

DEPARTMENT OF HEALTH AND HOSPITALS

LOUISIANA STATE BOARD  
OF MEDICAL EXAMINERS

LA. REV. STAT. §§37:1261-92  
**STATEMENT OF POSITION**

**MEDICAL RECORDS OF PHYSICIAN UPON  
DEPARTURE FROM A GROUP/PRACTICE**

January 2015

**SUMMARY.** It is the opinion of the Louisiana State Board of Medical Examiners (the “Board”) that patients of a physician who leaves a group practice should be notified that the physician is leaving the group. Patients should also be informed of the physician’s new contact information and offered the opportunity to have their medical records forwarded to the departing physician at his or her new practice location, with proper authorization. If the responsibility for notifying patients falls to the departing physician rather than the group, the group should not interfere with the discharge of these duties by withholding patient lists or other necessary information.

**STATEMENT OF POSITION.** From time-to-time the Board receives requests for advice and complaints concerning the ownership/access to medical records and continuity of patient care after a physician leaves a medical practice. In some instances the departing physician has taken the records; in others, he or she has been denied access or hampered in the ability to obtain the records or a list of patients that he or she has treated; and on some occasions patients are left to search out the physician’s new location as best they can, because notification of the physician’s departure was not provided and the former practice is unwilling or unable to provide any contact information.

The Board has addressed these issues in Statements of Position, Rules and various opinions over the years. For instance, in announcing its opinion that physician employment by a corporation other than a professional medical corporation is not *per se* unlawful under the Louisiana Medical Practice Act, the Board made clear that its views were predicated on arrangements that structured the physician’s employment in a manner that provided for access to patient records and patient freedom of choice upon termination of the relationship.<sup>1</sup>

In another Statement of Position the Board: expressed its views on the need to provide patient notification in anticipation of a physician’s retirement or relocation (in order to avoid a claim of patient abandonment); identified the obligations imposed by law to provide patients or their representatives with copies of their medical records;<sup>2</sup> pointed out the time prescribed by

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<sup>1</sup>Statement of Position, *Employment of Physician By Corporation Other Than A Professional Medical Corporation*, La. St. Bd. Med. Exam. (Sept. 1992), emphasis supplied. The Statement may be accessed at the Board’s website at *Statements of Position*, [www.lsbme.la.gov](http://www.lsbme.la.gov).

<sup>2</sup>La. Rev. Stat. §40:1299.96.

statute for record retention; and reminded physicians of the need for proper confidentiality, patient authorization and record destruction.<sup>3</sup>

In addition, the Board has adopted Rules identifying conduct that it considers to be unprofessional. The Rules address physician access to medical records after a physician has departed a practice or relocated or retired. Among other matters, the Rules provide that a physician shall:

- [M]ake arrangements for patient access to medical records of the physician after relocating or closing a medical practice, retiring, or being prohibited from practice by consent, decision or other order of the board; and
- [M]ake arrangements, or assist another physician practicing in the same group make arrangements, for access by a physician or patients to their medical records after the physician has left a medical practice, relocated to a new location, closed a practice, or retired.<sup>4</sup>

The AMA's Code of Medical Ethics, Opinion 7.03,<sup>5</sup> addresses how medical records should be handled when a physician departs from a group practice as follows:

The patients of a physician who leaves a group practice should be notified that the physician is leaving the group. Patients of the physician should also be informed of the physician's new address and offered the opportunity to have their medical records forwarded to the departing physician at his or her new practice location. It is unethical to withhold such information upon request of a patient. If the responsibility for notifying patients falls to the departing physician rather than the group, the group should not interfere with the discharge of these duties by withholding patient lists or other necessary information.

### **The AMA's Opinion is consistent with the Board's views on the issues.**

In short, failing to notify patients in advance of a physician's departure from a practice, withholding a departing physician's new contact information, refusing to provide a list of patients that a physician has treated or records with proper authorization to accommodate patient choice for continuity of care, or a departing physician's commandeering records from an established practice, are not in the best interest of patients or the physicians who provide their care.

Ownership of medical records and how patients and their physicians may access them following a physician's departure from a medical practice, and patient choice for continuity of care, are issues that should be addressed at the outset in an arrangement between a physician and a particular entity or group practice. Nevertheless, irrespective of whether or not such arrangements have been made, or how they are structured, in the Board's view deference must

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<sup>3</sup>Statement of Position, *Maintaining Medical Records When a Practice is Closed or has Moved*, La. St. Bd. Med. Exam. (Nov. 2008).

<sup>4</sup>LAC 46:XLV.7603A.10.c and 10.d.

<sup>5</sup>The full text of the AMA Opinion may be found at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics.page>

always be given to accommodate the patients' needs and interests.<sup>6</sup> Those who fail to act accordingly may, depending on the circumstances, be viewed by the Board to have engaged in conduct that is unprofessional and in violation of the Medical Practice Act and the Board's Rules.<sup>7</sup>

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<sup>6</sup>Louisiana law provides that 'Medical records of a patient maintained in a health care provider's office are the property and business records of the health care provider.' La. Rev. Stat. 40:1299.96(2)(a). A *health care provider* is as defined in La. Rev. Stat. §40:1299.41; *See* La. Rev. Stat. §40:1299.96B.1.

<sup>7</sup>La. Rev. Stat. §37:1285A(13), (30).