



## CATEGORY: CLINICAL GOVERNANCE ADVICE

# Guidelines for patient record management on the discontinuation of practice

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This statement has been developed and reviewed by the Women's Health Committee and approved by the RANZCOG Board and Council.

A list of Women's Health Committee Members can be found in [Appendix A](#).

Disclosure statements have been received from all members of this committee.

**Disclaimer** This information is intended to provide general advice to practitioners. This information should not be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of any patient. This document reflects emerging clinical and scientific advances as of the date issued and is subject to change. The document has been prepared having regard to general circumstances.

**First endorsed by RANZCOG: July 2001**

**Current: July 2020**

**Review due: July 2023**

**Background:** This statement was first developed by Women's Health Committee in July 2001 and most recently reviewed in July 2020.

**Funding:** This statement was developed by RANZCOG and there are no relevant financial declarations.

“Medical records” and patient health information are broad terms, encompassing a range of data including consultation notes, correspondence, referrals, investigations and results, photographs, video footage and appointment records. Whether paper-based or electronic, when a practice closes due to retirement or change in location, how the patient medical records are managed is subject to legal, regulatory and professional standards.

Different jurisdictions have specific legislation governing the management of medical records. Due to the complex and often overlapping nature of these legislative requirements, Fellows, members and diplomates of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) are advised to contact their medical defence organisation and/or the Australian Medical Association (AMA) or the New Zealand Medical Association (NZMA) as appropriate, for information regarding the recommended procedures to follow on the discontinuation of practice and management of patient records.

In addition to legislative requirements, relevant non-legislative regulation including the Medical Board of Australia’s *Code of Conduct*<sup>1</sup> (the Code) and the New Zealand Medical Council’s *Maintenance and retention of patient records*<sup>2</sup> provides specific guidance where the responsibilities of medical records management are placed personally on individual medical practitioners and duties of corporate medical practice entities. These standards advise careful health information management at all times, particularly at practice closure. According to the Code, when closing or relocating your practice, good medical practice involves

- Giving advance notice to patients where this is possible
- Facilitating arrangements for the continuing medical care of your patients, including the transfer or appropriate management of patient records. You must follow the law governing health records in your jurisdiction.<sup>1</sup>

The most stringent laws governing health information specific to practice closures are in the NSW<sup>3,4</sup>, ACT<sup>5</sup> and Victoria<sup>6</sup>, where a notice must be published in a daily newspaper and other practicable steps must be taken to inform patients of the practice closure, such as placing signage in the practice, sending letters to patients or advising patients when they attend a consultation.<sup>7</sup> Medical records can be transferred to either the patient’s nominated practitioner or directly to the patient. Alternatively, if the practitioner intends to retain and store the medical records, the patient should be advised as to how they can access their medical records in the future.

Any medical records which have not been passed onto the patient or another practitioner must be stored securely for the statutory period. This minimum period being for

- An adult – seven years from the date of last entry
- A child – until the age of 25 years.<sup>3-6</sup>

RANZCOG considers these stringent requirements to be appropriate in all Australian and New Zealand contexts.

From a medico-legal perspective, medical records should be kept until such time as there is little or no risk of litigation arising from the patient’s treatment. Unfortunately it is difficult to be definitive about the applicable limitation period as courts have the discretion to extend in certain circumstances. Where there has been a patient complaint, adverse outcome or the commencement of legal proceedings is likely, the medical records should be kept indefinitely.

Disposal of medical records must be done in a manner that preserves the privacy of the patient. The notice of intent to destroy medical records, methods of disposal and development of a register to identify the patient, period of time and date of disposal, vary amongst jurisdictions.

When a clinician decides to discontinue practice, the responsibilities regarding patient continuity of care and the requirements for medical record management, transfer, storage or disposal are significant. In the event that health records are not transferred to an identified practice, jurisdictional legislation is enforceable and must be complied with. Although clinicians are no longer subject to regulatory and professional standards upon relinquishing their medical registration, it is expected that, even upon retirement, the Medical Code of Conduct is still followed.

Any agreement made should be in a form that is legally binding. It should include the provisions for access by the relinquishing practitioner.

## References

1. Medical Board of Australia. Good medical practice: a code of conduct for doctors in Australia March 2014 [May 2017]. Available from: <http://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx>.
2. Medical Council of New Zealand. The maintenance and retention of patient records August 2008. Available from: <https://www.mcnz.org.nz/assets/News-and-Publications/Statements/Maintenance-and-retention-of-records.pdf>.
3. Health Records and Information Privacy Act (NSW). 2002.
4. Health Practitioner Regulation (New South Wales) Regulation 2010.
5. Health Records (Privacy and Access) Act (ACT). 1997.
6. Health Records Act (VIC). 2001.
7. Carter D. Records access and management on closure of a medical practice. MJA. 2015;203(2):109-10.

## Appendices

### Appendix A Women's Health Committee Membership

Name	Position on Committee
Professor Yee Leung	Chair and Board Member
Dr Gillian Gibson	Deputy Chair, Gynaecology
Dr Scott White	Deputy Chair, Obstetrics
Associate Professor Ian Pettigrew	Member and EAC Representative
Dr Kristy Milward	Member and Councillor
Dr Will Milford	Member and Councillor
Dr Frank O'Keeffe	Member and Councillor
Professor Steve Robson	Member
Professor Sue Walker	Member
Dr Roy Watson	Member and Councillor
Dr Susan Fleming	Member and Councillor
Dr Sue Belgrave	Member and Councillor
Dr Marilyn Clarke	ATSI Representative
Professor Kirsten Black	Member
Dr Thangeswaran Rudra	Member
Dr Nisha Khot	Member and SIMG Representative
Dr Judith Gardiner	Diplomate Representative
Dr Angela Brown	Midwifery Representative, Australia
Ms Adrienne Priday	Midwifery Representative, New Zealand
Ms Ann Jorgensen	Community Representative
Dr Rebecca Mackenzie-Proctor	Trainee Representative
Dr Leigh Duncan	He Hono Wāhine Representative
Prof Caroline De Costa	Co-opted member (ANZJOG member)
Dr Christine Sammartino	Observer

### Appendix B Overview of the development and review process for this statement

#### *i. Steps in developing and updating this statement*

This statement was originally developed in July 2001 and was most recently reviewed in July 2020. The Women's Health Committee carried out the following steps in reviewing this statement:

- Declarations of interest were sought from all members prior to reviewing this statement.
- At the July 2020 committee meeting, the statement was reviewed and updated.

#### *ii. Declaration of interest process and management*

Declaring interests is essential in order to prevent any potential conflict between the private interests of members, and their duties as part of the Women's Health Committee.

A declaration of interest form specific to guidelines and statements was developed by RANZCOG and approved by the RANZCOG Board in September 2012. The Women's Health Committee members were required to declare their relevant interests in writing on this form prior to participating in the review of this statement.

Members were required to update their information as soon as they become aware of any changes to their interests and there was also a standing agenda item at each meeting where declarations of interest were called for and recorded as part of the meeting minutes.

There were no significant real or perceived conflicts of interest that required management during the process of updating this statement.

#### Appendix B Full Disclaimer

This information is intended to provide general advice to practitioners, and should not be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of any patient.

This information has been prepared having regard to general circumstances. It is the responsibility of each practitioner to have regard to the particular circumstances of each case. Clinical management should be responsive to the needs of the individual patient and the particular circumstances of each case.

This information has been prepared having regard to the information available at the time of its preparation, and each practitioner should have regard to relevant information, research or material which may have been published or become available subsequently.

Whilst the College endeavours to ensure that information is accurate and current at the time of preparation, it takes no responsibility for matters arising from changed circumstances or information or material that may have become subsequently available.