production of the records if they are not produced timely. Failure to provide patients with a copy of their medical records when all requirements are met, depending on the circumstances, may be considered by the Board to constitute unprofessional conduct which is a violation of the Medical Practice Act (R.S. 40:1285A (13)).

Physicians must maintain medical records for a minimum of 6 years from the date of the last patient visit as a matter of state law (R.S. 40:1299.96). Radiographic studies must be retained for 3 years unless the patient requests that they be held for longer. There is no exception in state law for physicians who are retiring. Additional consideration should be given to the length of time required by insurance companies and malpractice carriers for retaining records, as well as the age of the patient (until age 21) or the existence of incompetence or disabilities (lifetime). With respect to this last category of patients, the provision of records to their legal guardians may be in the best way to ensure lifetime access which is in the patient's best interest.

Physicians must maintain the confidentiality of medical records as a matter of federal law (HIPPA). Physicians may not release medical records to another provider without the written permission of the patient or their legal guardian. In addition, medical records must be destroyed by secure means, such as shredding, when retention is no longer required. Consideration should be given to contracting with qualified providers to meet these requirements relating to access and destruction of records following the closure or relocation of a practice.

Footnote 1: not to exceed one dollar per page (\$1) for the first twenty-five (25) pages, fifty cents (50 cents) per page for twenty-six to five hundred (26-500) pages, and twenty-five cents (.25) per page thereafter, and a handling charge not to exceed fifteen dollars (\$15).