

HOW LONG SHOULD I RETAIN MY PATIENTS' MEDICAL RECORDS IN VIRGINIA?

How long records must be kept is determined by the type of record and other specific legal requirements.

Under Virginia law, practitioners are required to maintain patient records for a minimum of six (6) years following the last time the physician encounters the patient. 18VAC85-20-26. There are, however, some exceptions to the six year retention requirement. In the case of a patient who is a minor, the physician is expected to maintain records, including records regarding immunizations, until the child reaches the age of 18 or becomes emancipated, or for six (6) years from the last patient encounter, whichever is later. 18VAC85-20-26(D)(1). Physicians do not have to retain patient records that have previously been transferred to another practitioner or healthcare provider or provided to a patient or his personal representative for six (6) years, but it is usually safest to maintain the original record even if the patient transfers to another provider. 18VAC85-20-26(D)(2). Physicians may be required by contractual obligation or federal law to maintain records for longer than six (6) years. 18VAC85-20-26(D)(3).

Type of Record	Suggested Retention
General Medical Office Records for an Adult	6 years after last encounter
General Medical Records of a Minor	Until the minor reaches the age of 18, but in no case less than 6 years after the last encounter

Medical records should be kept indefinitely for situations:

- with less than desirable outcomes;
- when patients are unhappy with results; and
- any time a patient threatens or files a lawsuit.

Note: Generally the statute of limitations for filing a medical malpractice action by an adult patient is two (2) years. However, when a foreign object has been left in a patient's body, the two-year statute of limitations period may be extended, and the patient has one year from the date the foreign object is discovered or reasonably should have been discovered to file a lawsuit, but in no event may the action be commenced more than ten (10) years from date the cause of action accrues. Va. Code § 8.01-243. Please also note that the statute of limitations for minors is two years from the date of the last act or omission giving rise to the cause of action, except if the minor is less than eight years old, in which case, the minor has until his tenth birthday to commence an action. Va. Code § 8.01-243.1.