

## RETENTION OF MEDICAL RECORDS

### CALIFORNIA STATUTORY RETENTION PERIODS:

**Medi-Cal.** Physicians must retain the records of Medi-Cal patients for three (3) years after the date that the last service was rendered under the Medi-Cal program. (Welfare and Institutions Code Section 14124.1)

**EMS Fund.** Physicians must retain the records of patients for whom reimbursement was received from the Emergency Medical Services Fund for three (3) years after the date that the last service reimbursed under this program was rendered. (Health & Safety Code Section 1797.98e)

**Controlled Substances.** Every physician who prescribes, dispenses or administers a controlled substance classified in Schedule II must make and keep a record of that transaction for at least three (3) years. (Health & Safety Code Sections 11190 and 11191)

**Knox-Keene Act.** Under the Knox-Keene Act, all records, books, and papers of a plan and of any provider must be open to inspection during normal business hours by the Commissioner of Corporations. This requirement pertains to medical records as well. Such records must be retained by the provider for at least two (2) years, and this obligation is not terminated upon a termination of the agreement. (28 California Code of Regulations Section 1300.67.8)

**OSHA Rules.** Special requirements apply to certain records of employees exposed to toxic substances or harmful physical agents. Specifically, the Occupational Safety and Health Standards Board's General Industrial Safety Orders require that the medical record of each employee must be maintained for at least the duration of the employment plus thirty (30) years. (California Code of Regulations Section 3204(d))

**Worker's Compensation.** QMEs must retain all medical-legal reports for five (5) years from the date of the employee's evaluation. (8 California Code of Regulations Section 39.5)

### Minimum Retention Period for Doctors of Podiatric Medicine

The Board of Podiatric Medicine recommends that at a minimum all medical records be kept in accordance with the Statute of Limitations set forth in Business and Professions Code Section 2230.5. (a) Except as provided in subdivision (b), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed

within three (3) years after the board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary occurs, whichever occurs first. (b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitation provided for by subdivision (a).

### **Medical Malpractice Statute of Limitations:**

The statute of limitations in California generally requires that an adult's action for medical malpractice be brought within "three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury," whichever is shorter. For patients under the age of eighteen, a malpractice action must be brought within three years of the date of the alleged wrongful act, except that patients under the age of six have at least until their eighth birthday.

### **Patient Access to Health Records:**

The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patient's condition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

See California Health and Safety Code Sections 123100 - 12349.5.