

# Protecting Patient Information after a Facility Closure.

## Appendix C: States with Laws, Regulations, or Guidelines Pertaining to Facility Closure

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*Note: state laws addressing facility closure continue to evolve. If your state is not listed, please check with your state licensing authority.*

### Retention of Records after Closure of Facility

State	Summary of Law or Regulation	Citation
Alabama	<p>When a hospital ceases to operate, either voluntarily or by revocation of its license, the governing body (licensee) at or before such action shall develop a proposed plan for the disposition of its medical records. Such plan shall be submitted for review and approval to the Division of Licensure and Certification and shall contain provision for the proper storage, safeguarding and confidentiality, transfer, and disposal of patient medical records and X-ray files.</p> <p>Any center that fails to develop such plans for disposition of its records acceptable to the Division of Licensure and Certification shall dispose of its records as directed by a court or appropriate jurisdiction.</p>	<p>Rule 420-5-7.10 (1) Hospitals;            Rule 420-5-5-.02 (7) (h) End Stage Renal Disease Treatment &amp; Transplant Centers; Rule 420-5-2-.02 (6) (h) Ambulatory Surgical Treatment Facilities;            Rule 420-5-1.02 (5) (f) Abortion and Reproductive Health Centers; Rule 420-5-18-.06 (9) Sleep Disorders Facilities</p>
Alaska	<p>When a hospital ceases to operate, a plan approved by the Department of Health and Social Services will outline arrangements for the immediate preservation of its records. Healthcare providers of Medicaid recipients must notify the department. Instructions will be provided by the department as to the disposition of Medicaid records. Nursing homes that cease to operate must contact the department for direction on disposition of their admission and death records.</p>	<p>Alaska Statutes            18.20.085 (c)            7 AAC 43.030            7 AAC 12.040(I) (2)</p>
Arizona	<p>If a hospital discontinues hospital services, the Department of Health is notified in writing, not less than 30 days before hospital services are discontinued, of the location where the medical records are stored.</p>	<p>Arizona Administrative Code R9-10-228</p>
Arkansas	<p>All medical records shall be retained in either the original or microfilm or other acceptable methods for 10 years after the last discharge. After 10 years, a medical record may be destroyed, provided the facility permanently maintains the information contained in the master patient index. Complete medical records of minors shall be retained for a period of two years after</p>	<p>Rules &amp; Regulations for Hospitals and Related Institutions in Arkansas: Section 14: 20-21</p>

	the age of majority. Should a facility close, the medical records shall be stored for the required retention period and shall be accessible for patient use.	
California	Within 48 hours of ceasing to operate, the facility must notify the Department of Health of its plan for the safe preservation of medical records. Should the facility change ownership, written documentation must be provided by both the old and new licensee outlining the arrangements made for transfer of medical record custody, safe preservation of the records, and access to the information by both the new and old licensees and other authorized individuals.	Title 22, section 70751 (d) Title 22, section 70751 (e)
Colorado	When a facility closes, arrangements must be made for transfer of the medical records to a new custodian. A written memorandum of understanding or contract shall be signed by the new custodian outlining the date, location, and receipt of transfer. The written agreement will transfer responsibility for the retention and maintenance to the new custodian. If a willing custodian cannot be obtained, the facility must contact the local health department or other appropriate local government so temporary storage may be arranged. Public notice should be provided through the newspaper or general news release. Authorized parties should be given the opportunity to assume identified records.	Guidelines from Colorado Hospital Association, <i>Consent Manual and Guidelines for Release of Health Information</i> , 1996
Connecticut	A practitioner or agency should be aware of the specific requirements as to the existence and contents of the medical record and at least the legal requirement for retention of the record. The retention period applies even if the agency or individual ceases to operate.	Guideline from Connecticut Health Information Management Association
Delaware	No regulation within Delaware code.	
Florida	Facilities involved in an acquisition, merger, or closing should maintain records in accordance with state law. In a merger, the new facility should merge the old entity's active records with its records and prepare a retention schedule for the inactive records. The merger agreement should include a provision detailing who is responsible for records. Florida General Records Schedule for Hospital Records requires facilities to submit a records destruction request, form LS5E107, and obtain permission from the licensing agency before proceeding with a record destruction. Florida Administrative Code requires a licensee to notify the Department of Health of the impending closure 90 days before the closure. The facility must advise the licensing agency as to the disposition of medical records.	Florida Administrative Code 59A-1.004
Hawaii	Before a healthcare provider ceases operations, immediate arrangements approved by the Department of Health shall be made to ensure the retention and preservation of its patient records. In an acquisition or merger, the succeeding providers are liable for preservation of basic information from the medical records in accordance with state law.	Title 33, section 622-58 (e)

Idaho	Facilities should adhere to Idaho code and Idaho Practice Acts regarding maintenance and retention of patient information when a facility closes.	Idaho code 39-13941.C IDAPA 16.03.0220304b IDAPA 16.03.14360
Illinois	The licensee shall notify the Department of Public Health of the impending closure of the hospital at least 90 days before such closure. The hospital shall implement a policy for the preservation of patient medical records and medical staff credentialing files.	77 Illinois Administrative Code, Chapter I Section 250.120 (b), 250.1510 (e) (2), and 250.310 (a) (16)
Indiana	Upon closure, the facility must transfer the medical records (preferably in microfilm format) to a local public health department or public hospital in the same geographic area. If the records cannot be transferred to a public health department or public hospital in the same geographic area, the records should be sent to the Board of Health.	Hospital Licensure Rules of the Indiana State Board of Health 410 IAC 15-1-9 (2)
Iowa	When a facility closes or transfers ownership, all active patients should be notified and given an opportunity to obtain copies of their records. In addition to individual notices to patients, a public notice generally is published in a newspaper of general circulation advising patients and physicians of the location of the facility's medical records and how access to them may be gained. The facility is liable for preserving the confidentiality and security of the records until ownership is assumed by another or the required retention period has expired.	Guidelines from Iowa Health Information Management Association's <i>Guide to Medical Record Laws</i> , 2001
Kansas	If a hospital discontinues operation, the hospital shall inform the licensing agency of the location of its records. A summary shall be maintained of medical records that are destroyed. This summary shall be retained on file for at least 25 years and shall include the following information: (A) the name, age, and date of birth of the patient; (B) the name of the patient's nearest relative; (C) the name of the attending and consulting practitioners; (D) any surgical procedure and date, if applicable; and (E) the final diagnosis.	Kansas Regulations 28-34-9a (d) (2) (3)
Kentucky	Provisions shall be made for written designation of the specific location for storage of medical records in the event the hospital ceases to operate because of disaster or for any other reason. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire and water.	Kentucky Administrative Regulations 902 KAR 20:016 Section 3 (11) 3
Louisiana	The secretary of the Department of Health and Human Resources shall adopt rules, regulations, and minimum standards providing for the disposition of patients' medical records upon closure of a hospital. Such regulations may require submission by a hospital that is closing of a plan for disposition of patients' medical records to the secretary for approval.	Louisiana Health and Human Resources Administration Acts La, RS 40; 2109 E

Maine	No statutes exist relating to closure.	
Maryland	Should a physician practice expire, his or her representative must send a notice to the patient at the patient's last address. A notice should be published in a daily newspaper that is circulated locally for two consecutive weeks. Information should state the starting date the records will be transferred or destroyed and a location, date, and time where medical records may be retrieved, if wanted. Only home health agencies are required by state regulations to retain medical records after the agency closes.	Code of Maryland Regulations Subtitle 4. Personal Medical Records, 4-403 Destruction of Records
Massachusetts	Should the ownership of a hospital, an institution for unwed mothers, or a clinic change, the new owner must maintain all medical records from the purchased facility. Should an institution permanently close, the institution will arrange for preservation of such medical records for the 30-year retention period. The facility or physician also must inform the state of the location and availability of these records.	Massachusetts Statutes 111, section 70
Minnesota	No specific statutes or regulations exist to address disposition of medical records at the time of a facility or practice closure. Statutes require hospitals to retain those portions of medical records as defined by the Commissioner of Health permanently. Physicians have a professional responsibility for the proper management of medical records, including disposition at the time of a practice closure.	Minnesota Statutes 145.30, 145.32, and 147.091 Minnesota Rule 4642.1000
Mississippi	When a facility closes, it must turn over its records to any other hospital or hospitals in the vicinity that is or are willing to accept and retain the medical records. If no facility is available or willing to accept the medical records, then they will be delivered promptly to the licensing agency.	Mississippi Code, section 41-9-79
Missouri	New operators of nursing, convalescent, and boarding homes are required to retain the original records of residents.	Section 198.052
Montana	Montana does not have specific legislation that addresses retention of medical records upon facility closure.	
Nebraska	<b>Centers for the developmentally disabled:</b> In cases in which a center for the developmentally disabled ceases operation, all records of residents shall be transferred to the facility to which the resident moves; all other records of such center for the developmentally disabled, if not specifically governed by the provisions of these regulations, shall be disposed of in accordance with center policy as long as the resident's rights of confidentiality are not violated.	Title 175, Chapter 3, 005.04A
	<b>Assisted living facilities:</b> When an assisted living facility ceases operation, all resident records must be transferred to the licensed healthcare facility or healthcare service to which the resident is transferred. All other resident records that have not reached the required time for destruction must be	Title 175, Chapter 4, 4-006.12A2

	stored to ensure confidentiality, and the Department of Health must be notified of the address where stored.	
	<b>Health clinics:</b> When a health clinic ceases operation, all medical records must be transferred as directed by the patient or authorized representative to the licensed healthcare facility or healthcare service to which the patient is transferred. All other medical records that have not reached the required time for destruction must be stored to ensure confidentiality, and the Department of Health must be notified of the address where stored.	Title 175, Chapter 7, 7-006.07A3
	<b>Hospitals:</b> In cases in which a hospital ceases operation, all medical records of patients must be transferred as directed by the patient or authorized representative to the hospital or other healthcare facility or healthcare service to which the patient is transferred. All other medical records that have not reached the required time for destruction must be stored to ensure confidentiality, and the Department of Health must be notified of the address where stored.	Title 175, Chapter 9, 9-006.07A5
	<b>Skilled nursing facilities, nursing facilities, and intermediate care facilities:</b> In cases in which a facility ceases operation, all records of each resident must be transferred to the healthcare facility to which the resident moves. All other resident records of a facility ceasing operation must be disposed of by shredding, burning, or other similar protective measures to preserve the residents' rights of confidentiality. Records or documentation of the actual fact of resident medical record destruction must be maintained permanently.	Title 175, Chapter 12, 12-006.16D
	<b>Hospice services:</b> Policies provide for retention even if the hospice discontinues operation.	Title 175, Chapter 16, 16-006.12D
	<b>Substance abuse treatment centers:</b> Before the dissolution of any facility, the administrator must notify the Department of Health in writing as to the location and storage of client records.	Title 175, Chapter 18, 18-006.16B5
	<b>Mental health centers:</b> Before the dissolution of any facility, the administrator must notify the Department of Health in writing as to the location and storage of client records.	Title 175, Chapter 19, 19-006.18B5
New Hampshire	Should an outpatient clinic, residential treatment and rehabilitation facility, or home health service cease operation, the safe preservation of the clinical records must be provided for.	Administrative Regulations He-P 806.10, He-P 807.07, and He-P 809.07
New Jersey	Before closing, the hospital's governing authority must submit a plan for record storage and service to the Department of Health.	Section 8: Section 10 NJSA 34B-7.4 (b)

New Mexico	No statutes exist relating to closure.	
New York	<p>Retirement or death of physician or sale of practice:</p> <p>a. When physician retires, sells his or her practice, or dies, patients should be notified (usually by newspaper advertisement), but New York state law does not mandate patient notification at this time.</p> <p>b. Patients may request copies be sent to another physician for continued care; reasonable charges may apply. [Not recommended that original records be forwarded for legal reasons.]</p> <p>c. Retired or deceased physician: arrangements should be made to have original records retained by another physician, local hospital, or other lawfully permitted agency.</p> <p>d. If practice is sold: ownership of records should be part of sales agreement. Physician purchasing the practice must establish physician-patient relationship before accessing records or must obtain patient authorization.</p> <p>Area hospital and appropriate medical society should know disposition of the physician records.</p>	NYS CRR 405.10
North Carolina	<p><b>Hospitals:</b> If a hospital discontinues operation, its management shall make known to the Division of Health where its records are stored. Records are to be stored in a business offering retrieval services for at least 11 years after the closure date. Before record destruction, public notice shall be made to permit former patients or their representatives to claim their own records. Public notice shall be in at least two forms: written notice to the former patients or their representatives and display of an advertisement in a newspaper of general circulation in the area of the facility.</p> <p><b>Nursing homes:</b> If a facility discontinues operation, the licensee shall make known to the Division of Facility Services where its records are stored. Records are to be stored in a business offering retrieval services for at least 11 years after the closure date.</p>	<p>T10: 03C. 3903—Hospitals</p> <p>T10: 03H .2400—Nursing Homes</p>
North Dakota	North Dakota hospital licensing rules require that if a hospital discontinues operation, it shall make known to the Department of Health where its records are stored. Records are to be stored in a facility offering retrieval services for at least 10 years after the closure date. Before record destruction, public notice must be made to permit former patients or their representatives to claim their own records. Public notice must be in at least two forms: legal notice and display advertisement in a newspaper of general circulation.	North Dakota Administrative Code, section 33-07-01.1-20 (1994)
Ohio	Upon closure of a nursing home, the operator shall provide for and arrange for the retention of records and reports in a secured manner for not less than seven years. Ohio statutes do not specifically address physicians' and	OAC 3701-17-19 (C) (1) (c)

	<p>hospitals' responsibilities regarding the retention of medical records or procedures for transfer of such records.</p> <p>For physicians, the American Medical Association's Council of Ethical and Judicial Affairs Current Opinion 7.04 states that the physician must ensure that all medical records are transferred to another physician or entity held to the same standards of confidentiality and lawfully is permitted to act as the custodian of the records.</p> <p>The Current Opinion states further that all active patients should be notified that the physician is transferring the records and that upon the patient's written request, within a reasonable time as specified in the notice, and at a reasonable cost, the records (or copies) may be transferred to the physician or entity of the patient's choice.</p> <p>Legal briefs from the Ohio State Medical Association, "Medical Practice Retention and Transfer of Records" and "Medical &amp; Billing Records: Privacy and Patient Rights," offer further guidance.</p>	
Oklahoma	<p>In the event of closure of a hospital, the hospital shall inform the Department of Health of the disposition of the records. Disposition shall be in a manner to protect the integrity of the information contained in the medical record. These records shall be retained and disposed of in a manner consistent with the statute of limitations.</p>	Oklahoma Hospital Standards 310:667-19-14 (b) (4)
Oregon	<p>If a healthcare facility changes ownership, all medical records in original, electronic, or microfilm form shall remain in the hospital or related institution, and it shall be the responsibility of the new owner to protect and maintain these records.</p> <p>If any healthcare facility shall be closed finally, its medical records and the registers may be delivered and turned over to any other hospital or hospitals in the vicinity willing to accept and retain the same. A hospital that closes permanently shall follow the procedure for Public Health Division and public notice regarding disposal of medical records delineated under 333-500-0060. If the hospital voluntarily discontinues operation, a multimedia press release must be initiated by the hospital, within 24 hours, notifying the public of facility closure. Such notice shall include the procedure by which individuals may obtain their medical records. In addition, notification of facility closure and plan for disposal of medical records must be given to the Public Health Division.</p> <p>Medical records not claimed that are beyond seven years of the last date of discharge may be destroyed. Medical records not claimed that are within seven days of the last date of discharge must be stored until they are seven years past the last date of discharge. These medical records may be thinned to include only the admission and discharge sheet (face sheet), discharge summary, history and physical, operative reports, pathology reports, and X-ray reports.</p>	Oregon Administrative Rules 333-70-055(13) (14) Rule 333-500-0060

Pennsylvania	The Department of Health must be informed of the location of the stored records for the closed hospital. The storage facility chosen must provide retrieval services for five years after the closure. No records can be destroyed until after public notice, in the form of both legal notice and display advertisement placed in a newspaper of general circulation. Former patients or their representatives must be provided the opportunity to claim their records before destruction.	28 Pennsylvania Statutes, section 115.24
South Carolina	South Carolina Department of Health and Environmental Control regulations specify that hospitals and institutional general infirmaries must transfer ownership of all medical records to the new owners if the facility is sold. The facility will make arrangements for the preservation of the medical records after a closure. The department will be notified of the arrangements made to preserve the records.	Regulation 61-16 section 601.7D, Regulation 61-14 section 504.3, Regulation 61-17, Regulation 61-13
South Dakota	<p>When a healthcare facility ceases operation, the facility must provide for safe storage and prompt retrieval of medical records and the patient indexes specified in ARSD 44:04:09:10. The healthcare facility may arrange storage of medical records with another healthcare facility of the same licensure classification, transfer medical records to another healthcare provider at the request of the patient, relinquish medical records to the patient or his or her parent or legal guardian, or arrange storage of remaining medical records with a third-party vendor who undertakes storage activities.</p> <p>At least 30 days before closure, the healthcare facility must notify the department (of health) in writing indicating the provisions for safe preservation of the medical records and their location and publish in a local newspaper the location and disposition arrangements of the medical record.</p> <p>If the ownership of a healthcare facility is transferred, the new owner shall maintain the medical records as if there were no change in ownership.</p>	ARSD 44:04:09:10-11, Disposition of Medical Records Upon Closure of Facility or Transfer of Ownership
Tennessee	Should a hospital close, it must surrender the hospital records to the Department of Health and Environment. The facility must deliver the records to the department in good order and properly indexed.	Tennessee Code section 68-11-308
Texas	The licensing agency shall be notified by the closing facility of the identity of the record custodian and the location of the stored records. Should a special facility change ownership, the new owners must maintain proof of medical information required for the continued care of the residents.	Texas Hospital Licensing Standards 1-22.1.6 and 12-8.7.6

Utah	<p>A licensee that voluntarily ceases operation shall complete the following:</p> <p>(a) notify the Department of Health and the patients or their next of kin at least 30 days before the effective date of closure.</p> <p>(b) make provision for the safekeeping of records.</p> <p>If a hospital ceases operation, the hospital shall make provision for secure, safe storage and prompt retrieval of all medical records, patient indexes, and discharges for the period specified. The hospital may arrange for storage of medical records with another hospital or an approved medical record storage facility or may return patient medical records to the attending physician if the physician is still in the community.</p>	<p>Utah Administrative Code R432-2-14 General Licensing Provisions</p> <p>Utah Administrative Code R432-100-33 (4)(e) General Hospital Standards</p>
Vermont	No statutes exist relating to closure.	
Virginia	Virginia has no regulations that address hospital closure, but nursing home closure is addressed in its Rules and Regulations for the Licensure of Nursing Homes. At closure, the owners shall make provisions for the safeguarding of all medical records. Should the facility change ownership, provisions will be made for the orderly transfer of all medical records.	Rules and Regulations for the Licensure of Nursing Homes 24.7
Washington	When a hospital closes, it shall make arrangements for the preservation of its records in accordance with applicable state statutes and regulations. Any plan of action first must be approved by the Department of Social and Health Services. If a hospital changes ownership, the medical records, indexes, and analysis of hospital services are not to be removed from the facility and will be retained and preserved by the new owners in accordance with applicable state statutes and regulations.	Title 70 Revised Code of Washington section 70.411.90 and section 248-18-440
Wisconsin	<p>When an independent practitioner ceases practice or business as a healthcare provider, the healthcare provider or the personal representative of the deceased healthcare provider shall do one of the following for all patient health records:</p> <ol style="list-style-type: none"> <li>1. Provide for the maintenance of the patient health records by a person who states, in writing, that the records will be maintained in accordance with state statutes.</li> <li>2. Provide for the deletion or destruction of all or part of the patient health records.</li> <li>3. Provide for maintaining some of the records and deleting or destroying some of the records.</li> </ol> <p>If the records are maintained, statute requires notice to be made to the patients by one of the following methods:</p> <ol style="list-style-type: none"> <li>1. Written notice sent by first-class mail to the patient's last known address, describing where and by whom the records will be maintained.</li> <li>2. Publication of a class 3 notice in a newspaper located in the county where the healthcare provider's practice was located, describing where and by whom the records will be maintained.</li> </ol>	Wisconsin Statute 146-819

	<p>If the records are deleted or destroyed, a required notice is made to the patients by one of the following methods:</p> <ol style="list-style-type: none"><li>1. Written notice at least 35 days before destroying the records, sent via first-class mail to the patient's last known address, and it must include the following:<ul style="list-style-type: none"><li>◦ The date when the records will be deleted or destroyed.</li><li>◦ The location, dates, and times when the records can be retrieved by the patient or his or her authorized representative.</li></ul></li><li>2. Publication of a class 3 notice in a newspaper in the county where the healthcare provider's practice was located. The notice must specify the date the records will be destroyed unless the records are retrieved from a particular location and by what date.</li></ol> <p>This statute applies only to independent practitioners who cease practice or who die; it does not apply to residential facilities, nursing homes, hospitals, home health agencies, tuberculosis sanitariums, hospices, or local health departments.</p>	
Wyoming	<p>When a publicly funded hospital or nursing home ceases operation, the records are to be transferred to the state archives. The state archives will maintain the records and abide by the established record retention schedules adopted for these institutions, destroying or maintaining the records, and providing access to them.</p>	<p>Wyoming Statutes 9-2-401 through 9-2-419, and specifically W.S. 9-2-408.</p>

**Article citation:**

AHIMA. "Protecting Patient Information after a Facility Closure. Appendix C: States with Laws, Regulations, or Guidelines Pertaining to Facility Closure." *Journal of AHIMA* (Updated August 2011).

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