



The Royal Australian
College of General
Practitioners

General practice management toolkit

Closing a medical practice

Module

13

General practice management toolkit: Closing a medical practice

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The *General practice management toolkit: Closing a medical practice* was developed in response to RACGP members requesting information relating to retiring from or closing a medical practice.

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Note

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Overview

The reasons for closing a medical practice are many and varied, however it is usually the result of one or more doctors in the practice being unable to continue practising medicine due to relocation, retirement, illness or death.

If you are considering closing your medical practice, there are many important decisions that need to be made and legal, regulatory and insurance issues that need to be dealt with. The RACGP *Closing a medical practice* covers some of these issues, including:

- medical indemnity
- patient health information (medical records)
- storage of information
- transferring medical records to another health provider
- patient requests for transfer of a medical record
- business issues
- staff issues
- disposal of prescription pads and medications.

General practitioners have a legal and ethical duty to provide continuity of care to their patients and this responsibility must be considered when closing a medical practice. Informing patients of a pending practice closure is the first step towards maintaining continuity of care, as it allows for a timely clinical handover to another practice of the patient's choice.

Where the practice principal is unable to act (ie. due to death or illness), their responsibilities and obligations fall to their legal representative or estate.

Management of health information

The appropriate management of health information is essential when closing a practice. The National Privacy Principles, regulated by the Office of the Australian Information Commissioner, indicate that it is good practice for a health service provider to notify individuals of the closure of a service as soon as it is practicable to do so.¹ Additionally, practices closing or considering closing might also be subject to additional requirements mandated under relevant state or territory legislation. For further information regarding these obligations, please check the relevant health legislation in your state or territory.

The *Guidelines on Privacy in the Private Health Sector*, originally published in 2001 by the Office of the Federal Privacy Commissioner (OFPC), can assist practices in meeting their obligations in relation to the management of health information when closing their practice. These guidelines can be accessed at www.oaic.gov.au.

Similarly, to ensure the continuation of medical care for all patients, the Medical Board of Australia's *Good medical practice: A code of conduct for doctors in Australia* advises that health service providers (or their legal representative) should take reasonable and practical steps to inform all consumers that the practice is closing and advise how they will be able to access their medical records.²

The RACGP *Standards for general practices* (4th edition) – Standard 4.2 Management of health information, also discusses confidentiality and privacy of health information.³ The *Standards* are available from the College website at www.racgp.org.au/standards.

Notification of closure

To ensure a smooth transition of care to another practice, it is crucial that patients are informed of the practice closure in advance. In some states and territories, health service providers (or their legal representatives) are required to publish a notice in a local newspaper at least 2 months prior to the practice closure.

To facilitate this process, practices can develop and display a poster and/or information sheets, advising current patients of the practice closure and how patients can arrange to access their medical records or have them transferred to another general practice of their choice. These resources could also include a list of nearby practices that can provide patients with ongoing primary healthcare. Generally, the length of notice required will depend on the practice location and how easily patients will be able to access healthcare from other health service providers. It is also recommended that practices seek advice from their medical indemnity insurer regarding the appropriate management and retention of health information and notification of practice closure.

Transferring health information

Medical practices should maintain a list of individuals for whom they have health records and keep note of how the transfer of patient information has been managed, for example:

- whether the practice provided a copy of the original medical records to a new practice
- whether the practice provided a summary of the records to a new practice
- whether a copy of the records was collected by the patient (date)
- whether the records were transferred directly to another doctor (date) at the patient's request
- whether the patient records were stored (date and location) and how future access can be achieved.

When a practice is sold, the transfer of the original medical records to the purchaser is permitted, if the legal entity remains in existence, and the individual's health information is used as it was before, in providing healthcare. For further information regarding privacy and change of ownership, please refer to the *Guidelines on Privacy in the Private Health Sector 2001*, Section 10.

Following closure of a practice, patients need to be able to make contact for a reasonable period (at least 3 months) in order to arrange for the transfer of their records to a new practice. A telephone message could provide patients with directions on how to access copies of their health information. Alternatively more detailed information could be set up on a temporary website, or in the original notification of closure. Guidelines for transferring patient health information to other health service providers is outlined in the OFPC Guidelines, Section 2: Use and disclosure, National Privacy Principle 2.

Practices need to ensure that information in patient health records is legible (easily read and understood) so that other practitioners (from the information provided) can take over the management and care of patients. Not only does written information need to be legible, but if the practice scans documents such as external reports, the scanning needs to be undertaken in a way that reproduces the legibility of the original document.

Patient consent for the transfer of health information

When transferring patient information to a third party (including circumstances when a practice closes and sells their operations to a new provider), practices need to have some way of ensuring that patients have consented to this transfer. Consent can be either verbal or written. Information regarding legislative requirements is available at www.oaic.gov.au.

Communicating urgent and non-urgent test results

Another critical aspect of maintaining continuity of care is the communication of both urgent and non-urgent test results to patients before closure of the practice. That is, practices need to have arrangements in place that allow clinically significant test results to be conveyed to patients or their new GP before or after closure of the practice. This allows patients, and their new healthcare providers, to make informed treatment decisions and avert potentially adverse patient outcomes.

Example

Dr Jones is closing his practice next week and will be retiring. Patients seen up until the time the practice closes will require follow up in relation to any tests that he orders and results that he receives. This requires that Dr Jones' practice communicates test results to patients by way of a telephone call or letter explaining the outcome of the test and any required actions. Sending a copy of the test results to patients and their new treating doctor, if known, will assist the new doctor to follow up any required actions in a timely manner. This is particularly important for clinically significant tests and results.

Further information is outlined in the RACGP *Standards for general practices* (4th edition) – Standard 1.5 Continuity of care.

Retention and storage of health records

The legal requirements for the retention of health records vary between jurisdictions. However, many insurers say health records should generally be kept indefinitely. In some jurisdictions they need to be kept for 7 years for persons over the age of 18 years, or at least until the age of 25 in the case of children. Retained files must be stored in a secure environment to preserve their confidentiality and prevent them from being damaged, lost or stolen. Responsibility should be assigned to a person who can provide others with authorised access to stored medical records, should patients subsequently seek access to their health information. Organise storage of records that you retain in accordance with jurisdictional requirements.

Further information

See RACGP *Standards for general practices* (4th edition) – Standard 1.7 Content of patient health records:

- Criterion 1.7.1 Patient health records
- Criterion 1.7.2 Health summaries
- Criterion 1.7.3 Consultation notes
- Criterion 4.2.1 Confidentiality and privacy of health information
- Criterion 4.2.2 Information security.

Disposal of materials and equipment

Pharmaceuticals

Practices need to dispose of Schedule 4 and Schedule 8 drugs (typically narcotics) in accordance with state or territory legislation. This information can be obtained from the drugs and poisons section of your state or territory department of health. Disposal usually requires supervision by a doctor and nurse and the quantities destroyed recorded in the drug register. Returning drugs to the pharmacy that supplied the items for your doctor's bag might be an appropriate solution; they may also be able to suggest other suitable options. Prescription pads and paper need to be destroyed by secure shredding. Check with your local department of health.

State/territory departments of health

- Australian Capital Territory – Pharmaceutical Services, ACT Health
- Northern Territory – Poisons Control, Department of Health
- New South Wales – Pharmaceutical Services Branch, NSW Health
- Queensland – Drugs and Poisons Policy and Regulation Unit, Environmental Health Branch, Health Protection Directorate, Queensland Health
- South Australia – Pharmaceutical Services and Strategy, Department of Health
- Tasmania – Pharmaceutical Services Branch, Department of Health and Human Services, Tasmania
- Victoria – Drugs and Poisons Regulation, Department of Health
- Western Australia – Pharmaceutical Services Branch, Disaster Management Regulation and Planning Directorate, Department of Health.

Further information is outlined in the RACGP *Standards for general practices* (4th edition) – Standard 5.3 Clinical support processes and Criterion 5.3.1 – Safe and quality use of medicines.

Equipment and stocks

Practice equipment may be difficult to sell in the absence of a practice buyer. Advertising or using online websites may help you to locate a buyer. Stocks of syringes and needles may be returned to the supplier or provided to another health facility. Sharps containers should be disposed of in the usual manner.

Practice stationery

All unwanted letterheads, sickness certificates and any practice stationery that could be fraudulently used by unauthorised personnel should be disposed of responsibly.

Disposal of equipment – information security

To ensure key information is not lost or transferred inadvertently, practices are advised to review the RACGP *Computer and information security standards* when equipment is made redundant.

Deleting records does not adequately clear data from a computer system and all hard drives should be securely deleted. Practices need to be aware that other equipment, such as photocopiers and fax machines, may have hard drive memory and that confidential information needs to be properly removed before disposing of such equipment.

Further information about management of health information, including requirements for information security, can be found in the *Standards for general practices* (4th edition) at www.racgp.org.au/standards and the *Computer and information security standards* at www.racgp.org.au/ehealth/ciss.

Insurance issues

Medical indemnity

Your medical indemnity insurer should be contacted to discuss the practice closure and issues relating to insurance. The type of policy your practice holds will determine the need to purchase run-off cover. This means, for example, that if a doctor has held a 'claims-made' or 'claims incurred' policy, then future claims may arrive after the doctor ceases to practise. Therefore insurance cover is needed to protect against any future claims.

The Australian Government Run-Off Cover Scheme assist practices and doctors with the cost of run-off cover. In most cases, doctors in private practice are eligible immediately on leaving the workforce:

- when they are over 65 years of age
- because of permanent disability
- when they are on maternity leave
- when leaving the country after working as a doctor under visa subclass 422 (medical practitioner) or 457 (business – long stay)
- in the case of death.

Practice insurance

Practice insurance is usually obtained in addition to medical indemnity insurance. This insurance covers the practice for claims that may be triggered by the actions or omissions of staff (vicarious liability). Check with your insurer whether any run-off cover is required for claims made in this regard.

Business contents insurance, public liability and WorkCover insurance providers should be notified of the practice closure. Refunds may be available for any unused periods of insurance.

Employee issues

Teamwork remains important, particularly in relation to planning, communicating and carrying out a practice closure. The desired characteristics of a general practice team are discussed in the RACGP *Standards for general practices* (4th edition) – Section 4 Practice management.

It is preferable for employees to know as soon as possible that the practice is closing so that they have adequate time to either find new employment or come to terms with the changes. Employers can assist employees during this process by providing letters of reference and referrals for employment to other medical practices.

To maintain the practice's functionality until the closure date, and to attend to the operational aspects of the closure, contingency plans are required so that staff can properly prepare for closure of the practice.

Final pay

The closing of a medical practice involves legal obligations and responsibilities under the *Fair Work Act 2009* in relation to payment of wages and leave entitlements for employees.

Generally, employees should receive the following entitlements in their final pay:

- outstanding wages, including penalty rates and allowances
- accrued annual leave and accrued annual leave loading entitlements
- accrued or pro-rata long service leave (if applicable)
- redundancy pay entitlements (if applicable).

It is recommended that you seek advice from your financial and legal advisor regarding this final payment.

Employment termination payments

Closing a practice may require that staff are made redundant. In addition to the final pay, staff may also be eligible for a lump sum employment termination payment. The termination payment period varies from 4 weeks for a staff member who has worked for at least 1 year, to 12 weeks for a staff member with at least 10 years continuous service. Under the *Fair Work Act 2009*, small businesses with fewer than 15 employees may be exempted from paying staff employment termination payments.⁴

Employment termination payments (previously called eligible termination payments) are generally taxed at a lower rate. Payments can include:

- amounts of unused rostered days off
- amounts of lieu-of-notice
- a gratuity or 'golden handshake'
- invalidity payment (for permanent disability other than compensation for personal injury)
- certain payments after the death of an employee.

Employment termination payments do not include:

- unused annual leave or unused long service leave
- the tax free part of a genuine redundancy payment or an early retirement scheme payment.

It is recommended that you seek advice from your financial and legal advisor regarding employment termination payments.

Further information

Further information regarding legal requirements relating to the final pay or employment termination payments can be obtained from the following websites:

- Australian Taxation Office – www.ato.gov.au
- Fair Work Ombudsman – www.fairwork.gov.au
- Australian Medical Association – www.ama.com.au.

Other business matters

Business records and contracts

Discuss with your accountant the need to retain business records. Usually this is necessary for at least 5 years after the completion of a tax return, but may be longer in order to address capital gains tax issues.

Commercial contracts are usually defined by a contract period. It may be necessary to request permission to break a contract by contacting the supplier and explaining the circumstances.

Business banking arrangements need to be concluded and accounts closed. Contact your bank manager, who may be able to assist with this process.

Business registration – dissolving the legal entity

Discuss with your legal advisor and accountant the need to dissolve the legal entity of the practice.

The Australian Securities and Investment Commission website provides detailed information for companies. Further information is available at www.asic.gov.au.

Contact the Australian Taxation Office if you have ceased trading to cancel registrations, such as Australian Business Number (ABN), Goods and Services Tax (GST) and Pay As You Go (PAYG).

The Australian Taxation Office provides information for the cancellation of tax related registrations at www.ato.gov.au/business.

Communication to relevant bodies and local authorities

Advise the following of your intention to close the practice:

- Medicare Australia
- Medical Board of Australia
- your state or territory health department
- your local division of general practice (or Medicare Local)
- local hospitals
- neighbouring general practices.

References

1. Office of the Australian Information Commissioner. National Privacy Principals. Available at www.oaic.gov.au.
2. Australian Medical Council, on behalf of the medical boards of the Australian states and territories. Good medical practice: A code of conduct for doctors in Australia, 2009. Available at www.amc.org.au/images/Final_Code.pdf.
3. The Royal Australian College of General Practitioners. Standards for general practices. 4th edn. Melbourne: The RACGP, 2010. Available at www.racgp.org.au/standards.
4. Fair Work Commission. Fair Work Act 2009. Available at www.fwc.gov.au.

Resources

Government agencies

- **Department of Education and Training**
www.education.gov.au
- **Department of Employment**
www.employment.gov.au
- **Fair Work Commission**
www.fwc.gov.au
- **Fair Work Ombudsman**
www.fairwork.gov.au
- **IP Australia (intellectual property)**
www.ipaustralia.gov.au
- **Office of the Australian Information Commissioner**
www.privacy.gov.au
- **Safe Work Australia** www.safeworkaustralia.gov.au
- **ACT – Economic and Business Development**
www.business.act.gov.au
- **NSW – Trade and Investment NSW**
www.smallbiz.nsw.gov.au
- **NT – Department of Business and Employment**
www.nt.gov.au/dbe
- **QLD – Department of Business and Industry**
www.business.qld.gov.au
- **SA – Department of State Development**
www.statedevelopment.sa.gov.au
- **TAS – Department of State Growth**
www.statgrowth.tas.gov.au
- **VIC – Business Victoria**
www.business.vic.gov.au
- **WA – Small Business Development Corporation**
www.smallbusiness.wa.gov.au

For a complete list of Australian Government agencies visit the Australian Government Directory at www.directory.gov.au.

Other resources

- **RACGP Standards for general practices (4th edition)**
www.racgp.org.au/standards
- **RACGP Computer and information security standards**
www.racgp.org.au/ehealth/ciss
- **RACGP Infection prevention and control standards (5th edition)**
www.racgp.org.au/your-practice/standards/infectioncontrol
- **Guidelines on privacy in the private health sector (Office of the Australian Information Commissioner)**
www.oaic.gov.au
- **The Health Records (Privacy and Access) Act 1997**
www.legislation.act.gov.au/a/1997-125/default.asp
- **Good medical practice: A code of conduct for doctors in Australia (Medical Board of Australia)**
www.medicalboard.gov.au

Appendix

Closing a medical practice checklist

This checklist is provided as a guide only and does not describe the complete list of closing activities and legislative requirements. It is important for practices to seek advice from professional legal and accountancy services, regulatory bodies and local authorities when closing a medical practice.

Closing a medical practice checklist		
Category	Tasks (tick)	Completed (date)
Patient health information	<input type="checkbox"/> Inform patients of closure <input type="checkbox"/> Transfer patient health records to new practices at patients' request <input type="checkbox"/> Respond to patients' requests for access to health information <input type="checkbox"/> Arrange secure and safe storage of retained records <input type="checkbox"/> Communicate clinically significant test results	
Materials and equipment	<input type="checkbox"/> Dispose of schedule drugs, poisons and controlled substances <input type="checkbox"/> Dispose of practice stationery, prescription paper/pads/medical certificates	
Computer and information security/IT	<input type="checkbox"/> Seek advice from computer security coordinator and technical service provider <input type="checkbox"/> Disks and backup media securely erased (overwritten) or physically destroyed	
Insurance	Contact insurance broker for advice on: <input type="checkbox"/> Medical indemnity <input type="checkbox"/> Practice indemnity <input type="checkbox"/> Public liability <input type="checkbox"/> Building and contents <input type="checkbox"/> WorkCover <input type="checkbox"/> Income and business <input type="checkbox"/> Retention and management of health records	
Employees	See professional advice on: <input type="checkbox"/> Payment of wages and leave <input type="checkbox"/> Entitlements for employees	
Taxation and business related registrations	Seek professional advice from: Australian Securities Investment Commission: <input type="checkbox"/> Australian Company Number (ACN) business name Australian Taxation Office: <input type="checkbox"/> Australian Business Number (ABN) <input type="checkbox"/> Goods and Services Tax (GST) <input type="checkbox"/> Pay As You Go (PAYG) withholding <input type="checkbox"/> Tax File Number (TFN) <input type="checkbox"/> Fuel tax credits Australian Domain Name Administrator: <input type="checkbox"/> Domain name State or territory revenue office: <input type="checkbox"/> Payroll tax	

Category	Tasks (tick)	Completed (date)
Business banking arrangements	<input type="checkbox"/> Business banking arrangements concluded and accounts closed <input type="checkbox"/> EFTPOS machines returned	
Practice accounts	<input type="checkbox"/> Finalise practice accounts	
Financial records	<input type="checkbox"/> Seek advice on retaining business records	
Regulatory bodies and local authorities	Advise regulatory bodies and local authorities: <input type="checkbox"/> Medical Board of Australia <input type="checkbox"/> Medicare Australia <input type="checkbox"/> State or territory health department <input type="checkbox"/> Local division of general practice (or Medicare Local) <input type="checkbox"/> Local hospitals <input type="checkbox"/> Neighbouring GPs and practices <input type="checkbox"/> Specialists	
Utilities	<input type="checkbox"/> Telephone and internet services <input type="checkbox"/> Essential services (water, electricity, gas connections) <input type="checkbox"/> Mail	
Subscriptions and memberships	<input type="checkbox"/> Industry journal <input type="checkbox"/> Magazines and newspapers <input type="checkbox"/> Membership	
Security	<input type="checkbox"/> Staff ID cards, keys and security items <input type="checkbox"/> Practice alarm system	
Other	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	



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