

# **Record and Data Retention Schedule**

*A guidebook on which records should be kept  
and for how long*

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**CALIFORNIA  
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# Table of Contents

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<b>PREFACE.....</b>	<b>V</b>
<b>RECORD RETENTION CONSIDERATIONS .....</b>	<b>1</b>
<b>I. Introduction .....</b>	<b>1</b>
<b>II. The Importance of Having a Records Management Policy .....</b>	<b>1</b>
<b>III. Primary Considerations in Developing a Record Retention Schedule .....</b>	<b>2</b>
A. Legal Requirements and Considerations .....	3
B. Frequency of Use.....	7
C. Space Constraints .....	8
D. Historical or Research Use of Records.....	8
<b>IV. Medical Records .....</b>	<b>8</b>
A. Retention Period Options .....	8
B. Test Results, Tracings and Recordings.....	10
<b>V. Electronic Records.....</b>	<b>11</b>
A. Electronic Medical Records Requirements .....	11
B. Retention of Electronic Records.....	12
<b>VI. Duplicate, Transitory and Nonsubstantive Records.....</b>	<b>12</b>
<b>VII. Legal Hold .....</b>	<b>12</b>
<b>VIII. Deletion, Disposal and Destruction of Records .....</b>	<b>13</b>
A. Change or Deletion of Medical Information: Audit Trails .....	13
B. Disposal or Destruction of Personal Information.....	13
C. Process .....	15
<b>IX. CHA's Recommended Retention Schedule .....</b>	<b>15</b>
A. General Retention Period .....	15
B. How to Interpret the Schedule .....	16
C. Frequently Asked Questions .....	16
<b>RECOMMENDED RECORD RETENTION SCHEDULE .....</b>	<b>19</b>
<b>WHERE TO FIND THE LAWS REFERENCED IN THE MANUAL.....</b>	<b>75</b>

Information contained in the manual should not be construed as legal advice or used to resolve legal problems by health care facilities or practitioners without consulting legal counsel. A health facility may want to accept all or some of the guidebook as part of its standard operating policy. If so, the health facility's legal counsel and its board of trustees should review the policy prior to implementation.

# Preface

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Health care providers create volumes of records dealing with a variety of matters. Some concern the corporate, business and administrative aspects of their operations. Others document unique areas, such as medical staff activities at hospitals. Still others trace the course of care given to patients. Providers naturally consider retaining any record that is of more than passing interest. However, as records accumulate, they occupy valuable space that often could be put to better use. Storing records off-site or in electronic form may alleviate the problem. However, these alternatives are likely to be expensive and do not address the basic question of which records should be kept and for how long.

If health care providers are to deal intelligently with the problem, they must base their decisions upon a firm knowledge of legal requirements and policy considerations. This guide discusses those requirements and considerations, and recommends specific periods for the retention of various classes of records.

The guide contains two sections. The first is a discussion of retention considerations as they pertain to various kinds of records. The second section is a Recommended Retention Schedule. It contains tables listing typical records, legal citations applicable to each health care provider type, and recommended retention periods. This schedule does not list every possible record that may be produced or retained by a health care provider but rather provides recommendations and cites legal requirements for the most common documents. For records not specifically addressed in this guide, CHA recommends considering retention periods for records listed that are of a similar nature or purpose and consulting your legal counsel.

The guide is not designed to serve as a substitute for legal counsel. If there are differences of opinion, or where the law is unclear, a provider should consult legal counsel and then make retention decisions based on the law and its own philosophy, mission and purpose.

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2. Erasing; or
3. Otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

[Civil Code Section 1798.80-1798-84]

This law applies to medical records and other records that could identify a customer, such as records containing a name, Social Security number, contact information, insurance policy number, driver's license number, credit card number, certain passwords and security questions and answers, etc.

### **Employee Records**

The California Constitution has been interpreted to provide employees a right to privacy. It is recommended that records containing employee-identifiable information be treated in the same manner as records containing medical information or customer/consumer information.

### **Information Derived from Consumer Credit Reports**

Regulations adopted under the Fair and Accurate Credit Transactions (FACT) Act of 2003 require businesses that possess consumer information derived from consumer credit reports to properly dispose of the information. A person must take reasonable measures to protect against unauthorized access to or use of the information in connection with the disposal. Compliance with the Information Practices Act (described under "Customer Records," page 14) will likely ensure compliance with the FACT Disposal Rule. However, legal counsel should be consulted if questions arise. [16 C.F.R. part 682]

### **C. Process**

A health care provider may dispose of records itself, or may engage an outside company to dispose of records. Any such company would be acting as the provider's business associate, and a written business associate agreement should be executed. The provider has a duty to ensure the company is competent to perform the task and its proposed method of disposal ensures the confidentiality and security of the records and their ultimate destruction.

A certificate of records destruction should be completed for records destroyed or deleted pursuant to the records management policy. In addition, the disposal of records should be documented in a log. A sample certificate of records destruction that providers may adapt to fit their needs may be found at <http://library.ahima.org/doc?oid=105016#.WxceSKruUk>.

## **IX. CHA'S RECOMMENDED RETENTION SCHEDULE**

### **A. General Retention Period**

CHA's Recommended Retention Schedule (starting on page 21) recommends a retention period of six years for general records that might prove valuable for litigation, statistical or business purposes, but are not required to support Medi-Cal or Medicare claims. CHA has chosen this period because the utility of most records declines significantly after six years. The six-year period meets or exceeds the normal statute of limitations for civil actions. However, it would not be sufficient when a claimant alleges fraudulent concealment of a wrongful act, or some other occurrence prolongs the limitation period. CHA's Recommended Retention Schedule recommends a retention period of 15 years for records that support claims for Medi-Cal or Medicare services (see A. "Legal Requirements and Considerations," page 3).

After establishing a general retention period, the Schedule was refined to account for particular demands. For example, it is suggested that providers preserve annual reports and significant statistical compilations longer, as these materials do not demand significant storage space and may be useful for historical, research, or business planning purposes. Additionally, special legal requirements that govern the retention of various records have been taken into account. Also recommended is fairly lengthy retention of credentialing and other medical staff records, as these contain information that is increasingly the subject of litigation. Finally, a two- or three-year retention period is assigned to various other records that are usually of only short-term interest.

**NOTE:** CHA's Recommended Retention Schedule does not include record retention requirements mandated by the U.S. Securities and Exchange Commission or the Sarbanes-Oxley Act, which applies only to investor-owned organizations that are publicly traded. These organizations should consult legal counsel regarding additional record retention requirements.

## **B. How to Interpret the Schedule**

### ***Column 1: "Record"***

This column describes a document, record, or data that a hospital may generate.

### ***Column 2: "Provider Types"***

This column describes the types of providers that must comply with the retention requirement described in the row.

### ***Column 3: "Legal Requirements"***

This column provides any legal requirements that pertain to the providers listed in column 2 regarding the document described in column 1. The provider is legally required to follow the retention period stated in this column.

### ***Column 4: "Recommended Retention Period"***

This column provides CHA's recommendation regarding how long to keep the document described in column 1. Please note that this is only a recommendation, not a legal requirement. A particular provider may wish to keep the document longer than the recommended retention period. On the other hand, a provider may wish to destroy or delete the document sooner than the recommended retention period. Each health care provider should consider the factors described in III. "Primary Considerations in Developing a Record Retention Schedule," page 2, and develop its own retention schedule. It is not mandatory to comply with CHA's recommended retention period.

## **C. Frequently Asked Questions**

*Q1: Is every document that a hospital may generate included in the Schedule?*

A1: No. It is not possible to list every document that a hospital may generate. The Schedule contains those documents that are commonly used by hospitals and other health care providers, and those documents to which the government has assigned a required record retention period.

*Q2: Why is the time period under the fourth column, "Recommended Retention Period," sometimes longer than the legally-required retention period stated in the third column, "Legal Requirements"?*

A2: It is common to find that the retention period listed under “Recommended Retention Period” is longer than the legally-required retention period listed in the “Legal Requirements” column. This is because there are other factors to be considered when determining the minimum retention period in addition to the legal requirement that is specific to that document (see III. “Primary Considerations in Developing a Record Retention Schedule,” page 2).

*Q3: Does the “Legal Requirements” column list all possible laws that apply to the document described in the first column?*

A3: No. The “Legal Requirements” column lists only the laws that are specific to the document described in column 1. However, it does not list all of the laws that represent more general retention considerations, such as statutes of limitations. The laws that represent more general retention considerations are discussed under III. “Primary Considerations in Developing a Record Retention Schedule,” page 2.

*Q4. How long should I keep a document that is not included in the Schedule?*

A4. CHA recommends reviewing the Schedule to find a similar document or a document used for a similar purpose, and keeping the document in question for as long as the similar document must be kept.

# Record Retention Schedule

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Health care providers, particularly hospitals, are among the most heavily regulated entities in the United States. State and federal laws specify who is qualified to deliver safe and effective health care, and under what circumstances that care may be provided. In addition, providers are required to meet standards imposed under corporate, labor, tax, workers' compensation, environmental, and criminal law and many, many others.

In order to show that legally-required standards are being met, facilities must document compliance with the law. Records are required by law to be kept by every department of a California health care provider's facility. Sometimes the government specifies precisely how those records are to be maintained and for how long. Most of the time the government does not.

The Schedule that follows gives recommended retention periods for records that are common to health care providers and have statutorily- or regulatorily-mandated retention periods, or are representative of documents that have no legal retention requirements.

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**Retention Tip:** For a document not listed in the Schedule, CHA recommends using the retention period listed for a similar document or for a document required for a similar purpose.

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The Schedule gives recommendations for a wide variety of health care providers. In the "Provider Types" column, the following definitions apply:

1. **"All providers"** includes:
  - a. Health facilities, as defined below,
  - b. Home health agencies,
  - c. Primary care clinics,
  - d. Psychology clinics,
  - e. Individual practitioners,
  - f. Groups of practitioners,
  - g. Surgery centers, and
  - h. Unlicensed outpatient facilities.

2. **“Health facilities”** means a facility that treats persons who are admitted for a 24-hour stay or longer. The term “health facilities” includes the following types of providers:
  - a. General acute care hospitals (GACHs),
  - b. Acute psychiatric hospitals (APHs),
  - c. Skilled nursing facilities (SNFs),
  - d. Intermediate care facilities (ICFs),
  - e. Special hospitals,
  - f. Congregate living health facilities,
  - g. Correctional treatment centers,
  - h. Psychiatric health facilities (PHFs), and
  - i. Chemical dependency recovery hospitals (CDRHs).

[Health and Safety Code Sections 1250 and 1250.2]

The following acronyms are used in the Schedule:

1. **“C.C.R.”** means California Code of Regulations.
2. **“C.F.R.”** means Code of Federal Regulations.
3. **“U.S.C.”** means United States Code.

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**Retention Tip:** See *“Where to Find the Laws Referenced in the Manual,”* page 75, for instructions on how to find the exact language of the statutes and regulations on the internet.

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<b>ADMINISTRATIVE RECORDS</b>			
<b>RECORD</b>	<b>PROVIDER TYPES</b>	<b>LEGAL REQUIREMENTS</b>	<b>RECOMMENDED RETENTION PERIOD</b>
Accident reports		See "Incident reports," page 24. If an employee is injured, see "Workers' compensation claims files," page 50.	
Accountable Care Organization (ACO) utilization, quality and financial records	ACO participants, providers and suppliers	Must keep for at least 10 years from end of contract term or completion of audit, whichever is later [42 C.F.R. Section 425.314]	15 years
Accreditation/licensing surveys and plans of correction (TJC, AOA, DNV, CMS, CDPH, IMQ, CAP, etc.)	All providers		6 years (longer if continuing interest)
Adverse event reports to CDPH	Hospitals		6 years after any appeal is concluded
Aerosol transmissible disease and biosafety plan annual review	All providers	Must keep for at least 3 years [8 C.C.R. Section 5199(j)(3)]. See regulation for required content of record.	6 years
Appraisal reports (property, building, equipment, etc.)	All providers		Life of asset plus 10 years
Arbitration resolution documents	SNFs that participate in Medicare/Medicaid	When facility and resident resolve a dispute by arbitration, must keep arbitration agreement and arbitrator's decision for at least 5 years [42 C.F.R. Section 493.70(n)].	6 years after discharge of patient, longer if readmission is anticipated.
Birth records to local government	Hospitals, practitioners		Permanent
Cancer/tumor registry	Hospitals, practitioners		Permanent
Census (daily)	GACHs, APHs, PHFs, CDRHs	Regulations require these facilities to keep "patient admission rosters," but do not specify a retention period [22 C.C.R. Sections 70733, 71531, 77127, and 79337].	6 years
Certificate of records destruction	All providers		Permanent
Committee agendas, minutes (not otherwise specified in this retention schedule)	All providers		6 years
Communicable disease reports to state and local health departments	All providers		3 years
Construction project contracts and related documents	All providers		Life of building plus 10 years

<b>ADMINISTRATIVE RECORDS (CONT.)</b>			
<b>RECORD</b>	<b>PROVIDER TYPES</b>	<b>LEGAL REQUIREMENTS</b>	<b>RECOMMENDED RETENTION PERIOD</b>
Contracts, leases, and supporting documentation	All providers	Contracts for services between a Medicare institutional provider and a subcontractor must be kept for the life of the contract, plus 4 years, if the value of the services is \$10,000 or more over a 12-month period. This includes contracts for both goods and services in which the service component is worth \$10,000 or more [42 C.F.R. Section 420.302(b)]. Contracts required by the HIPAA privacy rule must be kept for 6 years [45 C.F.R. Section 164.530(j)]. Regulations require GACHs, APHs, PHFs and CDRHs to keep contracts that are required by regulation, but no retention period is specified [22 C.C.R. Sections 70733, 71531, 77127, 79337]. Contracts that support claims for services rendered to Medicare or Medi-Cal patients must be kept for at least 10 years from date of service, end of Medi-Cal or Medicare Advantage or Medicare Part D contract period, or audit completion, whichever is later [42 C.F.R. Sections 422.504(i)(2) and 423.505(i)(2); Welfare and Institutions Code Section 14124.1; Title 22, California Code of Regulations, Section 51476]	Life of agreement/ lease/equipment, plus 6 years; if the agreement supports Medicare or Medi-Cal claims, then life of agreement/lease/ equipment plus 15 years
Corporate records, including the following: Articles of Incorporation or partnership agreement; bylaws and rules and regulations of the governing body; minutes of meetings of the governing body	GACHs, APHs, PHFs, CDRHs	Regulations require these facilities to keep these documents, but do not specify retention periods [22 C.C.R. Sections 70733, 71531, 77127 and 79337].	Permanent
Court orders	All providers		Permanent, unless disposal approved by legal counsel
Death records to local government, death certificates	All providers		Permanent
Deeds or titles to property	All providers		Permanent
Disposal of records log	All providers		Permanent

DEPARTMENT RECORDS			
RECORD	PROVIDER TYPES	LEGAL REQUIREMENTS	RECOMMENDED RETENTION PERIOD
Ambulance replenishing records (other than linens)	Facilities	Must keep for at least 5 years [42 C.F.R. Sections 1001.952(v)]	15 years
Appointment books, patient logs, or similar documents showing date and time allotted for appointment of each Medi-Cal patient or group of patients, and time actually spent with such patients	Psychiatric and psychological service providers	Must keep for at least 10 years from date of service, end of Medi-Cal or Medicare Advantage or Medicare Part D contract period, or audit completion, whichever is later [42 C.F.R. Sections 422.504(i)(2) and 423.505(i)(2); Welfare and Institutions Code Section 14124.1; Title 22, California Code of Regulations, Section 51476]	15 years
Appointment calendars (patients' appointments), sign-in sheets	All providers except providers of psychiatric and psychological services to Medi-Cal patients		6 years
Birth records to local government		<i>See "Birth records to local government," page 21.</i>	
Compliance audits/ investigations (internal)	All providers		6 years
Compliance hotline log (annual)	All providers		6 years
Crash cart daily records	The Joint Commission accredited organizations	Must keep until next full survey	4 years
Dialysis — hemodialyzer reuse records (procedure, training, equipment, audit records)	Dialysis clinics	Regulations require these documents to be kept, but do not specify a retention period [22 C.C.R. Section 75198]. <i>See 22 C.C.R. Sections 75189 and 75198 for details about content of required records.</i>	Life of dialyzer, plus 6 years
Dialysis — dialyzer reuse records (device history records, including patient name, dates of treatment, dates of disinfectant rinsing, type and model, reuse number, results of performance tests, initials or other ID of reprocessing technician, reason for dialyzer failure and subsequent acceptance)	Dialysis clinics	Must keep for at least 6 months after last reprocessing of dialyzer [22 C.C.R. Section 75198(b)(5)]. <i>See 22 C.C.R. Sections 75189 and 75198 for details about content of required records.</i>	Life of dialyzer, plus 6 years

<b>DEPARTMENT RECORDS (CONT.)</b>			
<b>RECORD</b>	<b>PROVIDER TYPES</b>	<b>LEGAL REQUIREMENTS</b>	<b>RECOMMENDED RETENTION PERIOD</b>
Emergency department log (must include name; date, time and means of arrival; age; sex; record number; nature of presenting complaint; disposition; time of departure; and names of patients who are dead on arrival)	Hospitals with emergency departments	Hospitals that participate in Medicare must keep for at least 5 years [42 U.S.C. Section 1395cc(a)(1)(I)(ii); 42 C.F.R. Section 489.20(r)]. Otherwise, must keep for at least 3 years. [Health and Safety Code Section 1317.4; 22 C.C.R. Sections 70413, 70453, and 70651.]	6 years
EMTALA-related records, including records of patients transferred in or out, emergency department log, policies and procedures, etc.	Hospitals with emergency departments	Hospitals that participate in Medicare must keep for at least 5 years [42 U.S.C. Section 1395cc(a)(1)(I)(ii); 42 C.F.R. Section 489.20(r)]. Otherwise, must keep for at least 3 years. [Health and Safety Code Section 1317.4; 22 C.C.R. Sections 70413, 70453, and 70651.]	6 years
Hardware and software operating instructions, warranties, system requirements, configurations, etc.	All providers		Life of product, plus 2 years
Human tissue intended for transplantation (records regarding donor screening and testing; records regarding supplier, donor and lot identification, receipt, name(s) of recipient(s), storage temperatures, distribution, destruction, disposition of human tissue, expiration dates of all tissues, etc.)	GACHs	Must keep at least 10 years after the date of transplantation (if known), distribution, disposition, or expiration of the tissue, whichever is latest [21 C.F.R. Section 1270.33].	Permanent
Infection control committee, minutes and reports of	GACHs, APHs	Regulations require these facilities to keep their documents, but do not specify retention periods [22 C.C.R. Sections 70733 and 71531].	6 years
Labor room log books	Hospitals	Hospitals that participate in Medicare must keep for at least 5 years [42 U.S.C. Section 1395cc(a)(1)(I)(ii); 42 C.F.R. Section 489.20(r)].	6 years