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To: Whom It May Concern

From: South Carolina Board Of Medical Examiners

Re: Closing a Medical Practice in South Carolina

The attached information on requirements and suggestions for physicians in closing a medical practice has been obtained from the American Medical Association, the South Carolina Board of Medical Examiners and the South Carolina Medical Association. It is provided to you as guidance in closing a practice or practice site.

Addendum A: Excerpts from the American Medical Association's Code of Medical Ethics regarding closing a practice

Addendum B: Article from the American Medical Association regarding legal issues relating to ending the patient-physician relationship

Addendum C: Copy of the Physicians Patient Records Act

Total number of pages including the addendums is 17 pages

PROCEDURES FOR CLOSING A DOCTOR'S OFFICE

All records should be kept for the period of the statute of limitations.

Doctor should advertise in all papers, and notify all patients (no matter how long ago treated) by letter of closing. All returned mail should be kept in patients file. Notifying of patients should be done within three (3) months in advance; thirty (30) days at a minimum. This is done so patients cannot sue for abandonment.

All patients receiving records should sign a statement for receiving such and the statement should be kept in the patient's file.

Notifying Your Employees

In the best of all worlds, you will have found a buyer who wants your employees to stay on and everyone lives happily ever after. But there is always the possibility that you won't find a buyer or that if you do, the new physician will want to bring on his or her own staff.

In any case, you'll have to give your employees sufficient notice that you plan to retire; how much notice is the problem. You don't want an empty office by the time you are ready to leave. Still you owe them fair warning. Keep in mind that you'll need their help and cooperation in closing out or transferring your operation.

To make sure that you aren't left alone the last weeks to cover the telephones and fill out insurance forms, it is a good idea to give at least one employee an incentive to stay on for a designated amount of time after you actually stop seeing patients to finish the final closing details. There are a number of loose ends to be tied together before you can consider yourself retired, a list of which is found at the end of this section.

Don't be surprised if some of your employees are not overjoyed about your decision to retire. They may feel betrayed and rejected by you, particularly if there are no immediate job prospects for them.

More than one physician has been sued by a loyal employee who decided to see the wages board about all that overtime she put in over the years and for which she never received payment.

You can help allay their fears by letting them know that you will do all you can to find them new jobs. When you write to your colleagues to notify them of your plans to leave practice, send along the resumes of your staff. Let pharmaceutical and supply sales persons know that you are planning to leave, and that you have some good people looking for new jobs. Sales people are generally well informed about openings in the area and can get the word around about your staff.

Notifying Your Patients

The next step is notifying your patients. To avoid charges of abandonment, you'll need to send a letter to "active" patients. Active isn't always easy to define and in the end it is your decision. At a minimum, you should notify all patients seen within the past two years. Certainly patients who have chronic or complicated conditions must be contacted so you can help them arrange for their future treatment. For your high-risk patients, send a certified letter to them advising of your retirement.

For those of you in group practice, a letter may not be necessary if there will be continuing care of your patients by your colleagues in the partnership or corporation. Check with your medical society and get their opinion on how the situation is handled in your area. Your patients have the option of changing physicians and it is your obligation to notify them of your planned departure.

The basic form and content of notification letter to your patients is included at the end of this section. Modify it to meet your needs and to make it personal. Do, however, include the essential information found in the example. It is a good idea to send out the letter three months before you plan to stop practicing.

Collecting Accounts Receivable

Collection of long due bills is rarely easy and never pleasant. You have little recourse. You can't for example, refuse to transfer the record of a slow-paying patient, nor can you include in the record any information about the patient's bill-paying habits. Still, there are some tried and true techniques developed by the AMA's Practice Management Department to help you collect what is yours.

At the end of this section are a number of aids to help you establish a system for collecting your overdue accounts, including a series of sample letters, guidelines for choosing a collection agency, telephone techniques and tips on how to deal with slow-paying insurance companies.

One way to avoid collection problems is to ask your patients to pay at the time of service. It will help you cut down on the cost of billing—which amounts to at least \$2 per bill these days—and when you get ready to close out, the books will be clear.

How to start? First, make sure your patients are well informed of your credit policies. Then, have your staff ask for payment at the end of the visit and for payment on any overdue account. If the patient cannot pay in full, have your office business manager take him or her aside and work out a mutually agreeable plan for the payment. Letters are your next resort and they should become progressively tougher as the bill's age mounts. Note the sample letters provided at the end of this section. Telephoning is the next step and, finally, turning the old accounts over to a collection agency.

If you are transferring your practice, you may be able to arrange with the new doctor to try to collect your outstanding accounts, giving him or her a percentage or fixed fee.

Reducing the Bloat of Record Retention

What do you with medical records when you retire? "One thing not to do with them is leave the problem of their disposition to your spouse," says Lynn Dowling, former program director for the Department of Practice Management. Whether you close or sell your practice, you will want to start making arrangements for your medical records at least three months before you leave. The following offers advise on reducing the bloat of record retention after retirement.

How Long Should I Keep Medical Records?

There are no hard and fast rules, says William Smith, AMA legal counsel. "Where there is no legal requirement, which is the case in most states," he says, "records should be kept for the period of the statute of limitations for professional liability (the length of time in which such a suit can be filed). That time period varies from state to state, but is usually under ten years. Contact your local or state medical society to be sure what the laws are where you practice.

Note, too, that the statute of limitations does not begin running for children until they reach the age of majority-usually 18. In many states the statute of limitations is two years from the date of discovery. If your specialty is pediatrics or obstetrics, or you have otherwise treated children, you will need to count on retaining some records possibly a minimum of thirty years.

You may want to retain some records for a "reasonable amount of time" beyond the statute, Smith says. "Records should be available in the event that patients want or need them," he points out. "Sure, you might have only four or five patients in a couple of thousand who ever actually contact you for the record, but it may make a dramatic difference to that person if the record is available."

Women whose mothers took DES during their pregnancy have been grateful to physicians who retained records containing the information.

How Do I Decide Which Records to Keep?

Unless you have unlimited storage space, you'll have to set some guidelines for which records to keep and which to purge. Generally, you can toss records of patients you saw only once for a routine checkup or procedure and of patients with uncomplicated problems whom you haven't seen in a number of years.

Deceased patients' records can be destroyed a few years after their death. Once the estate is closed and any statute of limitations for wrongful death has run, no suits for professional liability can be brought, Smith says.

You'll want to hang onto records of active patients—and there's the rub. How do you define active? Where is the cutoff in terms of the date of the last visit or the complexity of the case? Once again, the judgment call is yours to make.

Even if you are part of a group practice or partnership that will retain your patients' records after you retire, you may want to purge inactive records before you leave. They'll be taking valuable space from your colleagues.

In What Form Should I Transfer a Medical Record?

Keep in mind that you own the original hard copy of the record. You should hold onto it. If your patient requests that you forward her file to a new doctor, you have two options: (1) you can either photocopy the entire contents and let the new physician decide what to retain or (2) you can make a summary of the record. Smith notes that the summary is preferable if you have made notes in short hand or, as is so often the case among physicians, if our handwriting is illegible.

What if a Patient Owes on His Account? Am I obliged to transfer his Record if he requests it?

You can't refuse to forward a record because a patient owes you money. Nor should such information be in the medical record. If it is you can be in violation of state or federal consumer laws.

Is It Okay to Give a Copy of The Record to The Patient?

A number of states have passed laws granting patients access to their medical records. Note, however, that you should provide a copy, not the original.

A case in point for retaining your hard copy is the experience of a Maryland physician we'll call Dr. Purge. When he retired he decided to dispose of his records by giving them to his patients. A sign went up in the waiting room: "Pick up your medical chart after your last visit." And away the patients went with their entire files tucked under their arms.

All was well until about a year after Dr Purge had moved to Florida. One day the state medical society received a frantic call from his lawyer. It seems Dr. Purge was being sued by a former patient.

"What is the charge?" asked the medical society's legal counsel.
"We don't know," replied the lawyer. "We don't have the record."

Fortunately for Dr. Purge, the plaintiff's attorney was willing to share the document. And to Dr. Purge's amazement he found that the patient after reading the record had decided the doctor had been withholding information about his condition. How had he reached that conclusion? All the entries were in blue or black ink, save one, which was in red. The red ink must mean something, the patient had decided. Alas, it meant only that Dr Purge had picked up a red pen that day to make chart notes.

The moral of the story is, don't hand over original records to patients. Instead, dictate or summarize or photocopy the record if the patient insists on having it with him.

What Are The Options for Storing Medical Records?

If you are closing your practice you face the decision of where to store your records. You have several options:

- 1) Contact your medical society. Some have storage centers or can direct you to others in the community.
- 2) Do you have room in your basement, attic or garage? And do you intend to stay in that location? Are these places dry and safe?
- 3) Check out storage companies in your area and what they charge if you must retrieve a record.

What About Microfilm?

Microfilming records may or may not be the answer to your storage problems. The initial cost can be high, depending on the size and number of charts. The major cost is labor—to prepare the record for filming. You may want to select only certain material for filming, which will require review of each record. Then there is the removing of staples, paper clips and putting the papers in the proper sequence.

What Can I do With X-ray Film?

According to Smith, if you retain the report on the x-ray the information is probably sufficient. If, for any reason, you think the x-ray might be needed later, keep it. You may be able to turn in the x-rays for their silver value. Call your medical society to find out who in your area might be interested in the films for their silver content.

How Do I Destroy Records?

You need to find a way in which they will not fall into the hands of someone outside who might use them. If you have a refuse service pick up the records, be sure they will be burned. Cut or tear them in half before disposing.

Agencies to Notify

Whether a physician retires, dies or simply changes address or practice status, certain agencies must be notified as soon as possible. Some notifications are required by law while others are just good public relations and make good sense.

The State Board of Medical Examiners want to know where their physician-licensees are living. The State Board should be advised of any change in residence or practice location.

The Drug Enforcement Administration must be notified when a physician retires, dies or changes the location of the practice. They will give instructions as to the disposition of any narcotics and/or drugs, as well as your certificate of registration, order forms, records, etc. In

addition, you may need to contact your state agency, such as the **State Commissioner of Narcotics and Dangerous Drugs**.

Professional Associations such as the American Medical Association, your specialty societies, county and state medical societies should be notified as well. Note that the AMA maintains the national registry of all physicians. The address is 535 N. Dearborn, Chicago, IL 60610. Addresses for most state county and specialty societies can be obtained by writing the AMA.

The Major Insurance Carriers should be advised of your change in status and address due to the long lag time between filing of claims and final payment. Be sure to notify:

- Medicare**
- State Medicaid Program**
- Local Blue Shield Plan**
- Other Major Commercial Carriers**

All addresses should be available from your state Insurance Commissioners Office. **The Social Security Administration Office** should be another stop to make if you are approaching your 65th birthday. Apply for your benefits as well as Medicare coverage. Be sure to get a complete run-down of what Medicare covers (you probably know what it doesn't cover, from experience) so you can evaluate supplemental coverage needed.

CLOSING CHECKLIST 1 (ADVANCE PLANNING)

Steps to Take

Recommended Time Frame

Lease

At the beginning of next lease term

Make arrangements for a retirement "escape clause" to be written into your lease. Most landlords will agree to this with a six-month notice. If you cannot negotiate an escape clause, be sure you have the right to sublease your space.

Accounts Receivable

Two years before closing (as soon as possible)

Consider asking for payment at the time of service for small office charges. Begin aging your accounts receivable, if you do not do so currently. Develop a polished mail and telephone collection program. Tighten up procedures for insurance filing. Be sure you have a tickler file established to follow-up slow claims.

Employees

Approximately three months before closing (perhaps a bit longer depending on employees circumstances and your town's job market).

Notify employees of your plans. Assist them in finding employment if possible. Arrange for key person(s) to remain as long as you'll need them. Line up potential temporaries in the event people leave before you close. Be square with staff regarding overtime pay, un-used sick leave and vacation. Review your policy manual. Discuss amount vesting employees may have in pension plans and how funds are to be transferred.

Patient Records

Approximately three months before closing (longer, based on local circumstances)

Identify patients that are active and draft a notice to them of your plans. Mail along with an authorization to release records. Start processing transfers. Know your state regulations regarding patient access to records, retention requirements for storage of remaining records, or microfilming. Draft a notice for the newspapers.

Equipment

Three months before closing

Explore sources available for sale and/or disposition of office equipment and furniture. Have equipment appraised, place ads in journals if you wish to sell. Consider donation if appraisals are low or you don't wish to bother trying to sell.

Sample Letter for Physicians Discontinuing Practice

Dear Mr. Mrs. Ms. _____

Please be advised that because of _____ I am discontinuing the practice of medicine on _____, _____. I shall not be able to attend you professionally after that date.

I suggest that you arrange to place yourself under the care of another physician. If you are not acquainted with another physician, I suggest that you contact the _____ Medical Society.

I shall make my records of your case available to the physician you designate. Since the records of your case are confidential, I shall require your written authorization to make them available to another physician. For this reason, I am including at the end of this letter an authorization form. Please complete the form and return it to me.

I am sorry that I cannot continue as your physician. I extend to you my best wishes for your future health and happiness.

Yours very truly,

_____ M.D.

Sample form for authorization to transfer records

Date: _____

To: _____, M.D.

I hereby authorize or make available to _____, M.D., _____
(name) (address)

all the records and reports relating to my case.

Signed _____

FROM THE AMA'S CODE OF MEDICAL ETHICS

an unpaid bill for medical services. Physicians may charge a reasonable fee for copying medical records. (IV)

Issued prior to April 1977.

Updated June 1994.

N.Y. Surr. 1968 Patients of a deceased physician filed an action seeking to obtain or copy records maintained by the decedent during his lifetime regarding them. The executor had refused to deliver the records by reason of a provision in the decedent's will directing that his "office records" be destroyed. Quoting Opinions and Reports of the Judicial Council, Sec. 9 Paras. 3, 4, 5, 6, and 7 (1966) [now Opinions 7.01, 7.02, 7.03, and 7.05], the court ruled that, while patient records are the property of the physician, it would be against public policy to permit their destruction. As a result, the court ordered the executor to make the records available to the patients' succeeding physicians at their request. *In re Culbertson's Will*, 57 Misc. 2d 391, 292 N.Y.S.2d 806, 808-10.

S.C. Att'y Gen. 1978 Citing Opinions 5.61, 5.62, and 5.63 (1977) [now Opinions 7.01, 7.02, and 7.03], state attorney general found that patient medical records are the property of the physician or hospital which compiled them and that patients have no ownership rights in them. Further, the opinion concludes that patients have a right to information contained in their records and the right to have records sent to another physician. Patients do not, however, have the right to unlimited direct access to their medical records. *South Carolina Att'y Gen. Op.*, 1978 S.C. AG LEXIS 806.

7.03

Records of Physicians Upon Retirement or Departure from a Group. A patient's records may be necessary to the patient in the future not only for medical care but also for employment, insurance, litigation, or other reasons. When a physician retires or dies, patients should be notified and urged to find a new physician and should be informed that upon authorization, records will be sent to the new physician. Records which may be of value to a patient and which are not forwarded to a new physician should be retained, either by the treating physician, another physician, or such other person lawfully permitted to act as a custodian of the records.

The patients of a physician who leaves a group practice should be notified that the physician is leaving the group. Patients of the physician should also be notified of the physician's new address and offered the opportunity to have their medical records forwarded to the departing physician at his or her new practice. It is unethical to withhold such information upon request of a patient. If the responsibility for notifying patients falls to the departing physician rather than to the group, the group should not interfere with the discharge of these duties by withholding patient lists or other necessary information. (IV)

Issued prior to April 1977.

Updated June 1994 and June 1996.

N.Y. Surr. 1968 Patients of a deceased physician filed an action seeking to obtain or copy records maintained by the decedent during his lifetime regarding them. The executor had refused to deliver the records by reason of a provision in the decedent's will directing that his "office records" be destroyed. Quoting Opinions and Reports of the Judicial Council, Sec. 9 Paras. 3, 4, 5, 6, and 7 (1966) [now Opinions 7.01, 7.02, 7.03, and 7.05], the court ruled that, while patient records are the property of the physician, it would be against public policy to permit their destruction. As a result, the court ordered the executor to make the records available

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7.04

Sale of a Medical Practice. A physician or the estate of a deceased physician may sell to another physician the elements which comprise his or her practice, such as furniture, fixtures, equipment, office leasehold, and goodwill. In the sale of a medical practice, the purchaser is buying not only furniture and fixtures, but also goodwill, i.e., the opportunity to take over the patients of the seller.

The transfer of records of patients is subject, however, to the following:

- (1) All active patients should be notified that the physician (or the estate) is transferring the practice to another physician who will retain custody of their records and that at their written request, within a reasonable time as specified in the notice, the records or copies will be sent to any other physician of their choice. Rather than destroy the records of a deceased physician, it is better that they be transferred to a practicing physician who will retain them subject to requests from patients that they be sent to another physician.
- (2) A reasonable charge may be made for the cost of duplicating records. (IV)

Issued July 1983.

N.Y. Surr. 1977 In a discovery proceeding, respondent-psychiatrist, who had treated some patients of deceased psychiatrist subsequent to his death, allegedly misappropriated decedent's patient records. Estate petitioned court for return of records and damages for injury to value of decedent's practice. Respondent sought dismissal of claim arguing that estate could not sell patient records. The court rejected respondent's request. In so ruling, the court noted that under Principle 9 (1957) [now Principle IV and Opinion 5.05] prohibiting physicians from revealing patient confidences, various guidelines had been issued regarding sale of a medical practice [now Opinion 7.04]. Whether respondent's actions had interfered with the estate's efforts to dispose of decedent's practice in keeping with these guidelines presented the court with factual issues for later resolution. *Estate of Finkle*, 90 Misc. 2d 550, 395 N.Y.S.2d 343, 346.

7.05

Retention of Medical Records. Physicians have an obligation to retain patient records which may reasonably be of value to a patient. The following guidelines are offered to assist physicians in meeting their ethical and legal obligations:

- (1) Medical considerations are the primary basis for deciding how long to retain medical records. For example, operative notes and chemotherapy records should always be part of the patient's chart. In deciding whether to keep certain parts of the record, an appropriate criterion is whether a physician would want the information if he or she were seeing the patient for the first time.
- (2) If a particular record no longer needs to be kept for medical reasons, the physician should check state laws to see if there is a requirement that records be



Legal Issues For Physicians

Legal Issues For Physicians

▪ Business and Management Issues

▪ Compliance Issues

▪ Patient - Physician Relationship Issues

Ending the Patient-Physician Relationship

Once a patient-physician relationship is begun, a physician generally is under both an ethical and legal obligation to provide services as long as the patient needs them. There may be times, however, when you may no longer be able to provide care. It may be that the patient is noncompliant, unreasonably demanding, threatening to you and/or your staff, or otherwise contributing to a breakdown in the patient-physician relationship. Or, it may be necessary to end the relationship simply due to relocation, retirement, or unanticipated termination by a managed care plan and/or employer.

Regardless of the situation, to avoid a claim of "patient abandonment," a physician must follow appropriate steps to terminate the patient-physician relationship. Abandonment is defined as the termination of a professional relationship between physician and patient at an unreasonable time and without giving the patient the chance to find an equally qualified replacement. To prove abandonment, the patient must show more than a simple termination of a patient-physician relationship. The plaintiff must prove that the physician ended the relationship at a critical stage of the patient's treatment without good reason or sufficient notice to allow the patient to find another physician, and the patient was injured as a result. Usually, expert evidence is required to establish whether termination in fact happened at a critical stage of treatment.

A physician who does not terminate the patient-physician relationship properly may also run afoul of ethical requirements. According to the AMA's Council on Ethical and Judicial Affairs, a physician may not discontinue treatment of a patient as long as further treatment is medically indicated, without giving the patient reasonable notice and sufficient opportunity to make alternative arrangements for care. Further, the patient's failure to pay a bill does not end the relationship, as the relationship is based on a fiduciary, rather than a financial, responsibility. According to the AMA's Code of Medical Ethics, Opinion 8.115, physicians have the option of terminating the patient-physician relationship, but they must give sufficient notice of withdrawal to the relatives, or responsible friends and guardians to allow another physician to be secured.

Appropriate steps to terminate the patient-physician relationship typically include:

1. Giving the patient written notice, preferably by certified mail, return receipt requested;
2. Providing the patient with some explanation for terminating the relationship (though this is

3. Agreeing to continue to provide treatment and access to services for a reasonable period of time, such as 30 days, to allow a patient to secure care from another physician (a physician may want to extend the period for emergency services);
4. Providing resources and/or recommendations to help a patient locate another physician of like specialty; and
5. Offering to transfer records to a newly-designated physician upon signed patient authorization to do so.

Following this protocol may be easier in some situations than others. For example, if a physician has signed a covenant-not-to-compete, chances are the employer will not hand over the patient list upon notice of departure. In instances such as these, you (in consultation with your attorney) may want to provide a model patient termination letter to the party withholding your patients' addresses, and request that the addresses and letter be merged for distribution to your patients. Ideally, you should not be in a contractual arrangement that makes contacting your patients difficult. However, if you find yourself in this situation, work with an attorney to ensure that appropriate steps are taken.

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PHYSICIANS' PATIENT RECORDS ACT

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§ 44-115-10. Short title.

§ 44-115-20. Physician is owner of certain patient records.

§ 44-115-30. Patient's right to receive copy of medical record or have it transferred to another physician; written authorization required.

§ 44-115-40. Physician not to release records without express written consent.

§ 44-115-50. Physician may rely on representations of insurance carrier or administrator as to patient authorization to release records; immunity from liability and disciplinary action.

§ 44-115-60. Physician's release of summary or portion in lieu of full record.

§ 44-115-70. Records not to be withheld because of unpaid medical bills.

§ 44-115-80. Fees physician may charge for search and duplication of records.

§ 44-115-90. Fees for providing medical information other than copying existing documents.

§ 44-115-100. Sections 44-115-80 and 44-115-90 not applicable to requests for information made in relation to health insurance claims.

§ 44-115-110. Payment for services related to medical records a just debt; payment in advance may be required.

§ 44-115-120. Length of time records must be kept; records pertaining to minors.

§ 44-115-130. Sale of medical records by physician restricted; notice of intent to sell.

§ 44-115-140. Immunity from civil, criminal, and disciplinary liability for compliance with request to release information.

§ 44-115-150. Other provisions pertaining to medical records or actions involving medical negligence not invalidated by this chapter.

PHYSICIANS' PATIENT RECORDS ACT

§ 44-115-10. Short title.

This chapter may be cited as the Physicians' Patient Records Act.

§ 44-115-20. Physician is owner of certain patient records.

The physician is the owner of medical records in his possession that were made in treating a patient and of records transferred to him concerning prior treatment of the patient.

§ 44-115-30. Patient's right to receive copy of medical record or have it transferred to another physician; written authorization required.

A patient or his legal representative has a right to receive a copy of his medical record, or have the record transferred to another physician, upon request, when accompanied by a written authorization from the patient or his representative to release the record.

§ 44-115-40. Physician not to release records without express written consent.

Except as otherwise provided by law, a physician shall not honor a request for the release of copies of medical records without the receipt of express written consent of the patient or person authorized by law to act on behalf of the patient.

§ 44-115-50. Physician may rely on representations of insurance carrier or administrator as to patient authorization to release records; immunity from liability and disciplinary action.

A physician may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient's claim depends for release of the medical record is on file with the carrier as an authorization to release medical information under this chapter. A physician who in good faith releases medical information for claims processing relying on the representations of the claims administrator that an authorization for release of the information is on file is immune from any civil or criminal liability alleged to be caused by the physician's compliance with the request to release the information. The physician is not subject to disciplinary action for an alleged violation of law or regulation due to the compliance with the request to release information.

§ 44-115-60. Physician's release of summary or portion in lieu of full record.

Except as otherwise provided by law, a physician may refuse to release a copy of the entire medical record and may furnish instead a summary or portion of the record when he has a reasonable belief that release of the information contained in the entire record would cause harm to the patient's emotional or physical well-being, the emotional or physical well-being of another person who has given information about the patient to the physician, or where release of the information is otherwise prohibited by law. An unreasonable refusal to release the entire medical record constitutes unprofessional conduct and subjects the physician to disciplinary action of the South Carolina State Board of Medical Examiners. However, notwithstanding the provisions of this section, a physician may not refuse to release the entire record or a portion of the record if the information is requested by a licensed attorney representing the patient, when the request is accompanied by a written authorization signed by the patient, the patient's legal guardian, or the patient's personal representative, for any reason, a licensed attorney representing the patient, or by an insurance company with reference to an application for life or health insurance or the payment and adjudication of claims relating to life and health insurance or if the information is requested with reference to the payment or adjudication of personal injury claims.

§ 44-115-70. Records not to be withheld because of unpaid medical bills.

Medical records may not be withheld because of an unpaid bill for medical services.

§ 44-115-80. Fees physician may charge for search and duplication of records.

A physician, or other owner of medical records as provided for in Section 44-115-130, may charge a fee for the search and duplication of a medical record, but the fee may not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages, and a clerical fee for searching and handling not to exceed fifteen dollars per request plus actual postage and applicable sales tax. A physician, health care provider, or other owner of medical records must provide a patient's medical records at no charge when the patient is referred by the physician, health care provider, or an employee, agent, or contractor of the owner of the record to another physician or health care provider for continuation of treatment for a specific condition or conditions. The physician may charge a patient or the patient's representative no more than the actual cost of reproduction of an X-ray. Actual cost means the cost of materials and supplies used to duplicate the X-ray and the labor and overhead costs associated with the duplication.

§ 44-115-90. Fees for providing medical information other than copying existing documents.

When a request for medical information involves more than making copies of existing documents, a physician may charge reasonable fees, exclusive of those fees charged for copying the medical record, for providing this service.

§ 44-115-100. Sections 44-115-80 and 44-115-90 not applicable to requests for information made in

relation to health insurance claims.

The provisions of Sections 44-115-80 and 44-115-90 do not apply to requests for medical information necessary to process a health insurance claim made by a patient or on behalf of the patient by a health insurance carrier or health insurance administrator for services rendered by the physician from whom the information is requested.

§ 44-115-110. Payment for services related to medical records a just debt; payment in advance may be required.

Payment for all services related to medical record requests is a just debt, due and payable at the time service is rendered. A physician may require payment in advance for a copy of the record.

§ 44-115-120. Length of time records must be kept; records pertaining to minors.

Physicians shall retain their records for at least ten years for adult patients and at least thirteen years for minors. These minimum recordkeeping periods begin to run from the last date of treatment. After these minimum recordkeeping periods, the records may be destroyed.

§ 44-115-130. Sale of medical records by physician restricted; notice of intent to sell.

A physician may not sell medical records to someone other than a physician or osteopath licensed by the South Carolina State Board of Medical Examiners or a hospital licensed by the South Carolina Department of Health and Environmental Control. Exceptions to this prohibition may be granted and approved by the South Carolina State Board of Medical Examiners.

Before a physician may sell medical records, he must cause to be published a public notice of his intention to sell the records in a newspaper of general circulation in the area of his practice at least three times in the ninety days preceding the sale. The notice shall advise patients that they may retrieve their records if they prefer that their records not be included in the sale.

§ 44-115-140. Immunity from civil, criminal, and disciplinary liability for compliance with request to release information.

A physician who in good faith releases medical records to a party pursuant to a written authorization from the patient or the patient's representative is immune from civil or criminal liability alleged to be caused by the physician's compliance with the request to release the information. The physician is not subject to disciplinary action for an alleged violation of law due to compliance with the request to release information.

§ 44-115-150. Other provisions pertaining to medical records or actions involving medical negligence not invalidated by this chapter.

This chapter does not invalidate any other provision of law concerning medical records, the alteration of medical records, any interest a patient has in the information contained within the medical record, or any civil action brought in the state or federal courts alleging medical negligence; further, this chapter does not invalidate the authority of a court to issue a subpoena or of a licensing or disciplinary board of this State to obtain these records as provided by law.