ISSUES FOR THE RETIRING PHYSICIAN

Adapted from the Massachusetts Medical Society “Issues for a Retiring Physician” guide
The following information was adapted by the Medical Association of Georgia from a report that was originally prepared by the Massachusetts Medical Society as an educational resource for retiring physicians.

Retirement from medical practice involves several steps, including, but not limited to: notifying patients of the intention to retire, making decisions about insurance policies, selling or winding down the medical practice, and fulfilling record keeping responsibilities.

The following checklist will help members start to sort through some of the issues that a retiring physician may face. It provides references to a variety of resources that may be useful in connection with the retirement process. Note that the information provided is necessarily selective and lists only some of the issues involved in retiring from a medical practice.

Disclaimer: This information does not constitute legal advice. It is intended for use as a general reference guide only. A private attorney should be consulted about all legal matters.
1. **Notify the Georgia Composite Medical Board of your intent to become inactive.**

The Georgia Composite Medical Board (Board) does not require physicians to notify them when they retire or close a practice. The Board does require physicians who wish to become inactive to submit a form to request inactive status. The Rules promulgated by the Board also require retiring physicians to notify patients in order for them to retrieve their medical records. (See “Medical Record” discussion below).

**Resources**
- Georgia Composite Medical Board, 2 Peachtree St, N.W., 36th Floor
  Atlanta, GA 30303, Phone: (404) 656-3913, Fax: (404) 656-9723
  [http://medicalboard.georgia.gov/inactive-application](http://medicalboard.georgia.gov/inactive-application)
- Georgia Composite Medical Board Application for Inactive Status
  [http://medicalboard.georgia.gov/inactive-application](http://medicalboard.georgia.gov/inactive-application)
- Georgia Rules and Regulations: Unprofessional Conduct Defined (360-3-.02)

2. **Notify your patients of your plan to retire.**

Failure to provide continuity of care could result in an allegation of patient abandonment. This is a patient right and a legal and ethical duty. Therefore, you should notify your patients of your intent to retire so that they will have adequate time to find another physician. It is appropriate for you to refer them to another physician, their health plan, or a referral service. In addition to notifying your patients by mail, you may wish to place a notice in your local newspaper to inform your patients (and others) of your retirement.

**Resources**
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000
- AMA Medicolegal Forms with Legal Analysis: Documenting Issues in the Patient-Physician Relationship, Karla L. Kinderman, J.D., LL.M, 1999
- AMA Ethical Opinion 7.03 “Records of Physicians Upon Retirement or Departure From a Group”
- AMA Ethical Opinion 8.11 “Neglect of Patient”
- AMA Ethical Opinion 8.115 “Termination of the Physician-Patient Relationship”
- Sample Patient Letters (see Exhibit 1 below)
- Sample Authorization to Transfer Medical Records (see Exhibit 2 below)
3. Notify your employees of your plan to retire and review your obligations concerning vacation time, sick pay, insurance benefits, pension plans, and other benefits.

The time and manner of notifying employees of your intent to retire is an individual consideration that will vary from practice to practice and may depend upon the employment contracts that you have with your employees. Review existing employment contracts (or have them reviewed by an attorney) to ensure that you are meeting all of your contractual obligations, including notice requirements for terminating the contract. Be sure to make arrangements for adequate help until you can complete the process of winding down your practice.

4. Notify the U.S. Drug Enforcement Administration (DEA) about your intention to retire, and arrange for the disposal or transfer of controlled substances with this agency.

You must notify the DEA of your retirement and request that your DEA number be deleted from the DEA system. This notification can be made by sending a letter to the DEA or by making a “non-renewal due to retirement” notation on your DEA renewal form (if the renewal form is due around the time you intend to retire).

**Resources**
- U.S. Drug Enforcement Administration: Atlanta Field Division, 75 Spring St, SW, Room 800, Atlanta, GA 30303, Diversion Number: (404) 893-7165, Diversion Fax: (404) 893-7095

5. Arrange for the retention of medical and business records.

**Medical Records**

Georgia physicians are required to maintain a patient’s complete treatment records for at least 10 years from the date of the patient's last office visit. These requirements do not apply to a physician who has retired or sold his or her medical practice if…

- The physician has notified his or her patients of their retirement or the sale of their practice by mail, offering to provide the patient’s records to another provider of the patient’s choice and, if requested, to the patient.
- The physician has published a notice that contains the date of retirement or sale that offers to provide the patient’s records to another provider of the patient’s choice and, if requested, to the patient.
- The physician has posted a sign announcing their retirement or the sale of their practice. The sign must be posted 30 days prior to retirement or sale of the practice and must remain posted until the date of retirement or sale.
- The physician has placed both the notice and sign required by Rule 360-3-02(16)(c) and that they have advised their patients of their opportunity to transfer or receive their records.
Medical records document the care and treatment that you have given to your patients, and proof of these may be important in the event that there is a future malpractice action concerning such care. In the event there is a pending lawsuit or you have reason to believe that a malpractice claim may be filed against you, you should think about retaining the relevant medical records beyond the required minimum period of time. You may wish to consult legal counsel about this issue. In the event you transfer original medical records to another physician, you should have a written agreement to ensure that the other physician will permit you to have access to the medical records for a reasonable period of time and that they will maintain the medical records in accordance with all federal and state requirements.

**Business Records**

You are required to keep records pertaining to the business aspect of your practice after you retire. You may wish to consult an attorney to help you determine how long you should retain business records, including – but not limited to – payroll records, personnel files, accounts payable invoices and credits, contracts, shipping and billing records, earning records, and OSHA records. The HIPAA privacy regulations require you to retain HIPAA documentation (e.g., acknowledgment of receipt of privacy notice, requests for amendments, workforce training documentation) for a period of at least six years.

**Resources**

- Georgia Code: Health Records (O.C.G.A. 31-33-2)  
- Georgia Rules and Regulations: Unprofessional Conduct Defined (360-3-.02)  
- HIPAA Regulations (42 C.F.R. 164.530(j)(2))  
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000  
  AMA Medicolegal Forms with Legal Analysis: Documenting Issues in the Patient-Physician Relationship, Karla L. Kinderman, J.D., LL.M, 1999
- AMA Ethical Opinion 7.03 “Records of Physicians Upon Retirement or Departure From a Group”  
- AMA Ethical Opinion 7.04 “Sale of a Medical Practice”  
- AMA Ethical Opinion 7.05 “Retention of Medical Records”  
- Sample Authorization to Transfer Medical Records (see Exhibit 2 below)

6. **Contact your professional liability insurer to determine if you need to purchase a reporting endorsement or “tail” coverage.**
It is possible that after you retire you may be sued for malpractice arising from treatment rendered while you were still in practice. In the event you have claims made professional liability insurance coverage (as opposed to occurrence based coverage), you may need to purchase additional insurance to ensure that you and your practice will be covered in the event a medical malpractice claim is filed against you in the future. It is important to maintain adequate professional liability insurance coverage and comply with Georgia Composite Medical Board requirements concerning professional malpractice liability insurance. You should retain copies of your professional liability insurance policies, including those that have been canceled or have expired.

Several Georgia professional liability insurers have “tail insurance” available for retired physicians. For example, MagMutual developed the Extended Reporting Endorsement program for physicians who have completely retired, are over 50, and have been insured with them for a certain number of years. Ask your professional liability insurer whether similar programs are available for retired physicians. If you have discontinued your practice but maintain an active license to practice medicine (e.g. so that you may occasionally write prescriptions), you must maintain your professional liability insurance.

Resources
- MagMutual, 3525 Piedmont RD NE Bldg. 8-600, Atlanta, GA 30305, 404-842-5600
  http://www.magmutual.com

7. Notify your accountant.

Discuss the retirement process with your accountant and determine what steps need to be taken from an accounting perspective.

8. Notify the insurance company that issues your office insurance of your closing date.

You should not cancel the property damage and general liability insurance for your office until you have disposed of the physical assets of the office or the premises are vacated. You should consult with your insurance company or agent early on in the process.

9. Tighten your collection practices so when you retire you will not have to be concerned with follow-up on accounts and insurance claims.

This may require a conversation with your billing and collection agent.
10. Examine your office lease, and be sure you have a right to sublet (or have an “escape clause”) so you can vacate the premises when you retire or shortly thereafter.

In the event you have a right to sublet the premises (e.g., your lease permits you to sublet the premises, or you have obtained the landlord’s consent), you may not be automatically released from liability under your lease. You should examine your lease with respect to this issue, and, if necessary, try to obtain from the landlord a release from further liability for rent and damages. If you own an office condominium or building, you should consult with an attorney and/or financial consultant to plan an appropriate disposition of the premises.

11. Plan the sale of your medical practice.

If you practice in a partnership or corporation with other physicians, you may have a “buy and sell” agreement in place that provides for the buyout of a retiring partner/shareholder. If you do not have a “buy and sell” agreement in place, you will have to negotiate the purchase price for your interest in the practice. If you are in solo practice, you may wish to hire a broker to sell your practice, or sell your practice yourself through word of mouth, by advertising in trade journals or by contacting residency and fellowship training programs to locate potential buyers. Some physicians have found it advantageous to take on an associate for a year or two prior to retirement, with the intent that the associate will buy the practice upon retirement. You should consult with an accountant or other tax advisor concerning the often complex tax considerations that are involved in the disposition of a practice. The manner of sale, the method of sales price allocation to the assets of the practice, and various other factors can have significant tax ramifications.

**Resources**
- AMA Valuing, Selling, and Closing the Medical Practice: Softbound (2011)
  https://commerce.ama-assn.org/store/search/indexing/product.jsp?skuId=sku2480003&productId=prod2480004
- AMA Ethical Opinion 7.04 “Sale of a Medical Practice”
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000

12. Obtain final statements from suppliers.

Ensure that all final payments and credits have been made to and from any entity providing your office with ongoing supplies and services (e.g., software vendor, office supplies vendor, medical supplies vendor).

13. Notify utility companies of your closing date.

Ensure that all final payments and credits have been made.
14. Notify professional associations.

You should notify the Medical Association of Georgia, your county medical society, the American Medical Association, and any specialty boards and/or societies of which you are a member of your decision to retire. All MAG members who are classified as “retired members” shall be excused from full payment of Association dues and assessments and will only have to pay dues of $100 per year. You should contact the AMA and any specialty boards and/or societies of which you are a member to determine your financial responsibilities as a retired physician.

**Resources**
- American Medical Association, 515 N. State Street, Chicago, IL 60610, 312-464-5000
  American Medical Association Member Benefits and Services
- Medical Association of Georgia Constitution and Bylaws (Chapter 2, Section 2)

15. Contact the local Social Security office if you are approaching the age of 62.

Your local office should be able to provide you with information about Social Security benefits and Medicare.

**Resources**
- Social Security Administration, 1-800-772-1213
  [http://www.ssa.gov](http://www.ssa.gov)

16. Change your mailing address and cancel subscriptions.
This document was originally compiled by the Massachusetts Medical Society, Office of the General Counsel at and is available in its original version online at: 
http://www.massmed.org/retirement

It has been adapted by the Medical Association of Georgia and has been posted at …
Exhibit 1

Sample Patient Letters

Sample 1: If you are closing your practice (i.e., no other physician is taking over your practice), the following letter may be appropriate.

Dear Patient:

I am writing to let you know of my plan to retire on _________________.

It is important for you to make arrangements to continue to receive quality medical care. If you need assistance in finding another physician, I suggest that you contact your health plan and request a list of physicians in your plan’s network or search for a physician on the Medical Association of Georgia (MAG) “find a physician” site located at https://secure.mag.org/DirectorySearch.aspx.

Once you have a new physician, he/she will need copies of your medical record in order to care for you. Because I cannot release copies of your records unless I have your authorization to do so, I have enclosed an authorization form for you to sign. Please complete this form and send it to me as soon as you know who your new physician will be. If you wish to have a copy of your medical record transferred to a new physician, you may be charged a reasonable fee to cover the cost of duplication.

Thank you for your cooperation.

Best wishes to you in the future.

Yours truly,

___________________________
(Signature of MD)
Sample 2: If a physician is taking over your practice, the following letter may be appropriate.

Dear Patient:

This letter is to inform you that I will be retiring effective ______________.

Dr.____________ will be taking over my practice when I retire. Dr._______’s background is__________________________

_________________________________________________________________________

_______________________________________________________________________

Your medical records will continue to be on file at the office. If you decide to become a patient of Dr.____________________________, you will need to sign an authorization form the next time you’re in the office, and your medical record will be officially transferred to Dr. ____________________.

If you wish to find another physician, I suggest that you contact your health plan and request a list of physicians in your plan’s network or search for a physician on the Medical Association of Georgia (MAG) “find a physician” site located at https://secure.mag.org/DirectorySearch.aspx.

If you decide to be treated by a physician other than Dr.___________________, I will need your authorization before I can transfer copies of your records to the new physician you have selected. A reasonable charge will be made to cover costs of the transfer. Please complete the enclosed form and send it back to me as soon as possible.

Best wishes in the future.

Sincerely,

_______________________
(Signature of MD)
Exhibit 2

Sample Authorization to Transfer Medical Records

I hereby authorize Dr. ___________________ to make all of my medical records and reports
(retiring physician)

available to Dr. ___________________ located at ________________________________.
(new physician) (new physician’s address)

Patient Name (please print): ________________________________

Patient Signature: ________________________________

Date: __________________