



## RECORD RETENTION AND DESTRUCTION FOR UTAH HEALTHCARE ENTITIES

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**Record Retention.** Ideally, healthcare providers should retain medical and other business records permanently; however, where that is not feasible, the proper retention period depends upon several factors, including the following in descending order of priority:

1. **Patient care.** The foremost consideration for any medical record retention policy is the need to provide proper patient care. For example, AMA standards state:

Medical conditions are the primary basis for deciding how long to retain medical records.... In deciding whether to keep certain parts of the record, an appropriate criterion is whether a physician would want the information if he or she were seeing the patient for the first time.

(AMA Council on Ethical and Judicial Affairs, Code of Medical Ethics, 7.05 Retention of Medical Records, 1998-99 ed.)

2. **Statutes and regulations.** For certain records, federal and state statutes and regulations establish mandatory record retention periods. For example, Medicare regulations generally require that hospitals maintain medical records for at least five years. (42 CFR §§ 482.24(b)(1) and 486.60(c)). Some of the more relevant statutes and regulations are identified in the chart below.
3. **Payor contracts.** Government payment programs, insurance companies, or other payors may require that records be retained for certain periods as part of their contracts.
4. **Accreditation agencies.** Some accreditation agencies may impose document retention standards.
5. **Insurance company guidelines.** Some insurers may require that records be retained for certain periods as part of a risk management program.
6. **Statutes of limitations.** If the foregoing standards do not require a longer retention period, records should normally be retained for at least the statute of limitations period for claims to which the records may relate. For example, the general statute of limitations for malpractice claims in Utah is 2 years from the date of discovery, but no more than four years after the alleged malpractice occurred, subject to certain tolling provisions, including Utah's tolling provisions for minors or incompetents. (See Utah Code §§ 78B-3-404(1); Utah Code 78B-2-108). For contracts, the general statute of limitations is 6 years. The statute of limitations for most government fraud and abuse claims is generally 6 years.

**Pending or Threatened Investigations.** Record destruction should be suspended immediately for any records relevant to any threatened or pending government investigation or litigation. The improper destruction of documents can result in serious civil and criminal penalties ranging from the loss of evidence necessary to prove or defend against a claim to tort liability for spoliation of evidence to severe federal criminal penalties.

**Document Destruction.** The HIPAA privacy and security rules require that covered entities implement appropriate administrative, physical, and technical safeguards to protect health information. Covered entities must enter business associate contracts with entities that maintain or destroy documents on behalf of the covered entity. The documents must be destroyed in a manner that will protect against improper disclosure.

**Record Retention Policies.** Hospitals and other health care providers should establish a written records retention and destruction policy for several reasons. First and foremost, the policy will help ensure that records are maintained for the appropriate time period to facilitate patient care and comply with relevant statutes, regulations, contracts, and accreditation standards. Second, HIPAA generally requires that covered entities establish appropriate retention and destruction policies for electronic health information. (See, e.g., 45 CFR § 312(c)(1)). Third, compliance with a proper records retention policy will help establish a defense against any claim or allegation of improper destruction of records. The written policies and procedures should:

1. Establish the length of time that relevant categories of records will be kept.
2. Establish the medium in which the records will be kept (e.g., paper, microfilm, electronic, etc.).
3. Define which records will be kept onsite and which are kept offsite.
4. Designate a person to be responsible for deciding what to keep and destroy.
5. Log the records that have been destroyed, and the date and method of destruction.
6. Provide for a method of disposal (e.g., shredding or incinerating) that destroys all information in the record and prevents inadvertent or intentional disclosure of the information consistent with HIPAA and similar state and federal laws.

**Business Associates.** To the extent that a healthcare provider uses an outside entity to assist with records retention or destruction, the health care provider must ensure that it has a HIPAA-compliant business associate contract with the entity.

**Suggested Document Retention Periods.** The following chart summarizes suggested retention periods for various records along with supporting citations. For some records, we recommend a longer period than a particular statute might allow. For example, even though a statute might require the retention of a medical record for only five years, it may be advisable to retain the records for ten years due to the statute of limitations for federal fraud and abuse claims. **Caution: record retention requirements may vary by provider type and applicable state or federal laws. Providers should confirm the record retention requirements applicable to their situation and discuss record retention with relevant stakeholders, including clinical personnel, risk management, finance, human resources, compliance, legal, etc.**

| Record Description  | Department     | Retention Recommendations | Authority/Comment                                     |
|---|----------------|---------------------------|---|
| <b>ADMINISTRATION</b>   |                |                           |   |
| Organizational or governance records, e.g.,<br>-Articles of incorporation | Administration | Permanent                 | 31 USC §§ 3729, 3731(b)<br><br>Utah Code § 16-6a-1601 |



| <b>Record Description</b>   | <b>Department</b> | <b>Retention Recommendations</b>  | <b>Authority/Comment</b>  |
|---|-------------------|---|---|
| -Bylaws<br>-Operating agreements<br>-Board meeting minutes<br>-Shareholder meeting minutes<br>-Board resolutions<br>-Annual reports<br>-Appraisal reports |                   |   | Utah Code § 16-10a-1601<br><br>AHIMA guidelines                         |
| Property records, e.g.:<br>-Deeds<br>-Titles  | Administration    | Permanent   | AHIMA guidelines  |
| -Licenses<br>-Permits   | Administration    | Permanent   | AHIMA guidelines  |
| Construction records  | Administration    | Permanent   | Utah Code § 78B-2-309(2)<br>AHIMA guidelines                            |
| Correspondence  | Administration    | Depends on the subject matter; however, as a general rule, maintain significant correspondence for at least 6 years.  | 31 USC §§ 3729, 3731(b)<br>Utah Code § 78B-2-309(2)<br>AHIMA guidelines |
| Admission register  |                   | Permanent except that daily and monthly reports can be destroyed after year-end statistics are compiled.  | AHIMA guidelines  |
| -Contracts<br>-Leases   | Administration    | 6 years from last effective date, including any warranty period.  | 31 USC §§ 3729, 3731(b)<br>Utah Code § 78B-2-309(2)<br>AHIMA guidelines |
| Policies and procedures   | Administration    | 6 years from last effective date.   | 31 USC §§ 3729, 3731(b)<br>AHIMA guidelines                             |
| Daily census  | Administration    | 5 years   | AHIMA guidelines  |
| Reports from departments  | Administration    | Generally 3 years except that reports that implicate fraud and abuse issues should be retained for at least 6 years. Many daily and non-annual reports may be destroyed after year-end statistics are compiled. | AHIMA guidelines  |

| <b>Record Description</b>  | <b>Department</b>                            | <b>Retention Recommendations</b>  | <b>Authority/Comment</b>  |
|--|--|---|---|
| Statistics on admissions, services or discharges   | Administration                               | Permanent   | AHIMA guidelines  |
| <b>BUSINESS AND FINANCE RECORDS</b>  |  |   |   |
| General financial records, e.g.,<br>-Accounts payable/receivable<br>-Patient accounts<br>-Financial reports<br>-Financial audits<br>-Bank records (statements, checks, etc.)<br>-Budgets                               | Finance                                      | 10 years  | 31 USC §§ 3729, 3731(b)<br>(statute of limitations for False Claims Act is 6 years from submission of claim or 3 years after date material facts are known or reasonably should have been known by gov't official, but not more than 10 years after date of violation)<br><br>Utah Code § 16-6a-1601(2), 1601(5)(l)<br>Utah Code § 16-10a-1601(2), 1601(5)(g)<br>AHIMA guidelines |
| Daily census   |  | 6 years   | AHIMA guidelines  |
| Employment and social security taxes   |  | 4 years after taxes due (or paid, if paid after due date) or claim filed. | 26 CFR § 31.6001-1(e)   |
| ERISA benefit plan records   |  | Date of filing plus 6 years   | 29 USC § 1027   |
| <b>COMPLIANCE RECORDS</b>  |  |   |   |
| Compliance documentation, e.g.,<br>-Policies and procedures;<br>-Employee training;<br>-Auditing and monitoring;<br>-Reports of problems;<br>-Investigations;<br>-Correspondence with regulators;<br>-Self-disclosures | Compliance                                   | 10 years  | 31 USC §§ 3729, 3731(b)   |
| HIPAA records, e.g.:<br>-Notice of Privacy Practices<br>-Authorizations<br>-Privacy officer designation<br>-Disclosure log<br>-Patient requests<br>-Business associate contracts                                       | Compliance, Privacy, and/or Security Officer | 6 years from later of the date created or last effective date             | 45 CFR § 164.530(j)(2)<br>45 CFR § 164.316(b)   |

| Record Description  | Department              | Retention Recommendations   | Authority/Comment   |
|---|-------------------------|---|---|
| -Employee training<br>-Employee sanctions<br>-Policies and procedures<br>-Complaints<br>-Security assessment<br>-Security standards documentation                             |                         |   |   |
| <b>COMPREHENSIVE OUTPATIENT REHAB FACILITIES (CORFS)</b>  |                         | 5 years after patient discharged  | 42 CFR § 485.60(c)  |
| <b>DIETARY SERVICES (Assisted Living, Nursing Care, and Small Health Care Facilities)</b>   | Records of menus served | 90 days   | UAC 432-300-18(2)(d)<br>UAC 432-270-22(3)(d)<br>UAC 432-150-24(3)(b)                  |
| <b>EMERGENCY</b>  |                         |   |   |
| -List of on-call physicians<br>-Central log of emergency patients   | Emergency Dept.         | 5 years   | 42 USC § 1395dd(d)(2)(C)<br>42 CFR § 489.20(r)  |
| <b>HOME HEALTH AGENCY</b>   |                         | 5 years after the month the cost report to which the records apply is filed.  | 42 CFR § 484.110(c).  |
| <b>HOUSEKEEPING</b>   |                         |   |   |
| Housekeeping contracts  | Materials Management    | 6 years (written contracts)   | Utah Code § 78B-2-309(2)  |
| <b>HUMAN RESOURCES/PERSONNEL</b>  |                         |   |   |
| Employment info (FLSA), e.g.:<br>-Payroll<br>-Job descriptions<br>-Wages<br>-Job evaluations<br>-Employment contracts<br>-Time cards<br>-Wage rate schedule<br>-W-2s<br>-W-4s | Human Resources         | 5 years from date of last employment for written contracts<br><br>4 years from date of last employment for oral contracts | Utah Code § 34-28-10<br>Utah Code § 34-40-201<br>29 CFR § 516.2-.6<br>29 CFR § 1627.3 |
| Employment actions, e.g.:<br>-Hiring<br>-Promotion  | Human Resources         | 5 years from date of last employment for written contracts  | 29 CFR § 1602.14,<br>29 CFR § 1627.3  |

| Record Description   | Department      | Retention Recommendations   | Authority/Comment  |
|--|-----------------|---|--|
| -Demotion<br>-Transfer<br>-Termination<br>-Layoff<br>=Pay rates or compensation terms  |                 | 4 years from date of last employment for oral contracts<br><br>Except to the extent required by law, Utah law prohibits employers from retaining information collected about a job applicant through an initial selection process for more than two years, if the applicant was not hired during the two-year period. |  |
| Records related to employment taxes  | Human Resources | 4 years   | 26 CFR § 31.6001-1(e)(2)   |
| Medical and exposure records pertaining to employee exposure to toxic substances or harmful physical agents (OSHA), e.g.:<br>-Employment questionnaires or - histories;<br>-Employment medical exams;<br>-First aid records;<br>-Medical opinions or diagnoses;<br>-Descriptions of treatments and prescriptions;<br>-Medical complaints | Human Resources | 30 years from date of last employment   | 29 CFR § 1910.1020(d)(1)<br>29 CFR § 1926.33   |
|  |                 |   |  |
| <b>LABORATORY</b>  |                 |   |  |
| General  | Laboratory      | 6 years after test  | 31 USC §§ 3729, 3731(b)<br>42 CFR § 493.1105(a)<br>UAC 432-100-34(4)(c),<br>34(5)(h)<br>AHIMA guidelines |
| Immunohematology   | Laboratory      | Later of 10 years after records of processing have been completed or 6 months after the latest expiration date.   | 42 CFR § 493.1105(a)(3)(ii),<br>(6)(i)<br>21 CFR § 606.160(d)  |
| Pathology  | Laboratory      | 10 years after report   | 42 CFR § 493.1105(a)(6)(ii)  |

| <b>Record Description</b>                            | <b>Department</b>          | <b>Retention Recommendations</b>   | <b>Authority/Comment</b>  |
|--|----------------------------|--|---|
| Specimen blocks                                      | Laboratory                 | 2 years after examination  | 42 CFR 493.1105(a)(7)(ii)   |
| Stained slides                                       | Laboratory                 | 10 years after examination   | 42 CFR 493.1105(a)(7)(i)(B)   |
| <b>MARKETING AND PUBLIC RELATIONS</b>                |                            |  |   |
| Marketing materials                                  | Marketing/Public Relations | 6 years from last effective date   | 31 USC §§ 3729, 3731(b)<br>42 CFR § 1003.1570<br><br>Utah Code § 78B-2-309(2)<br>Utah Code § 78B-2-307(1)(a)<br><br>AHIMA Guidelines            |
| Contributor records;<br>Publications                 | Public Relations           | Permanent  | AHIMA Guidelines  |
| <b>MEDICAL RECORDS</b>                               |                            |  |   |
| General  | Medical Records            | 10 years from date of last contact with provider.<br><br>If that is not practical, the records should be kept for a minimum of the later of 7 years from the relevant patient encounter. | 31 USC §§ 3729, 3731(b)<br>42 CFR § 482.24(b)(1)<br>42 CFR § 485.60(c)<br>42 CFR § 485.638(c)<br>42 CFR § 1003.1570<br><br>UAC 432-100-34(4)(c) |
| Abortions and related medical services documentation | Medical Records            | At least seven years or majority plus two years, whichever is longer.  | 42 CFR § 50.309<br><br>UAC 432-600-21(7)  |
| Birthing Centers                                     | Medical Records            | At least five years or majority plus three years (including newborn infants), whichever is longer.   | UAC 432-550-20(5)   |
| End stage renal disease (ESRD) services              | Medical Records            | At least seven years or majority plus two years, whichever is longer.  | UAC 432-650-11(2)   |
| Freestanding Ambulatory Surgical Center              | Medical Records            | At least seven years or majority plus three  | UAC 432-500-22(4)   |

| Record Description   | Department           | Retention Recommendations   | Authority/Comment   |
|--|----------------------|---|---|
|  |                      | years, whichever is longer.   |   |
| Mentally retarded patients                                   | Medical Records      | At least seven years or majority plus two years, whichever is longer.                   | UAC 432-152-29(5)   |
| Mammography  | Medical Records      | 5 years or not less than 10 years if no additional mammograms are performed at facility | 21 CFR § 900.12(c)(4)(i)<br>UAC 432-950-13(6)                     |
| Nuclear medicine   | Medical Records      | 5 years   | 42 CFR § 482.53(d)(1)   |
| Psychiatric  | Medical Records      | 6 years   | 42 CFR § 482.61   |
| Radiology, including x-rays                                  | Medical Records      | At least seven years or majority plus four years, whichever is longer.                  | 42 CFR § 482.26(d)<br>UAC 432-100-34(4)(c),<br>34(5)(h), 34(5)(n) |
| Registries of births and deaths                              | Medical Records      | Permanent   | AHIMA guidelines  |
| Small Health Care Facility (4-16 beds)                       | Medical Records      | At least seven years or majority plus two years, whichever is longer.                   | UAC 432-200-28(2)<br>UAC 432-300-9(5)                             |
| Transfer records (patients transferred to and from hospital) | Medical Records      | 5 years from transfer.  | 42 CFR § 489.20(r)(1)   |
| Therapy records  | Medical Records      | At least seven years or majority plus four years, whichever is longer.                  | 42 CFR § 485.721(d)<br>UAC 432-100-34(4)(c),<br>34(5)(p)          |
| Immunization and vaccination                                 | Medical Records      | Certain information concerning the vaccine must be maintained in a permanent file.      | 42 USC § 300aa-25(a)<br>42 USC § 300aa-11(c)                      |
|  |                      |   |   |
| <b>MEDICAL STAFF</b>   | Medical Staff Office | 30 years  | AHIMA guidelines  |
| Bylaws<br>Rules<br>Regulations<br>Minutes                    | Medical Staff Office | Permanent   | AHIMA guidelines  |
| Credentialing file   | Medical Staff Office | 30 years  | AHIMA guidelines  |
|  |                      |   |   |
| <b>PHARMACY</b>  |                      |   |   |



| <b>Record Description</b>                                      | <b>Department</b> | <b>Retention Recommendations</b>  | <b>Authority/Comment</b>  |
|--|-------------------|---|---|
| Controlled substances dispensed                                | Pharmacy          | 2 years   | 21 CFR § 1304.04(a)<br>21 USC § 827(b)  |
| <b>RESEARCH</b>  |                   |   |   |
| Institutional review board (IRB) for clinical devices          | IRB               | 2 years after later of the termination of the investigation or the date the records are no longer required to support a premarket approval or a notice of product development protocol completion | 21 CFR § 812.140(d); see also 21 CFR § 312.62(e)  |
| IRB for clinical investigation                                 | IRB               | 3 years after completion of research  | 21 CFR § 56.115(b)<br>38 CFR § 16.115(b)  |
| <b>RISK MANAGEMENT</b>   |                   |   |   |
| Accident/incident reports                                      | Risk Management   | At least four years. If involving a minor, majority plus four years. If involving a mentally incompetent, indefinitely.   | UAC 432-100-39(4)(c)<br>Utah Code § 78B-2-304(2)<br>Utah Code § 78B-2-108<br>Utah Code § 78B-3-404(1) |
| Liability insurance policies                                   | Risk Management   | For occurrence-based policies, 20 years after expiration.<br>For claims-made policies, 6 years after expiration.  | AHIMA guidelines  |
| Property and casualty insurance policies                       | Risk Management   | 6 years after expiration  | Utah Code § 78B-2-309(2)  |
| Medical device reports (MDR), Records of MDR reportable events | Risk Management   | 2 years   | 21 CFR § 803.18(c)  |
| Medical device tracking records                                | Risk Management   | Useful life of device   | 21 CFR § 821.60   |
| <b>SKILLED NURSING, LONG TERM, AND INTERMEDIATE CARE</b>       |                   |   |   |
|  |                   | At least seven years or majority plus four years, whichever is longer.  | 42 CFR § 483.70(i)(4)<br>UAC 432-150-25(3)  |

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