

Virginia Board of Dentistry Guidance on Death or Retirement of a Dentist or Selling or Closing of a Dental Practice

Virginia Code § 54.1-2405(A) requires a dentist to give notice to patients and provide records when closing, selling or relocating a practice. Transfer and treatment of patient records is covered under Virginia Code §§ 8.01-324 and 54.1-2405(A) and 18VAC60-21-90(E) and (F).

Patient Notification

Notification to patients of the changes to the dental practice should occur as soon as possible to assist with continued patient care upon the death or retirement of the dentist, or the sale or closure of a dental practice.

Suggested guidelines for notification of patients include:

- Calling patients with scheduled appointments to enable patients to find another provider or make an informed decision to stay with another provider within the same practice, if applicable.
- Consider changing any telephone answering message or website response to advise patients contacting the dental office that the dentist's appointments are being canceled and the dentist will not be scheduling any additional appointments.
- Providing contact information of any other provider who has agreed to provide dental care to the dentist's patients. Any answering message or website response should include the other provider's contact information.
- Sending the required notification letters via registered mail with return receipt requested, to the dentist's patients of the death or retirement of the dentist or closure or sale of the dental practice. The dental office should retain the return receipts to have proof that notifications were sent. The American Dental Association provides example notification letters for assistance.¹
- Facilitating the transfer of care by explaining how a patient can find a new dentist. This could include:
 - informing patients of any dentists within the practice, if the practice is not closing;
 - contacting insurance companies to get names of other providers in their area;
 - conducting Internet searches to assist in identifying other providers;
 - reviewing phone book information; and
 - contacting dental associations for potential referrals.

¹ The American Dental Association provides a guide for closing a dental practice available at <https://www.ada.org/resources/practice/practice-management/what-to-do-when-closing-a-practice>.

- Providing patients with information about their dental records pursuant to Virginia Code § 54.1-2405(A) and in accordance with the dental office's current record retention policy, including:
 - how a patient can obtain a copy of their dental records pursuant to 18VAC60-21-90(D) (please note that records cannot be withheld because the patient has an outstanding financial obligation);
 - providing contact information where dental records are maintained; and
 - informing patients of any charges for obtaining or sending a copy of dental records pursuant to 18VAC60-21-90(E).

Patient Record Retention

Dental patient record retention after the death or retirement of a dentist or the sale or closing of a dental practice will create regulatory concerns if the records are not properly maintained. The length and manner of retention as are addressed in [18VAC60-21-90\(A\)](#), (C), and (H). Confidentiality requirements are contained in [18VAC60-21-90\(F\)](#). These provisions should be regularly reviewed for compliance.

Professional Liability Issues

Exposure to professional liability can continue after the closure, transfer, or sale of a dental practice. In Virginia, the statute of limitations for filing a civil lawsuit for malpractice is two years unless a minor is involved. *See* Va. Code § 8.01-243.1. Accordingly, beneficiaries and dental practice office managers may want to verify the dentist's malpractice insurance policy to see if the coverage under the policy is sufficient.

Other Notifications

Notifications should be sent to the listed entities below regarding: (1) the death or retirement of a dentist; (2) the closure, transfer, or sale of a dental practice; (3) discontinuation of administration of controlled substances; or (4) change of address, as necessary. Not every entity should receive notification of these four changes.

- Drug Enforcement Agency;
- Virginia Board of Dentistry;
- Pharmacies where prescriptions have previously been submitted;
- Insurance agencies holding a policy with the dentist at issue including disability, professional liability, and practice interruption insurance companies; and
- Social Security Administration for any request for Medicare coverage or beneficiary benefits.

The list above is not exclusive. Each practice is unique and additional organizations may need to be notified.

Staff and Management Personnel

Appropriate staff will be needed to assist in the process of any closing, transferring, or selling of a practice. This may include the hiring of temporary staff to replace any personnel who may have left the practice in the interim. Such staff can assist in continuing to collect payments, sending notifications, handling the daily operation needs up to the closing or transfer date, and addressing patient inquiries. The practice should provide staff information about their pay and benefits, including any staff retirement or health insurance plan information.

Note: In connection with staff and bill payments, having the spouse, a trusted advisor or partner be given check writing authority will enable bills to be paid during the transition period.

Estate Planning

The concerns raised by the death or retirement of a dentist demonstrate the need for a good and specific estate plan. Planning to protect one's personal estate and dental practice is essential, which can include a will or a trust. A will can protect your estate from entering probate court, which is normally where a court makes decisions about the distribution of your assets and names an executor. The probate process can take several months or longer depending on the size of the estate. Additionally, a probate court will assess court fees that will be taken out of the estate. This process is complicated and can impose emotional burdens on the family. However, a will alone may not be enough. A trust may also be needed. A trust can protect your estate and assist in managing your dental practice temporarily upon your death until your practice is sold or transferred. The Board recommends retaining a legal professional who has specific estate expertise and a tax advisor to assist with estate planning.

Conclusion

To help avoid the unexpected and emotional distress caused by the death or retirement of a dentist or closing, transfer or sale of a dental practice, it is essential to be prepared to assist your family, staff, and colleagues. This includes proper estate planning, retention of patient records, appropriate notification to patients and organizations, and sufficient professional insurance. Awareness of these issues and advanced planning can help to assure continuity of care of patients and peace of mind to the family.

Additional Resource Information

1. The American Dental Association's guide to closing a dental practice is available at <https://www.ada.org/resources/practice/practice-management/what-to-do-when-closing-a-practice>.
2. The Virginia Dental Association provides information on understanding the common pitfalls of patient abandonment, available at <https://www.vadental.org/news-hub/2018/05/17/understanding-the-common-pitfalls-of-patient-abandonment>.