

Medical Record & Data Retention Guide for Virginia Practices

Quick-Reference Guide for Virginia Healthcare Practices

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HIPAA & COMPLIANCE

“How long do we actually have to keep this?” is one of the most common questions practices ask, and one of the easiest to get wrong, because two separate rulebooks apply: HIPAA governs your *compliance paperwork*, while Virginia state law governs the *patient chart itself*. This guide lays out both, plus disposal and a few of the edge cases (closures, deceased patients, imaging) that trip practices up.

Patient Records: Virginia Requirements

Record type	Minimum retention	Authority
Physician records – adult patient	6 years from the last patient encounter, up to a maximum of 12 years from creation	Va. Code §54.1-2910.4
Physician records – minor patient	Until the patient turns 18 or becomes emancipated, or 6 years from the last encounter, whichever is later	Va. Code §54.1-2910.4
Hospital records – adult patient	5 years following discharge	12VAC5-410-370
Hospital records – minor patient	5 years after the patient turns 18	12VAC5-410-370
Birth and death records	10 years	Va. Code §32.1-274

Dental offices and med spas: Virginia doesn't publish a separate retention statute for dental or aesthetic practices, so most compliance guidance defaults to the physician standard above. Confirm with your specific licensing board (the Virginia Board of Dentistry, for example) if your practice has any board-specific record rules.

Compliance Documentation: HIPAA's 6-Year Rule

Separately from the chart itself, HIPAA (45 CFR §164.316, §164.530) requires you to retain the **documentation that proves you're compliant** for **6 years** from creation, or from when it was last in effect:

- Security Risk Analyses and remediation tracking
- Written policies and procedures
- Business Associate Agreements
- Staff training and acknowledgment records
- Breach notification records and incident reports

- Audit logs and PHI disclosure authorizations

A policy stays in effect for years before you retire or replace it. The 6-year clock only starts once it's no longer active. Track "last effective date," not just "created date."

Common Situations

What if our practice closes, is sold, or a provider retires?

Virginia law (Va. Code §54.1-2405) requires the practice to notify patients about how records will be retained and destroyed, and to give patients the option to have their records sent to a new provider of their choice or provided directly to them. In most closures, practices designate a records custodian, a person or service responsible for fulfilling record requests and keeping records secure until the retention period runs out.

What about a deceased patient's records?

The same retention minimums generally apply. A patient's death doesn't shorten your retention obligation. Requests from an estate representative or next of kin should be handled the same way you'd handle any authorized third-party request.

Do imaging, labs, and referrals count as part of the record?

Yes. X-rays, lab results, referral letters, and any other clinical documentation are part of the patient's record and follow the same retention clock as the rest of the chart.

We use a cloud-based EHR: is the vendor responsible for retention?

No. Your EHR vendor is a Business Associate storing the data on your behalf; the retention obligation stays with your practice. Confirm your BAA and contract spell out what happens to your data if you ever switch systems or the vendor is acquired.

Secure Disposal, Once Retention Ends

- ☐ Paper: cross-cut shredding, or a bonded destruction vendor that provides a certificate of destruction
- ☐ Electronic: sanitize using a method aligned with NIST media sanitization guidance; deleting a file or reformatting a drive is not sufficient
- ☐ Backups: don't forget that old backup sets and archived email often contain PHI too; they need to be part of your disposal schedule, not left indefinitely "just in case"
- ☐ Log it: record what was destroyed, the method, the date, and who authorized and performed it

This is general guidance, not legal advice. Retention rules can shift with new regulations, and practices operating across state lines (or with out-of-state patients) may have additional obligations. When in doubt on a specific record, check with healthcare counsel.

Retention policy living in someone's head instead of on paper?

SIM Technology Solutions helps practices turn retention rules like these into an actual written policy, a defensible disposal log, and backups that are encrypted and tested. **Call 703-594-9226** or email **info@simtsolutions.com**.