

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 10 MANAGEMENT OF MEDICAL RECORDS

16.12.10.1 ISSUING AGENCY: New Mexico Board of Nursing.
[16.12.10.1 NMAC - N, 02-17-06]

16.12.10.2 SCOPE: This rule governs the use management of medical records that are created and maintained as part of the practice of a certified nurse practitioner and clinical nurse specialist.
[16.12.10.2 NMAC - N, 02-17-06]

16.12.10.3 STATUTORY AUTHORITY: Section 61-3-1 *et seq.*, authorized the board of nursing to regulate the practice of nursing in the state.
[16.12.10.3 NMAC - N, 02-17-06]

16.12.10.4 DURATION: Permanent
[16.12.10.4 NMAC - N, 02-17-06]

16.12.10.5 EFFECTIVE DATE: February 17, 2006, unless a later date is cited at the end of a section.
[16.12.10.5 NMAC - N, 02-17-06]

16.12.10.6 OBJECTIVE: To ensure that certified nurse practitioners/clinical nurse specialist provide copies of medical records to patients; notify their patients of closing, selling, relocating or leaving a practice and have a system in place for retention, maintenance and destruction of medical records.
[16.12.10.6 NMAC - N, 02-17-06]

16.12.10.7 DEFINITIONS: [Reserved]
[16.12.10.7 NMAC - N, 02-17-06]

16.12.10.8 RELEASE OF MEDICAL RECORDS: Certified nurse practitioners/clinical nurse specialists must provide complete copies of medical records to a patient or to another practitioner in a timely manner when legally requested to do so by the patient or by a legally designated representative of the patient.

- A.** Medical records may not be withheld because an account is overdue or a bill is owed.
- B.** A reasonable charge may be made for the cost of duplicating and mailing medical records. A reasonable charge is \$1.00 per page for the first 25 pages, and \$0.10 per page thereafter. Patients may be charged the cost of reproduction for records formats other than paper, such as x-rays. Practitioners charging for the cost of reproduction of medical records should give consideration to the ethical and professional duties owed to other practitioners and their patients.

[16.12.10.8 NMAC - N, 02-17-06]

16.12.10.9 CLOSING, SELLING, RELOCATING OR LEAVING A PRACTICE: Due care should be taken when closing or departing from a practice to ensure a smooth transition from the current practitioner to the new treating practitioner. This should occur with a minimum of disruption in the continuity and quality of medical care being provided to the patient.

- A.** Active patients and patients seen within the previous three years should be notified 90 days before closing, selling, relocating or leaving a practice.
- B.** Patients should be notified within 90 days after the death of their practitioner.
- C.** Notification should be through an individual letter at the patient's last known address, and a notice in newspaper in local practice area (may be several times over a period of time). Notification should also be sent to the Board.
- D.** Notification should include:
 - (1) responsible entity/agent name of contact to obtain records or request transfer of records, Telephone number and mailing address;
 - (2) how the records can be obtained or transferred;
 - (3) how long the records will be maintained before they are destroyed;
 - (4) cost of recovering records/transferring records; and

(5) whenever possible notification is the responsibility of the transferring or retiring practitioner.

E. A practitioner should not withhold patient lists or other information from a departing practitioner that is necessary for notification of patients.

F. Patients of a practitioner who leaves a group practice should be notified the practitioner is leaving, notified of the practitioner new address and offered the opportunity to have their medical records transferred to the departing practitioner at his/her new practice.

G. When a practice is sold, all active patients should be notified that the practitioner is transferring the practice to another practitioner of entity who will retain custody of their records and that at their written request the records (or copies) will be sent to another practitioner or entity of their choice.

H. Failure to notify patients of closing, selling, relocating or leaving a practice may be a violation of the nursing practice act and disciplinary action can occur (16.12.1.9 NMAC).
[16.12.10.9 NMAC - N, 02-17-06]

16.12.10.10 RETENTION, MAINTENANCE AND DESTRUCTION OF MEDICAL RECORDS

A. Improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records constitutes a violation of 61.3.28 A (6).

B. Destruction of medical records must be such that confidentiality is maintained. Records should be shredded or incinerated (where permitted).

C. A log should be kept of all charts destroyed, including the patient's name and date of record destruction.

[16.12.10.10 NMAC - N, 02-17-06]

HISTORY OF 16.12.10 NMAC: [RESERVED]