



## The Legal Issue

# Closing a Medical Practice: Steps for the Road to Retirement

by W. Darrell Armer, JD

A physician confronts a number of emotions when closing his or her medical practice, which tends to make the process seem more arduous than it might be. Taking a pragmatic approach and involving a third party to assist with the maintenance requirements regarding medical records can make the transition into retirement much smoother.

**Step 1.** Review your employment agreement and other governing documents. If you're part of a group practice, then you'll need to review your employment agreement and other governing documents (i.e., shareholder agreement/company agreement/partnership agreement) to be sure that you give the proper notices and avoid any adverse consequences for failing to comply with the notice requirements.

**Step 2.** Review your other agreements. Your lease is the first place to look, and then you'll need to ensure that the remaining agreements can be terminated and/or assigned to another party. For instance, does any equipment need to be returned to a lessor? Additionally, review any agreements with billing companies, as well as the license for your practice management/EHR system to ensure that the data can be transferred so you can continue to fulfill your responsibility regarding maintenance

of patient records. Check your malpractice insurance policy and arrange for tail coverage, if necessary. With respect to your other parties, contact your agent so that you can have those terminated as appropriate and seek a refund of any premiums that may be owed to you.

**Step 3.** Find a custodian for your medical records. The Texas Medical Board requires you to maintain medical records for a minimum of seven years from the anniversary date of the last treatment, or, if the patient was younger than age 18 when last treated by you, for the longer of at least seven years from the date of last treatment or until the patient reaches age 21. Many times, your employer will continue to maintain the medical records. However, if you are in solo practice, then you should retain a third party to serve as custodian. Some payers may require you to retain the records for a longer period.

**Step 4.** Thank your patients. The TMB requires that you send notification to patients you have seen or treated within the last two years; view this as an opportunity to reflect upon your career and thank the patients. The notification must be handled three ways — by sending a letter, by posting a notice in your office at least 30 days before your retirement, and by publishing a

notice in the newspaper of greatest general circulation in the county in which you practice. To avoid abandonment claims, you need to give "reasonable" notice to patients prior to terminating the physician/patient relationship. In most cases, 30 days will suffice.

**Step 5.** Notify appropriate agencies. The TMB requires that you send it a copy of the notice within 30 days of your retirement. Also, you will need to notify DEA/DPS/Medicare/Medicaid of your plans.

**Step 6.** Consider any miscellaneous remaining items. For instance, we do not recommend terminating your professional entity upon retirement, but suggest that you leave it in existence until the applicable statute of limitations has run on any claims. After that, you can terminate the existence of the entity.

**Step 7.** Book your flight and enjoy the first day of your retirement. **DMJ**

*W. Darrell Armer, JD, is a shareholder with Gray Reed & McGraw, PC. He focuses his practice on commercial transactions, with an emphasis in the healthcare industry. His practice reflects the interplay among corporate finance/securities law, health law, and real estate law. Contact him at 214-954-4135.*