

Social Workers and Record Retention Requirements

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Introduction

Social workers should keep records to provide better care to their clients, to meet ethical and legal requirements, and for legal defense purposes, if needed. Many social workers lack information about how long they are required to maintain client files. This question often arises when a social worker is retiring, closing a practice, or relocating, or in the event that a social worker dies without specific provision for the disposition of existing records. This Legal Issue of the Month provides information about the various state laws pertaining to record retention. As with most legal questions, a complete answer may require an analysis of several sources of law or review with an attorney.

Background

The *NASW Code of Ethics* provides that social workers should comply with state law requirements as to the length of time to retain client records. The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) addresses how long health care providers are required to maintain administrative records of compliance with the HIPAA regulations (six years), but it does not address how long social workers should retain clinical records. Therefore, the issue of how long to retain clients' files is an issue where state law is the primary guide.

One of the difficulties in providing clear answers to social workers on any state law issue, is the lack of uniformity among the states. Thus, social workers in each state will have to confirm the requirements of their state. To assist social workers in this task, a state-by-state list of applicable laws has been prepared along with a list of state statutes of limitations. These resources are discussed below.

Applicable Sources of Law

As of October 2010, 28 statesⁱⁱ had record retention provisions that specifically referenced or included social workers. In some instances the record retention requirements apply to health care providers generally and social workers are among the list of included professions (e.g. Connecticut, Maryland). In the State of Washington, where there is a licensing board that includes multiple mental health professions, the record retention provisions are applicable to "counselors," including social workers. In other states, the record retention provisions are unique to social workers. For instance, in Colorado, very specific requirements are included in the State Board of Social Workers' regulations. In another state, Hawai'i, social workers' records are expressly

excluded from the state medical records law. In other states, such as Kentucky, hospital record keeping requirements specifically include social work records; however, the status of social work records in other practice settings is not addressed. In some states the record retention requirements are included as part of the standards defining unprofessional conduct (e.g. New York, Utah).

For the first group of states (see Chart A, below), those that reference social workers and record retention, these laws are found among social work licensing statutes or regulations, medical records statutes, and hospital record keeping laws.

In the remaining states social work record retention is not addressed directly (see Chart B, below). In those states social workers will need to make a reasonable and informed decision about how long to retain clinical records with an understanding that there may not be a clear legal standard. One guideline to follow may be the state medical records provisions, which are available in some form in every state and are referenced in the charts below. Although social work is not equivalent with medical practice, enough similarities exist to make a useful comparison.

Another guideline social workers may wish to consider is the effect of statutes of limitation. A statute of limitation specifies the period of time that a plaintiff has to bring a lawsuit such as a malpractice action; therefore, social workers should retain their records for the length of the statute of limitations. In addition, the statute of limitations may not begin to run until the plaintiff learns of, or reasonably should have learned of, the injury; therefore, a social worker should keep records for the period of the statute of limitations plus an additional period. Again, social workers will need to make a reasonable and informed judgment realizing that there is not a precise standard. Information about state-specific statutes of limitation is provided in the attached charts.

Most states have different statutes of limitation for different types of lawsuits and for when a plaintiff/former client is a minor or incompetent. The statute of limitations for medical malpractice claims may be a useful guide; however, the application of medical malpractice laws to claims against social workers should not be presumed without confirmation. The statute of limitation for lawsuits based on breach of contract may be another useful guide for social workers to consider. In the event of a threatened legal action, interested social workers should consult an attorney to determine which statute of limitations governs their situation.

The minimum period of medical record retention provided in any state law is three years, and many states have requirements of ten years. Social workers who provide services to children should be aware that record retention requirements often last until several years after the child reaches the age of majority. In some states the total requirement may last as long as 28 years for clients who were minors or incompetent at the time of treatment (Mississippi).

NASW Resources

Attached to this Legal Issue of the Month article is a pair of charts that provides a state-by-state list of the applicable laws for clinical record retention, as well as the statutes of limitations in each state for medical malpractice claims and lawsuits based on breach of contract. Two separate tables are provided: one for states with laws that specifically reference social workers, and another for the states that do not reference social work records, but provide medical record retention requirements.

Also worth noting, NASW's Legal Defense Fund publishes a series of monographs on legal topics for social workers, the Law Note Series. The LDF Law Note, *Social Workers and Clinical Notes*, addresses the various definitions and uses for clinical notes and records according to court decisions and state and federal statutes and regulations.

Conclusions

A majority of states now provide specific requirements for social work record retention. In the absence of specific social work laws, determining how long to maintain social work records may involve an awareness of clinical practice requirements, parallel laws for related professions, and the statute of limitations for lawsuits that may be filed against social workers as a result of their professional activities. Social workers should utilize available resources to make a reasonable and informed decision about retaining records, and consult with professional peers, legal counsel, or their professional liability carrier when necessary. Social workers involved in litigation should be aware that their records and notes may be considered evidence and subject to additional legal protection.

References

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National Association of Social Workers. (2008). *NASW code of ethics*. Washington, DC: Author. [Online]. Available at <http://www.socialworkers.org/pubs/code/default.asp>.

Resources

Houston-Vega, S. & Nuehring, E. (1997). *Prudent practice*. National Association of Social Workers: Washington, DC. Available to order at <http://www.naswpress.org/publications/clinical/prudent-practice.html>.

National Association of Social Workers. *Retiring or closing a private practice?* Brochure. Available to order at <http://www.naswpress.org/publications/brochures/retiring.html>.

Record Retention Requirements in State Laws^a

CHART A: State Laws Specifying Social Workers' Record Retention Requirements

State	State Law Provision	Relevant Text	Statute of limitation provision	Statutes of limitation
Alabama	Ala. Admin. Code r. 850-X-9-.01(2)(c)(3)	850-X-9-.01 Standards Of Professional Conduct & Ethics....(2) The Social Worker's Ethical Responsibility to Clients....(c) Confidentiality and Privacy - The social worker shall respect the privacy of clients and hold in confidence all information obtained in the course of professional service except as required by law....3. The social worker shall keep timely and accurate records detailing problems, treatment plans, scope of services, and dates and content of client contacts for a minimum of three years after the date on which services were last provided to the client.	Ala. Code § 6-5-482(a)	<i>Statute applies to actions based in contract and for medical malpractice.</i> Contracts: 2-4 years Medical malpractice 2-4 years
Arkansas	Ark. Admin. Code 120.00.1-X d	§120.00.1X: The records shall be maintained by the licensee or agency employing the licensee at least for a period of seven years after the last date of service, or for the time period required by federal or state law, if longer.	Ark. Code Ann. § 16-56-105 Ark. Code Ann. § 16-114-203	Contracts: 3 years Medical malpractice: 2 years (or for minor age 9 or younger, until the minor's 11th birthday; or where discovery of injury does not occur before minor's 11th birthday, until 2 years after discovery or minor's 19th birthday)
Colorado	Colo. State Board of Social Workers Rules, Rule 18 Records required to be kept and record retention (<i>available at http://www.dora.state.co.us/mental-health/swrules.pdf</i>).	Rule 18 Records required to be kept and record retention (CRS 12-43-203(3)) (a) <u>General</u> . Except as provided in subsection(g) of this rule, every social worker shall create and shall maintain records on each of her/his social work/psychotherapy clients. Every social	Colo. Rev. Stat. Ann. § 12-43-203(3) Colo. Rev. Stat. Ann. § 13-80-102(1)	Contracts: 2 years Medical malpractice: 2 years

^a Comments that are not excerpts from the relevant state statutes or regulations, but were made by the author, are indicated by italicized type throughout this document.

		<p>worker shall retain a “full record,” as defined in subsection (b) of this rule, on each social work/psychotherapy client for a period of five (5) years, commencing on the termination of social work/psychotherapy services or on the date of last contact with the client, whichever is later. Every social worker shall retain at least a “summary record,” as defined in subsection (c) of the rule, on each social work/psychotherapy client for five (5) years, commencing on the expiration of the period for retention of the full record. The total client record retention period is 10 years.</p> <p>(b) Full Record. Every social worker shall create and shall maintain a full record for each social work/psychotherapy client. Every social worker shall retain a full record on each social work/psychotherapy client for a period of five (5) years. A full record shall contain at least the following information:</p> <ol style="list-style-type: none"> (1) Identifying data, to include social worker’s name, client’s name, client’s address and date of birth for minors. (2) Reason(s) for the social work/psychotherapy services. (3) Date of each social work/psychotherapy contact with client, to include the date on which social work/psychotherapy services began, and the date of last contact with client. (4) Information on each referral made to and each consultation with another social worker or other health care provider. This information shall include the date of the referral or consultation, the name of the person to whom the client was referred, the name of the person with whom consultation was sought, the outcome (if known) of the referral, and the outcome (if known) of the consultation. (5) Name of any test administered, each date on which the test was 		
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		<p>administered, and the name(s) of the person(s) administering the test.</p> <p>(6) Information on each report made pursuant to a statutory duty (<u>e.g.</u>, report of suspected child abuse, report to Colorado State Board of Social Work Examiners. This information shall include the date of the report, the name and address of the person to whom the report was made, and the substance of the report. [sic]</p> <p>(7) Fee information</p> <p>(c) <u>Summary Record</u>. Every social worker shall retain at least a summary record for each social work/psychotherapy client for a period of five (5) years, commencing on the expiration of the period for retention of the full record. A social worker may elect to retain the full record for the entire 10-year retention period. A summary record must contain at least the following information:</p> <p>(1) Identifying data, to include social worker's name, client's name, client's address, and date of birth for minors....</p>		
Connecticut	<p>Conn. Agencies Regs. § 19a-14-41</p> <p>Conn. Agencies Regs. § 19a-14-42</p>	<p>Sec. 19a-14-41. Professions involved. [Social workers] shall maintain appropriate medical records of the assessment, diagnosis, and course of treatment provided each patient, and such medical records shall be kept for the period prescribed...</p> <p>Sec. 19a-14-42. Retention schedule. Unless specified otherwise herein, all parts of a medical record shall be retained for a period of seven (7) years from the last date of treatment, or, upon the death of the patient, for three (3) years.</p>	<p>Conn. Gen. Stat. Ann. § 52-576</p> <p>Conn. Gen. Stat. Ann. § 52-584</p>	<p>Contracts: 6 years, or within 3 years of becoming legally capable of filing suit</p> <p>Medical malpractice: 2-3 years</p>
Florida	Rule 64B4-9.001, F.A.C.	<p>64B4-9.001. Requirements for Client Records. (1) A licensed clinical social worker...shall maintain responsibility for all records relating to his clients...(2) A full record of services shall be maintained for 7 years after the date of the last contact with the client or user. (3) When a clinical social worker...terminates practice or relocates and is no longer available to clients or users...The records shall be retained for 2 years after the termination or</p>	<p>Fla. Stat. Ann. § 95.11(3)</p> <p>Fla. Stat. Ann. § 95.11(4)</p>	<p>Contracts: 4 years</p> <p>Medical malpractice: 2-7 years</p>

		relocation of the practice. (4) If the termination was due to the death of a licensee, records shall be maintained at least two years after the licensee's death....		
Hawaii	Haw. Rev. Stat. Ann. § 622-58	<i>Although Haw. Rev. Stat. § 622-58 requires medical records to be retained for 7 years, the statute expressly excludes social workers' case records from the medical record retention requirement.</i> § 622-58 Retention of medical records. (a)...The health care provider shall retain medical records in the original or reproduced form for a minimum of seven years after the last data entry except in the case of minors whose records shall be retained during the period of minority plus seven years after the minor reaches the age of majority. (b) Records exempt from the retention requirement are:...social workers' case records...	Haw. Rev. Stat. Ann. § 657-1 Haw. Rev. Stat. Ann. § 657-7.3	Contracts: 6 years Medical malpractice: 2-6 years (or for a minor under the age of 10, within 6 years or by the minor's 10 th birthday)
Iowa	Iowa Admin. Code r. 645-282.2(154C)	645-282.2(154C) Rules of conduct.... 282.2(5) Record keeping....c. A licensee who provides clinical services shall store records in accordance with state and federal statutes, rules, and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.	Iowa Code Ann. § 614.1(5) Iowa Code Ann. § 614.1(9)(a)	Contracts: 10 years Medical malpractice: 2-6 years
Kansas	Kan. Admin. Regs. 102-2-7	102-2-7: Must retain records for at least two years after date of termination of the professional relationship	Kan. Stat. Ann. § 60-512 Kan. Stat. Ann. § 60-513	Contracts: 3 years Medical malpractice: 2 years
Kentucky	902 Ky. Admin. Regs. 20:016 § 3(11)(a)	902 KAR 20:016. Hospitals; operations and services. Section 3. Administration and Operation... (11) Medical and other patient records. (a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital or receiving outpatient services....	Ky. Rev. Stat. Ann. § 413.090 Ky. Rev. Stat. Ann. § 413.245	Contracts: 15 years Medical malpractice: 1 year

	902 Ky. Admin. Regs. 20.18 § 4(2)(f)(12)	<p>2. Medical records shall be retained for at least five (5) years from date of discharge, or, in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longer.</p> <p><i>Various subsections of chapter 20 reference social workers, tending to show that the retention of medical records requirements apply equally to social workers in a hospital setting. See, e.g., 902 KAR 20:018.</i></p> <p>Operation and services; renal dialysis facilities...(f) Content. A complete medical record shall be prepared for each patient admitted to the facility, to include at least the following information:...12. Social evaluation and plan developed by the social worker...</p>		
Louisiana	46 La. Admin. Code Ann. pt XXV, § 111(G)(1)	<p>§ 111. Practice Requirements....G.</p> <p>Records. 1. A social worker shall make and maintain records, written or electronic, of services provided to a client. At a minimum, the records shall contain documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of the plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the social worker or agency employing the social worker at least for a period of six years after the last date of service, or for the time period required by federal or state law, if longer. In regards to a minor client, records must be kept six years after client reaches majority.</p>	LSA-RS 9:5628(A)	<p><i>Statute applies to actions based in contract and for medical malpractice.</i></p> <p>Contracts: 1 year</p> <p>Medical malpractice: 1 year</p>
Maryland	<p>Md. Code Ann., Health-Gen. § 4-403(a)(1)</p> <p>Md. Code Ann., Health-Gen. § 4-403(b), (c)</p>	<p>§ 4-403. Maintenance and destruction</p> <p>(a)(1) In this section, a "health care provider" means:...</p> <p>(xix) A social worker;</p> <p>(b) Except for a minor patient, unless a patient is notified, a health care provider may not destroy a medical record or laboratory or X-ray report about a patient for 5 years after the record or report is made.</p>	<p>Md. Code Ann., Cts. & Jud. Proc. § 5-101</p> <p>Md. Code Ann., Cts. & Jud. Proc. § 5-109</p>	<p>Contracts: 3 years</p> <p>Medical malpractice: 3-5 years, if minor statutes begins to run at age of 18.</p>

		(c) In the case of a minor patient, a medical record or laboratory or X-ray report about a minor patient may not be destroyed until the patient attains the age of majority plus 3 years or for 5 years after the record or report is made, whichever is later...		
Massachusetts	Mass. Regs. Code tit. 258, § 22.02(2) Mass. Gen. Laws ch. 4, § 7	22.02 – Establishment and Retention of Clinical Treatment Records (2) Length of Record Retention Except as otherwise provided by law, a client's clinical treatment record shall be maintained for a period of not less than seven (7) years from the date of the last client encounter or professional consultation with the client. In the event that the client is a minor, the client's clinical treatment record shall be maintained for at least seven (7) years from the date of the last client encounter or professional consultation with the client, or at least three (3) years after the client attains the age of majority , as defined in M.G.L. c. 4, s. 7, whichever is longer. 7. Definitions of statutory terms; statutory construction. In construing statutes the following words shall have the meanings herein given, unless a contrary intention clearly appears:...Forty-ninth, "Full age" shall mean eighteen years of age or older....	Mass. Gen. Laws Ann. ch. 260, § 4	<i>Statute applies to actions based in contract and for medical malpractice.</i> Contracts: 3-7 years Medical malpractice: 3-7 years
Minnesota	Minn. Admin. Code § 8740.0320(Subp. 5)	8740.0320 PRACTICE REQUIREMENTS. Subp. 5. Records. A social worker shall make and maintain current and accurate records, appropriate to the circumstances, of all services provided to a client. At a minimum, the records shall contain documentation of: A. the assessment or diagnosis and of the plan; B. progress with the plan and of any revisions of the assessment, diagnosis, or plan; C. any fees charged and related billing information; D. copies of all client authorizations for release of information; and E. other information necessary to provide appropriate services.	Minn. Stat. Ann. § 541.05(Subd. 1) Minn. Stat. Ann. § 541.07	Contracts: 6 years Medical malpractice: 2 years

		These records shall be maintained by the social worker or by the social worker's agency for at least seven years after the last date of service , or for the time period required by law.		
Missouri	20 Mo. Code of State Regulations 2263-3.040	20 CSR 2263-3.040 Client Relationships. ... (12) For the purpose of these rules, the licensed social worker and temporary permit holder shall assure that professional records are maintained for at least five (5) years after the date of service is terminated.	Mo. Ann. Stat. § 516.120 Mo. Ann. Stat. § 516.105	Contracts: 5 years Medical malpractice: 2 years (or for a minor under 18, until minor's 20 th birthday)
Nevada	NAC 641B.200	§641B.200: licensee shall maintain each client's records for at least 10 years unless otherwise specifically authorized by law.	Nev. Rev. Stat. Ann. § 11.190 Nev. Rev. Stat. Ann. § 41A.097	Contracts: 6 years Medical malpractice: 2-4 years (for injury or death occurring before October 1, 2002); 1-3 years (for injury or death occurring after October 1, 2002)
New Hampshire	N.H. Code Admin. R. Ann. MHP 502.01(k)	MHP 502.01 Responsibilities of Licensees. ... (k) A [social worker] shall maintain complete and accurate clinical and business records pertaining to each patient seen for a minimum of 7 years following the last activity on the account.	N.H. Rev. Stat. Ann. § 507-C:4	<i>Statute applies to actions based in contract and medical malpractice.</i> Contracts: 2 years Medical malpractice: 2 years (or for a minor under age 8, until minor's 10 th birthday)
New Jersey	N.J. Admin. Code tit. 13, § 44G-12.1	13:44G-12.1 Preparation and maintenance of client records.... (e) The social worker shall retain the permanent client record for at least seven years from the date of the last entry, unless otherwise provided by law, or in the case of a minor, until age 25. i. This requirement shall not apply to a social worker in an agency setting where it is not the policy of the agency to allow the social worker to maintain control over the retention of client records.	N.J. Stat. Ann. § 2A:14-1 N.J. Stat. Ann. § 2A:14-2.2	Contracts: 6 years Medical malpractice: 2 years
New Mexico	N.M. Admin Code 16.63.16	(4) Social workers shall store records following the termination of services to ensure reasonable future access. These records shall be maintained . . . for a period of seven years after the last date of service, or by the time period required by federal or state law if longer.	N.M. Stat. Ann. § 37-1-3 N.M. Stat. Ann. § 41-5-13	Contracts: 6 years Medical malpractice: 3 years
New York	Rules of the Board of Regents, § 29.2(a)(3) (available at	§ 29.2 General provisions for health professions.	N.Y. C.P.L.R. 213 N.Y. C.P.L.R. 214-a	Contracts: 6 years Medical malpractice: 2 ½ years

	http://www.op.nysed.gov/title8/part29.htm)	a. Unprofessional conduct shall also include, in the professions of:...social work... 3. failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of 21 years...		
North Carolina	N.C.G.S.A. §90B-6(i) (available at http://www.ncswboard.org/)	N.C.G.S.A. § 90B-6. Functions and duties of the Board. (i): A social worker licensed by the Board or an agency employing a social worker licensed by the Board shall maintain records for a minimum of three years from the date the social worker terminates services to the client and the client services record is closed. A social worker certified or licensed by the Board shall cooperate fully and in a timely manner with the Board and its designated representatives in an inquiry or investigation of the records conducted by or on behalf of the Board.	N.C. Gen. Stat. § 1-52 N.C. Gen. Stat. § 1-15	Contracts: 3 years Medical malpractice: 3-10 years
Ohio	Ohio Admin Code §4757-5-09	4757-09 Standards for Ethical Practice and Professional Conduct: Record Keeping Records held by the licensee shall be kept for seven years . Records held or owned by government agencies or educational institutions are not subject to this requirement. Licensees shall keep all records in a secure location and shall allow only authorized persons access to records.	Ohio Rev. Code Ann. § 2305.06 Ohio Rev. Code Ann. § 2305.11	Contracts: 15 years Medical malpractice: 1 year
Oregon	OAR 877-030-0100	(3) A licensee must retain a client record for seven years from the date of the last session with the client	Or. Rev. Stat. § 12.080 Or. Rev. Stat. § 12.110	Contracts: 6 years Medical malpractice: 2-5 years
Pennsylvania	49 Pa. Code §47.78	§47.78 (b): Records kept by the licensee shall be retained for at least five years from the date of the last entry.	42 Pa. C.S.A. §5525 42 Pa. C.S.A. §5524	Contracts: 4 years Medical malpractice: 2 years
Texas	22 TAC §781.409	Rule § 781.409. Client Records and Record Keeping: Keep client records for five years for adult clients, and five years beyond the age of 18	Tex. Civ. Prac. & Rem. Code § 74.251	Statute applies to actions based in contract and medical malpractice. Contracts: 2 years

		for minor clients		Medical malpractice: 2-10 years
Utah	Utah Admin. R. 156-60a	R156-60a-502. Unprofessional Conduct. Unprofessional conduct includes:...(20) failing to maintain client records including records of assessment, treatment, progress notes and billing information for a period of not less than ten years from the documented termination of services to the client...	UCA 1953 §78B-2-309 UCA 1953 §78B-3-404	Contracts: 6 years Medical malpractice: 2 years
Virginia	18 Va. Admin. Code § 140-20-150(10)	18 VAC 140-20-150. Professional conduct.... Maintain client records for a minimum of six years or as otherwise required by law from the date of termination of the therapeutic relationship. . .	Va. Code Ann. § 8.01-246 Va. Code Ann. § 8.01-243.1	Contracts: 5 years Medical malpractice: 2 years
Washington	Wash. Admin. Code § 246-810-035 Wash. Admin. Code § 246-810-010	246-810-035. Recordkeeping and retention. ... (1) The counselor providing professional services to a client or providing services billed to a third-party payor, shall document services...(4) All records must be kept for a period of five years following the last visit. 246-810-010. Definitions. ... (1) 'Counselor' means and includes any registered counselor or registered hypnotherapist, certified marriage and family therapist, certified mental health counselor, or certified social worker...	Wash. Rev. Code Ann. § 4.16.040 Wash. Rev. Code Ann. § 4.16.350	Contracts: 6 years Medical malpractice: 3 years (or for 1 year after the date of discovery, whichever is longer)
Wisconsin	Wis. Admin. Code § MPSW 20.02(18)	MPSW 20.02 Unprofessional conduct.... (18) Failing to maintain adequate records relating to services provided a client in the course of a professional relationship. A credential holder providing clinical services to a client shall maintain records documenting an assessment, a diagnosis, a treatment plan, progress notes, and a discharge summary. All clinical records shall be prepared in a timely fashion. Absent exceptional circumstances, clinical records shall be prepared not more than one week following client contact, and a discharge summary shall be prepared promptly following closure of the client's case. Clinical records shall be maintained for at least 7 years after the last service provided , unless otherwise provided by federal law.	Wis. Stat. Ann. § 893.43 Wis. Stat. Ann. § 893.55	Contracts: 6 years Medical malpractice: 3-5 years

CHART B: State Laws Regarding Medical Records Retention (Not Specific to Social Workers)

State	State Law Provision	Relevant Text	Statute of limitation provision	Statutes of limitation
Alaska	Alaska Stat. § 18.20.085	Sec. 18.20.085 Hospital records retention. ...a hospital shall retain and preserve records . . . for a period of seven years following the discharge of the patient. However, the records of a patient under 19 years of age shall be kept until at least two years after the patient has reached the age of 19 years or until seven years following the discharge of the patient...	Alaska Stat. § 09.10.053 Alaska Stat. § 09.10.070	Contracts: 3 years Medical malpractice: 2 years
Arizona	ARS §12-2297	§112-2297: health care provider shall retain the original or copies of a patient's medical records as follows: 1. If the patient is an adult, for at least six years after the last date the adult patient received medical or health care services from that provider. 2. If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received medical or health care services from that provider, whichever date occurs later.	Ariz. Rev. Stat. Ann. § 12-543 Ariz. Rev. Stat. Ann. § 12-542	Contracts: 3 years Medical malpractice: 2 years
California	Cal. Health & Safety Code § 123145(a)	§ 123145. Preservation of records by health services providers; damages actions for abandonment of records (a) Providers of health services...have an obligation...to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years , and in any case, not less than seven years.	Cal. Civ. Proc. Code § 337 Cal. Civ. Proc. Code § 340.5	Contracts: 4 years Medical malpractice: 3 years (or for a minor under age 6, within 3 years or until minor's 8 th birthday, whichever is longer)
Delaware	Del. Code Ann. tit. 24, § 1761	1761. Physician discontinuing business or leaving State; death of a physician; change of physician and transfer of patient records; notification of patients. ... (c) ...physician shall maintain said records for a period of 7 years from the last entry date in the patient's medical record...	Del. Code Ann. tit. 10, § 8106 18 Del. C. §6856	Contracts: 3 years Medical malpractice: 2-3 years (or for a minor under the age of 6, until the minor's 6 th birthday)
District of Columbia	D.C. Mun. Regs. Subt. 22-B DCMR §2030	§2030: Medical record of each patient shall be maintained for ten years following discharge of the patient, or in the case of minors, shall be kept for three years after the age of maturity.	D.C. Code Ann. § 12-301(7), (8)	<i>Statute applies to actions based in contract and for medical malpractice.</i> Contracts: 3 years Medical malpractice: 3 years
Georgia	Ga. Comp. R. & Regs. r. 290-9-7-.18 (available at http://www.ec.hcahealthcare.com/CPM/GAMED.pdf)	Complete medical records for adult patients must be retained for 5 years following discharge of the patient. Complete medical records for minors must be retained for 5 years past the age of majority (18).	Ga. Code Ann. § 9-3-24 Ga. Code Ann. § 9-3-71	Contracts: 6 years Medical malpractice: 2 years
Idaho	Idaho Code § 39-1394	39-1394 Patient care records -- Retention -- Authentication. (1) Retention...(b) Clinical laboratory test	Idaho Code § 5-216 Idaho Code § 5-219	Contracts: 5 years Medical malpractice: 2 years

		records and reports may be destroyed five (5) years after the date of the test recorded or reported therein...(c) X-ray films may be destroyed five (5) years after the date of exposure, or five (5) years after the patient reaches the age of majority...		
Illinois	210 Ill. Comp. Stat. Ann. 85/6.17	85/6.17. Protection of and confidential access to medical records and information... (c) Every hospital shall preserve its medical records in a format and for a duration established by hospital policy and for not less than 10 years...	735 ILCS 5/13-206 735 ILCS 5/13-212	Contracts: 10 years Medical malpractice: 2-4 years (or for a minor under age 18, within 8 years)
Indiana	Ind. Code Ann. § 16-39-7-1	16-39-7-1 Maintenance of health records by providers; violations... (b) A provider shall maintain the original health records or microfilms of the records for at least seven (7) years.	Ind. Code Ann. § 34-11-2-11 Ind. Code Ann. § 34-11-2-3	Contracts: 10 years Medical malpractice: 2 years
Maine	ME ADC 10-144 Ch. 112, Ch.XII, §XII.B	XII.B.1. Records shall be preserved, either on paper or by other electronic/optical means, for a period of seven (7) years . If the patient is a minor, the record must be retained for at least six (6) years past the age of majority.	Me. Rev. Stat. Ann. tit. 14, § 752 Me. Rev. Stat. Ann. tit. 24, 2902	Contracts: 6 years Medical malpractice: 3 years (or for a minor, within 6 years or within 3 years after reaching age of majority)
Michigan	Mich. Admin. Code r. 325.1028(5)	R 325.1028 Records. Rule 28. (1) The hospital shall require that accurate and complete medical records be kept on all patients admitted...(5) Medical records shall be preserved as original records, abstracts, microfilms or otherwise and shall be such as to afford a basis for a complete audit of professional information.	Mich. Comp. Laws Ann. § 600.5805(6) Mich. Comp. Laws Ann. § 600.5807(8)	Contracts: 6 years Medical malpractice: 2 years
Mississippi	Miss. Code Ann. § 41-9-69	§ 41-9-69. Preservation of records (1)...complete hospital records shall be retained for a period after discharge of the patient of at least (a) seven (7) years in cases of patients discharged at death, except as may be otherwise hereinafter provided; (b) ten (10) years in cases of adult patients of sound mind at the time of discharge, except as may be otherwise hereinafter provided; (c) for the period of minority or other known disability of the patient plus seven (7) additional years , but not to exceed twenty-eight (28) years, in cases of patients under disability of minority or otherwise; or (d) for the period of minority or other known disability of any survivors hereinafter mentioned plus seven (7) additional years, but not to exceed twenty-eight (28) years, in all cases where the patient was discharged at death, or is known by the hospital to have died within thirty (30) days after discharge, and the hospital knows or has reason to believe that such patient or former patient left one or more survivors under disability of minority or otherwise who are or are claimed to be entitled to damages for wrongful death of the patient under Section 11-7-13 , or laws amendatory thereof....	Miss. Code Ann. § 15-1-29 Miss. Code Ann. § 15-1-36	Contracts: 3 years Medical malpractice: 2-7 years
Montana	Mont. Admin.	37.106.402. Minimum Standards for a Hospital: Medical	Mont. Code Ann. §	Contracts: 8 years

	R. 37.106.402	Records. ... (1) A patient's entire medical record must be maintained...for not less than 10 years following the date of a patient's discharge or death, or, in the case of a patient who is a minor, for not less than 10 years following the date the patient either attains the age of majority or dies, if earlier.	27-2-202 Mont. Code Ann. § 27-2-205	Medical malpractice: 3-5 years
Nebraska	Neb. Admin. R & Regs. Tit. 175, Ch. 9, §006	9-006.07A5 Retention: The medical record of each patient must be maintained and preserved, in original, microfilm, electronic or other similar form, for a period of at least ten years following discharge or in the case of minors, the records must be kept until three years after the age of majority has been attained.	Neb. Rev. Stat. Ann. § 25-205 Neb. Rev. Stat. Ann. § 25-222	Contracts: 5 years Medical malpractice: 2-10 years
North Dakota	N.D. Admin. Code § 33-07-01.1-20	33-07-01.1-20. Medical records services. ...b. Records must be preserved in original or any other method of preservation, such as by microfilm, for a period of at least the tenth anniversary of the date on which the patient who is the subject of the record was last treated in the hospital. (1) If a patient was less than eighteen years of age at the time of last treatment, the hospital may authorize the disposal of medical records relating to the patient on or after the date of the patient's twenty-first birthday or on or after the tenth anniversary of the date on which the patient was last treated , whichever is later.	N.D. Cent. Code § 28-01-16 N.D. Cent. Code § 28-01-18	Contracts: 6 years Medical malpractice: 2-6 years
Oklahoma	Okla. Dept. of Health Reg. ch. 13, ¶ 13.13A	13.13A: Healthcare facilities must retain medical records for a minimum of 5 years beyond the date the patient was last seen or a minimum of 3 years beyond the date of the patient's death.	Okla. Stat. Ann. tit. 12, § 95 Okla. Stat. Ann. tit. 76, § 18	Contracts: 5 years Medical malpractice: 2 years
Rhode Island	R.I. Gen. Laws § 23-3-26	23-3-26. Persons required to keep records. ... (d) Records maintained under this section shall be retained for a period of not less than five (5) years and shall be made available for inspection by the state registrar of vital records or his or her representative upon demand.	R.I. Gen. Laws § 9-1-13 R.I. Gen. Laws § 9-1-14.1	Contracts: 10 years Medical malpractice: 3 years
South Carolina	S.C. Code of Regulations R. 61-16 Ch. 6	601.7 Storage and Microfilming: A....The records...shall not be disposed of under 10 years...1. Records of minors must be retained until after the expiration of the period of election following achievement of majority as prescribed by statute.	S.C. Code Ann. § 15-3-530 S.C. Code Ann. § 15-3-545	Contracts: 3 years Medical malpractice: 3-6 years
South Dakota	S.D. Admin. R. 44:04:09:08	44:04:09:08. Retention of medical or care records. A health care facility must retain medical or care records for a minimum of ten years from the actual visit date of service or resident care. The retention of the record for ten years is not affected by additional and future visit dates. Records of minors must be retained until the minor reaches the age of majority plus an additional two years , but no less than ten years from the actual visit date of service or resident care.	S.D. Codified Laws § 15-2-13 S.D. Codified Laws § 15-2-14.1	Contracts: 6 years Medical malpractice: 2 years
Tennessee	Tenn. Code Ann. § 68-11-	§ 68-11-305. Retention and preservation of records; destruction (a)(1) Unless specified otherwise by the	Tenn. Code Ann. § 29-26-116	Contracts: 6 years

	305	board, a hospital shall retain and preserve records which relate directly to the care and treatment of a patient for a period of ten (10) years following the discharge of the patient or such patient's death during such patient's period of treatment within the hospital. (2) However, in cases of patients under mental disability or minority, their complete hospital records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the patient, whichever is longer.	Tenn. Code Ann. § 28-3-109	Medical malpractice: 1-3 years
Vermont	Vt. Stat. Ann. tit. 18, § 1905(8)	§ 1905 License requirements. ... (8) Professional case records shall be compiled for all patients and signed by the attending physician. These records shall be kept on file for a minimum of ten years ...	Vt. Stat. Ann. tit. 12, § 511 Vt. Stat. Ann. tit. 12, § 521	Contracts: 6 years Medical malpractice: 3 years
West Virginia	W. Va. Code St. R. § 64-12-10.3.2	<i>Regulations for hospital licensure state that records must be kept for each patient admitted and retained in an easily accessible manner. There is no statement in the regulations concerning when health care records should no longer be maintained.</i> 10.3. Medical Records and Reports. ... 10.3.2. Accurate and complete medical records shall be kept for each patient admitted for care in the hospital and retained in an easily accessible manner. Whether or not an electronic system is used, the record system shall provide for authentication of record entries by the author and for record protection and security...	W. Va. Code Ann. § 55-2-6 W. Va. Code Ann. § 55-7B-4	Contracts: 5 years Medical malpractice: 2-10 years (or for minor under the age of 10, until minor's 12 th birthday)
Wyoming	WY Rules and Regulations HLTH HQ Ch. 12 s 23 Wyoming State Archives & Historical Dept., Records Retention Schedule	Section 23. Medical Records Records of public hospitals shall be preserved, either in the original form or on microfilm, for a period of time determined by the hospital administrator and the Archives, Records Management, and centralized Microfilm Division of the State of Wyoming Archives and Historical Department. Record Retention Schedule for Publicly Funded Hospitals is <i>available at:</i> http://wyoarchives.state.wy.us/Retention/PDF/Hospitals.pdf	Wyo. Stat. Ann. § 1-3-105 Wyo. Stat. Ann. § 1-3-107	Contracts: 10 years Medical malpractice: 2 years (or for a minor under age 6, by minor's 8 th birthday)

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ⁱ Original 2005 research provided by Alison Keller-Micheli.

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