

# Record Retention Recommendations for Dental Practices

*Legal notice/disclaimer: Please review this document for applicability to your specific practice. You are encouraged to consult with your personal local attorney to ensure compliance with all applicable state and local laws as specific legal requirements may vary from state to state. The information contained in this document is not intended as legal advice. The information herein is provided "AS IS" without any warranty of any kind.*

## Record Retention Policies are Critical for Your Dental Practice

It should be no surprise that your dental office needs to have formalized record retention policies and procedures that address (at a minimum):

- Length of time to maintain a particular record
- Where to store records on or offsite

A dental office produces many types of documents, such as medical/dental records, regulatory documentation (HIPAA, OSHA, DEA), real estate, legal, employment, and others. These should also be included in the record retention policy.

Specific advice regarding a length of time for the retention of each type of document is outside the scope of this writing as this can vary greatly and is based on many factors; however, we can explore some specific examples, exposing the nuances and complexity of this topic, and offer some insightful general advice.

## HIPAA, State Laws, and Record Retention

There is a subtle distinction between HIPAA medical/dental record retention requirements and HIPAA record retention. The HIPAA Privacy Rule does not explicitly stipulate retention rules for medical/dental records. Each state has its own set of laws governing the retention of these types of documents, and HIPAA does not preempt them. Therefore, under HIPAA, a "Covered Entity" is bound by their state law regarding how long they must maintain medical/dental records. Here are but two examples illustrating the differences in various state laws, thus the need to research the laws in the state(s) where you practice:

- Texas requires that a dental office maintain dental records for no less than five years. If a patient was younger than 18 years of age when last treated by their dentist, the dentist should maintain the records until the patient reaches age 21 or for five years from the date of last treatment, whichever is longer.
- Illinois mandates that all records be retained for ten years.

Since there are no delineated HIPAA retention requirements for medical/dental records, what then is the requirement for "HIPAA Records"? Documents subject to the HIPAA record retention rule are, for example:

- Notice of Privacy Practices
- Business Associate Agreements
- Authorization for the Disclosure of PHI

Additionally, [§ CFR §164.316\(b\)\(2\)\(i\) Policies and procedures and documentation requirements](#) states:

### **(2) Implementation specifications:**

**(i) Time limit (Required).** Retain the documentation required by [paragraph \(b\)\(1\)](#) of this section for six years from the date of its creation or the date when it last was in effect, whichever is later.

State laws may vary greatly, so check with your state's dental board, applicable agencies, and your counsel for specific record retention requirements in your jurisdiction. A suitable resource for specific state record retention laws can be found [here on the Health IT website](#).

## General Record Retention Guidelines and Recommendations

Having covered the HIPAA nuances and retention periods, let's turn to a more broad-based discussion. We recommend that when establishing a retention policy, include a review of all executed managed care agreements for their specific record retention requirements that you may be contractually obligated to. There are many types of documents generated in the administration and operation of a dental practice, including (but not limited to):

- Financial
- Insurance
- Legal
- Employment
- Real estate

- Payroll
- OSHA
- Controlled substances

Given the variety of the records and complexity of the retention requirements, we recommend that you seek the advice of the appropriate professional regarding how long, in what form, and where to retain such records.

Here are some general recommendations for the following basic record retention guidelines for your medical/dental records:

- **For adult patients** – retain dental/medical records for a minimum of 10 years after the last date of service.
- **For minor patients** – keep dental/medical records until minors reach the age of majority (usually age 18) plus the period of time specified by your state's statute of limitations, or a minimum of 10 years since the last date of service (whichever is longer.)
- **Store the medical/dental record indefinitely if** – a claim or lawsuit is actually filed, you receive notice that a claim might be filed in the future, or there was a significant or unexpected adverse outcome.

Notwithstanding seeking specific guidance from an appropriate professional, it is prudent to maintain the following records permanently (especially given the ability to digitize the same). Check with the appropriate professional for guidance with your situation, including:

- Accountant's annual report
- Capital asset records
- Cash receipt journal
- Canceled checks for significant transactions (like taxes or property)
- Contracts and leases (active)
- Deeds, mortgages, and bills of sale
- Depreciation schedules
- Financial statements
- General ledgers
- Income tax returns
- Insurance records and claims
- Retirement plan records
- Training manuals
- Important correspondence
- Legal agreements

## Final Thoughts on Record Retention

An insightful and well-informed record retention policy will effectuate proper continuity of care for your patients, help protect against any future professional liability claims, as well as mitigate the impact and provide protection against the licensing board and other administrative agency complaints. In addition, it will provide a safeguard for billing audits, IRS audits, and a myriad of law enforcement, administrative agency inquiries, and other contractual/legal issues an office may find itself verifying or defending.