

Retirement from Medical Practice



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You are required to retain your business financial records for a minimum of 5 years even if you sell or close your business.

Preparing for Retirement is Vital

Retiring from any role brings concerns, challenges and uncertainty – along with excitement for your next phase in life. Your medical retirement gives rise to certain obligations regarding your practice, in particular the patients who depend on you for ongoing treatment and advice. Be prepared for your retirement from medical practice, by understanding and addressing your obligations and personal needs, to enhance your peace of mind during this life change.

Your retirement may be relatively straight forward if, for instance, you are leaving a practice that will continue to treat your patients following your retirement. On the other hand, if your practice

is closing completely, this raises more complicated issues about where your patients obtain alternate treatment and what becomes of your medical records and the staff you employ.

Planning ahead helps avoid potential problems for you and your patients and reduces the potential for medico-legal exposure resulting from unmet obligations.

The following general information is intended as a guide only. MDA National recommends you seek specific independent legal and financial advice to address your individual circumstances.

“Listen to your inner self – you’ll know when it’s time to go, better to do it sooner than later. There is a life after clinical work!”

Dr Tom Hugh, New South Wales (NSW)

Retirement Checklist

✓ Medical indemnity insurance

So that appropriate amendments can be made to your indemnity policy, inform MDA National as soon as possible of any plans to:

- retire
- reduce your work hours
- take a break from practice
- undertake alternative work in the medical field.

Information on the various insurance options available for members retiring from practice (temporarily or permanently) can be found in the MDA National *Risk Category Guide for Medical Practitioners: Professional Indemnity Insurance Policy*, e.g. MDA National provides insurance cover for:

- non-clinical doctors (such as those working in research or education)
- doctors not practising in Australia for 3 to 12 consecutive months
- doctors ceasing practice permanently but not eligible for the Australian Government's Run-Off Cover Scheme (ROCS, a statutory indemnity scheme)
- doctors providing gratuitous services following retirement.

More information on the ROCS and a copy of the *Risk Category Guide for Medical Practitioners* are available from mdanational.com.au or you can request a copy by contacting our Member Services team on 1800 011 255 or at peaceofmind@mdanational.com.au.

“Discuss the medico-legal aspects of your indemnity with your insurers and reflect on any possible potential liability issues that could surface post-retirement.”

Professor John Murtagh, Victoria

“Looking back [I wish I had] communicated better with patients and colleagues with explanatory and especially ‘thank you’ letters.”

Professor John Murtagh, Victoria

✓ Patients, colleagues and health services

Your retirement signals the end of the doctor-patient relationship for each of your patients and this may worry them, as they must find a new treating doctor.

It is important that your patients are advised of your retirement in sufficient time to allow them to make alternative arrangements for their ongoing treatment. This may include advising patients who are currently under your care, due for review, and those who you have consulted in the past who you deem necessary to inform. Considerations in determining who needs to be notified include what would be in the reasonable expectations of a patient and the nature of their condition.¹ You should advise patients of:

- the date you will cease practice
- any plans you have made to sell your practice
- options for their ongoing care
- how they can arrange for the transfer of their records to another medical practitioner.

Certain patients may need to be notified earlier so detailed management arrangements can be organised, e.g. those with psychiatric conditions or complex treatment regimens. You should consider:

- advising your patients when they next attend for a consultation
- sending letters to your patients (include a consent form with options for requesting and transferring their medical record to a new treating practitioner)
- placing signs in your practice.

It is a legal requirement to publish a formal notice advising your practice is closing in the local newspaper if you practice in the Australian Capital Territory (ACT) or Victoria, and it is advisable for doctors practising in other states.

Some patients may require more detailed arrangements for their ongoing care to be made ahead of your retirement, such as those with significant health conditions for which it may be difficult for a colleague to simply take over as the new treating doctor.

Surgeons should cease operating in sufficient time before retirement so that patients are not in standard postoperative review periods at the time you cease work.

With the exception of emergency cases, in the months leading up to retirement it is advisable not to take on managing new patients who have not previously attended the practice. Refer new patients to other doctors within your practice or within specific specialties, or you can provide the patient with a list of appropriate local practitioners.

You should also notify your medical colleagues and all relevant health agencies including the local hospital and health service centres, pathology and radiology clinics, and outpatient centres that you propose to retire. Inform them of your retirement date and the arrangements you have put in place for the continuing care of your patients.

✓ Medical records

Medical record management upon retirement can be complex. Original medical records may remain your property (in the case of a solo practice) or the entity that takes over or continues your practice may take ownership. Medical records need to be securely kept to:

- comply with the legislated minimum period for keeping of medical records

- ensure that they are available for patients' future treatment needs
- be accessible in case of a claim or complaint concerning treatment you have provided.

Where the practice continues in your absence, your records may be securely retained at the practice's premises; however, it is recommended that you negotiate continuing right of access in the event that a complaint or claim arises regarding your treatment.

Written consent forms to release copies of medical records to a new treating practitioner, or to the patient directly where this is appropriate, can be obtained from each patient and filed in the patient's medical records with a copy of any associated correspondence. MDA National can assist you with medico-legal advice regarding these circumstances.

If your practice is closing, records should be securely stored where they are protected from damage, loss or theft and can be retrieved easily if necessary. If you use a commercial company that specialises in the storage and disposal of confidential records, it is recommended that you request a written record of its certification. Certified storage and destruction companies should also provide written notification when medical records are destroyed.

For storage of electronic health records, you may need to liaise with the software company regarding the need to maintain your software licence for future access to the records as required.

Any records that have been kept for the minimum statutory period can be securely destroyed. For adult patients, the minimum statutory period is 7 years from the date of the last entry. For patients who were under 18 years of age at the date of the last consultation, the records must be kept until the patient turns 25 years of age.²⁻⁴ It is advantageous to “age” the records so they can be filed and stored based on the date of last entry and the age of patient. This allows for periodic review and disposal. Keeping a list of patients for whom you have records, what is covered in the records, and when they are due to be, or have been, disposed of is a legal requirement in some jurisdictions^{2,3,5} and is recommended to aid long term record management. Secure document destruction companies can assist the disposal process even if, for example, the records have been securely stored at a residence.

For further information regarding current recommendations on medical record management visit mdanational.com.au or contact our Member Services team on 1800 011 255 or at peaceofmind@mdanational.com.au.

Legal requirements in NSW, ACT and Victoria

If you practice in NSW, ACT or Victoria you must comply with legislation relating to medical record storage. Upon retirement, you need to do one of the following regarding patients’ medical records:

- Transfer the records to the patient’s nominated treating practitioner.
- Provide the records directly to the patient concerned.
- Advise patients if their medical records will be kept by the entity taking over/ continuing your practice.
- Advise patients of how their medical records can be accessed if you retain the files.⁶⁻⁸

If you transfer the medical records to another practitioner or medical practice, you must record the name of the individual or practice to whom the records have been transferred and their address.^{3,9,10}

When placing medical records in storage, practitioners are required to keep a register identifying the names of individuals to whom the medical records are related and the time period over which each health record extends.

When the statutory period for keeping each record ends and you dispose of the medical record, you must record the date of disposal.^{2,3,5}



The patient records were placed in coded boxes and specific instructions were provided to the storage facility as to when each box should be destroyed.

Case study

Medical records storage

Dr Barbara Jackson retired after 32 years in general practice. She was a solo rural practitioner. As she could not find another GP to take over, she had no alternative but to close her practice.

Barbara advised her patients well in advance that she was retiring. Patients seen at the practice during the 6-month period leading up to her retirement were asked if they would like a copy of their medical record to be sent to their new treating doctor. Barbara put posters up in her practice and placed notices in the local newspaper advising patients of the impending closure of her practice, her intention to have patient records stored securely in an off-site facility, and the procedures for patients to access their records in the future.

After Barbara retired she signed a contract with a recently opened secure storage facility that covered storage of her patient records, patient access to the records, and long-term destruction procedures. The patient records were placed in coded boxes and specific instructions were provided to the storage facility as to when each box should be destroyed. All of the records for paediatric patients were filed in separate boxes to ensure they were kept until each child reached 25 years of age. The storage facility agreed to retrieve a patient's record within 24 hours of receiving a signed request.

Almost 3 years after she retired, Barbara received a notification of a complaint from the Australian Health Practitioner Regulation Agency (AHPRA).

The complaint was from the mother of a former patient in relation to Barbara's clinical management of her daughter who was now 6 years of age. Dr Jackson was requested by AHPRA to respond to the complaint and provide them with a copy of the patient's clinical notes.

Dr Jackson had no independent recollection of the patient. She immediately emailed the storage facility, asking for the patient's clinical records to be retrieved. After several unanswered emails, Barbara telephoned the storage facility and was advised by the manager that all her clinical records had been inadvertently destroyed by a new staff member.

As a result, Barbara was unable to respond to the specific concerns that had been raised about her management of the patient and was not able to provide copies of her notes. In her response to AHPRA, Barbara simply outlined her usual practice and explained the inadvertent destruction of the patient's records.

The steps that had been taken by Barbara to ensure that her patients' records had been stored securely were noted by AHPRA and, given the passage of time since the alleged events and the nature of the issue matters, they declined to investigate the complaint further.

Case study

Consent to transfer medical records

After more than 30 years of practice in a busy regional centre, Dr Les Summer, a well-respected general surgeon, decided it was time to retire. Les had a large patient base and although he and his wife were excited about their upcoming lifestyle change, Les was anxious about the timing of his retirement and fulfilling his medico-legal requirements. Of paramount concern to Les was his desire to ensure that his regular patients (e.g. those requiring annual colonoscopies) had continuity of care and did not feel abandoned by their surgeon.

Les announced his pending retirement to his surgical colleagues during a departmental meeting. He advised that he would not be accepting new patients and would wind up his practice over a 2-3 month period. Following the meeting, Dr Darcy Keen, a fellow general surgeon, expressed availability to assume management of any of Les' patients who required ongoing management and/or surveillance. Darcy suggested that Les' practice manager send the records for any patients requiring continuing care to Darcy's practice rooms.

When Les returned to his rooms, he asked his practice manager to print a list of patients requiring ongoing care. The practice manager identified 79 patients who would need to have their care taken over by Dr Keen or another general surgeon.

Les contacted his professional indemnity insurer to confirm that the steps he had in place for the storage of his medical records were adequate (he took out a secure storage contract for 7 years). During his discussion with his insurer, Les mentioned the arrangement he had made with Dr Darcy Keen regarding those patients who required ongoing care. Les' professional indemnity insurer advised him that as Dr Keen would be providing essentially the same service in managing his patients' care, he could provide a copy of those patient records to Dr Keen.¹¹ The professional indemnity insurer informed Les that either he or Dr Keen would need to notify patients that Dr Keen would now hold their medical records and provide Dr Keen's contact details.

As Les had a long-standing therapeutic relationship with his patients, he decided that he would prefer to write to his patients to let them know of his impending retirement and the arrangements that had been made to transfer their medical records to Dr Keen. In the letter, Les informed his patients that Dr Keen would continue to manage their care and provided Dr Keen's practice address and contact details for patients to make an appointment. As each patient has the right to choose which general surgeon takes over their management, Les enclosed a consent form for patients to authorise a copy of their clinical notes be sent to another general surgeon of their choice or to their general practitioner (GP).





✓ Professional bodies

Consider whether your details need to be amended with your professional bodies and affiliations, including AHPRA and your professional College.

If you work as an educator in settings without patients (e.g. simulated learning environment), as an examiner or assessor, an academic, or in an advisory or management role, you may not need to maintain your registration with AHPRA. If you retain your registration you must comply with the registration standards, such as your obligation to complete continuous professional development requirements relevant to your scope of practice.¹²

If you discontinue all medical work, you may choose to maintain non-practising registration with AHPRA. This allows you to continue using the title “medical practitioner” and you remain subject to professional conduct requirements; however, you must not provide medical treatment or opinion to an individual, prescribe medication, or issue referrals to other health professionals.¹²

Further information should be sought from AHPRA.

Additional Considerations for Those Who Own Their Own Practice

✓ Employees

Individual practice circumstances dictate how you address your retirement with any employees. You may need to seek advice from your taxation accountant or financial advisor. Consideration should be given to:

- informing employees if you intend to transfer your business and their employment to a new employer¹³

- fulfilling your statutory and contractual obligations with respect to notification and termination of staff employment or payment in lieu of notice. The *Fair Work Act* (2009) outlines the amount of notice required for employment termination, as determined by the employee's period of continuous service¹⁴
- retaining employee records in accordance with legislative requirements, e.g. employee records must be kept securely for 7 years¹⁵
- completing employee pay as you go (PAYG) withholding obligations, superannuation payments, fringe benefit tax reporting, and any termination payments. Permanent employees will usually be owed entitlements when your business closes, including accrued annual and long service leave
- providing employees with a group certificate payment summary before 14 July in the year following their employment cessation¹⁶
- negotiating for at least one staff member to assist you after you cease practice with managing tasks such as copying medical records for transfer and collecting outstanding fees.



✓ Closing a business

If you have a registered business, there are additional legal requirements for closing your business. It is recommended that you seek the advice of your taxation accountant or financial advisor to ensure your obligations are met. Considerations include:

- You must advise the Australian Securities and Investments Commission (ASIC) within 28 days if you cancel or transfer your business name.¹⁷
- If you are registered for goods and services tax (GST), you are required to apply to cancel your GST registration within 21 days of ceasing business.¹⁸
- If you have an Australian Business Number (ABN) you are required to notify the Australian Tax Office within 28 days of closing your business.¹⁹
- You are required to lodge all activity statements and employee PAYG withholding obligations, and to finalise your tax obligations before you cancel the ABN.

- You are required to retain your business financial records for a minimum of 5 years even if you sell or close your business.¹⁶

As mentioned previously, it is a legal requirement in the ACT and Victoria to publish a formal notice advising your practice is closing in the local newspaper – this is also advisable for doctors practising in other locations.

✓ Selling your practice

If you have not already done so, consider investigating interest in the purchase of your practice by registrars or other colleagues. There appears to be a reasonable level of interest from new registrars in practice ownership, and many are seeking mentorship in practice management.²⁰ Selling your practice, rather than simply closing its doors, may be a feasible option that could also provide an opportunity to mentor a new business owner, if this appeals to you.

✓ Other insurance

If you have other insurance policies (e.g. public liability, contents or building insurance), these may need to be transferred to new practice owners or remaining practitioners, or cancelled upon closure of your practice. You need to discuss this with your insurer, broker and new business owner.

✓ Equipment and supplies

Check if you have equipment that may need to be sold or returned to lessors. Have a plan for all of your supplies (e.g. transfer to another local practice or appropriate destruction). Ensure that all unused medications and prescription pads are disposed of securely. Schedule 8 medications should be disposed of in accordance with relevant state legislation. For specific advice on the legislative requirements for disposing of Schedule 8 medications that apply in your state, contact our Medico-legal Advisory team on 1800 011 255.

✓ Lease and utilities

Consider your obligations under any lease arrangement and whether your agreement needs to be renegotiated in line with the date you are ceasing practice or transferring practice ownership. Arrange for transfer or finalisation of your utility accounts.

✓ Creditors and debtors

Advise creditors of your impending retirement and finalise outstanding accounts. If you continue to pursue outstanding debts, you will need advice from your financial advisor on maintaining your business name, ABN and GST registration.

✓ Mail redirect

Where your practice is closing, consider having your mail redirected.

Ensure that all unused medications and prescription pads are disposed of securely.

Life Away from Practice

The decision to retire can be a rewarding change of direction in your life but it is important to recognise that the transition from work to retirement can be very stressful. For most retirees major life changes occur when they retire including loss of a stable income, detachment from work colleagues, increase in unstructured time,²¹ and potential loss of self-worth and personal identity.²² For medical practitioners, leaving a position of esteem and ending a long-term association with the medical profession can lead to boredom and a loss of self-identity²³ and purpose.²⁴

Good physical, emotional and social health is associated with greater satisfaction in retirement. Having supportive emotional and social resources improves retirement. Strategies that may increase overall retirement satisfaction include retiring "into something" rather than retiring "from something",²⁵ having an optimistic and enthusiastic outlook, establishing strong social networks, and setting goals, e.g. increasing personal fitness, undertaking additional formal or informal education.²¹

"Challenges when retiring ... the psychological effect of loss of collegiality with peers and the profession in general, with the extended family of patients and professional status."

Professor John Murtagh, Victoria

“I have kept busy being appointed to the Governing Council of the Country Health Service ... and the local hospital board. I also arrange conferences at the local rural clinical school and maintain an interest in the progress of former registrars.”

Dr Ian Lishman, Western Australia

Many practitioners are not ready to leave medicine altogether when they decide to retire. A desire to “give back” to the medical profession, to promote one’s specialty to new doctors, or to participate in ongoing professional development are all common and often motivate involvement in teaching²⁶ and mentorship for older medical practitioners as they approach retirement and beyond. There is also the opportunity to use your medical skills in non-clinical specialties such as medico-legal or academic careers.

If you choose to continue some medical work in your retirement, be aware of the following:

- Inform MDA National of the nature of any gainful or voluntary work to ensure that you have an appropriate level of cover in place.
- Providing gratuitous services on an occasional basis, including volunteer acts, will not affect future ROCS eligibility.
- You can request cover for work anywhere in the world (excepting the United States of America). Cover for planned volunteer medical work in Australia or overseas is subject to underwriting approval.

For further information regarding performing medical-related work during retirement contact our Member Services team on 1800 011 255 or at peaceofmind@mdanational.com.au.

“Foster new interests, especially involving people, such as morning chats over coffee, bowls clubs, golf, tennis, music, walking groups.”

Professor John Murtagh, Victoria

Case study

Mentoring in business

Dr Daniel Cheng, a sole owner of a rural family practice, was in his early 50s when he started planning for his retirement at the age of 65 years. As the only GP in his local area, he felt a significant responsibility to his rural community to start succession planning.

"I was a rural GP, with thousands of patients on my books. Just shutting the doors would have been a tragedy for the local area. I started thinking about my retirement earlier than most people."

Daniel realised he would need strategies to attract another medical practitioner to his rural location. Becoming an accredited trainer with a vocational training organisation gave Daniel's practice exposure to interns and registrars, as well as providing him with an opportunity to maintain up-to-date medical knowledge. After 9 years teaching, Daniel received a call from one of the registrars who had trained in his general practice. Dr Angus Halef had recently been awarded his general practice Fellowship and was interested in relocating his young family to Daniel's region.

"I had worked with Angus for a few years, I had tutored him through his Fellowship exams and my patients knew him. He had the same patient care philosophy as I did and I knew he was the right doctor to take over my practice."

Angus returned to Daniel's practice and began a mentorship arrangement in which Daniel passed on his skills in practice ownership. As Angus became more confident in management, he gradually increased his responsibilities in the practice. As he reduced his clinical load, Daniel started doing more teaching both in the practice and as a lecturer for the vocational training organisation.

"My transition to full retirement was a slow process. Angus became fully responsible for the practice management and we finalised the sale of the business. I continued supervising students and seeing a few patients, but gradually I spent more time on the golf course."

Daniel had a strong social network within his rural community, and the occasional workshops he ran for other training supervisors provided him with sufficient involvement in the medical profession. Fulfilling his perceived responsibility to his local rural community was, for Daniel, a priority for a satisfying retirement that he achieved through early planning.

"I was a rural GP, with thousands of patients on my books. Just shutting the doors would have been a tragedy for the local area. I started thinking about my retirement earlier than most people."

Case study

A new medical speciality

Dr Megan MacIntosh, a surgeon in a large public hospital, decided to cease her surgical practice at a traditional retirement age and the peak of her career. She had no desire to engage in clinical activities that she considered a step-down from her current professional role (such as becoming a surgical assistant) but she was reluctant to make a total break from the medical world that had consumed her professional and personal identity for the past 40 years.

“Surgery was my life. When I wasn’t in theatre or seeing patients, I was in departmental meetings or attending conferences with my colleagues. I couldn’t imagine a life without medicine.”

In her retirement planning, Megan talked to other medical professionals who were soon to retire or had recently retired. Some of her colleagues had moved out of clinical work and taken professional roles in medical fields that had greater opportunity for part-time work. For Megan, the opportunity to continue working in the medical field in some capacity was a priority.

Megan’s colleagues encouraged her to consider the things that gave her personal satisfaction and her personal characteristics that need fulfilment in order to be happy in retirement. Megan had spent the vast majority of her life in intellectual pursuits, reading professional journals, attending conferences and considering research on surgical technique. She decided that without an intellectual outlet she would likely become bored and disenchanted with life.

Her discussions with her network of colleagues led to an opportunity to become involved in medico-legal work with peers she had known in her university days. This new line of medical work provided Megan with the intellectual stimulation she predicted would contribute to higher life satisfaction in her retirement. As she became further involved in her new field, Megan decided to undertake part-time higher education studies. Her return to university increased her involvement in social clubs and physical activity, and she found that her days were filled with study and a large circle of friends with a variety of professional backgrounds. Megan felt her perspective on life was greatly expanded and her satisfaction following her surgical career was high.

“I found myself cycling across the university campus each day, meeting friends for coffee, discussing medical philosophy and undertaking a law degree. I never dreamed how my life could change so dramatically but remain so engaging and satisfying.”

The advice Megan received from colleagues who had previously retired not only ensured Megan considered and planned for her personal satisfaction carefully, it also led to an exciting new career.

"I never dreamed how my life could change so dramatically but remain so engaging and satisfying."



Other Retirement Planning Considerations

“... it’s probably a very different experience for each person and happiness or not is probably closely linked to how realistic the expectations are.”

Dr Tom Hugh, NSW

- Discuss your retirement plans with your family, including ways you will spend your time and income.²⁷
- Seek advice and information from other retirees so you have realistic expectations.²²
- Do you have adequate financial resources to fund your retirement? Seek assistance from your financial advisor.
- How will you spend your time? Will your hobbies and interests be as rewarding and meaningful as you anticipate? What strategies can you use to ensure your intellectual needs are met?
- Is your current social network large enough and sustainable after you make a major life change? If your primary social outlet is associated with your workplace you may need strategies to meet new people with similar interests.
- It is recommended that you avoid self-treatment and ensure that you have your own GP who can undertake health assessments and monitor your future healthcare needs.



Frequently Asked Questions

Can I continue to use the title “Doctor” if I do not renew my registration with AHPRA?

Yes. If you let your registration lapse you may still use the title “Doctor”;²⁸ You may not use the title “medical practitioner” or “medical specialist” if you do not have registration with AHPRA, as these titles are protected.¹²

Can I continue to write prescriptions and referrals if I do not renew my registration with AHPRA?

No. If you do not maintain a general or specialist registration and fulfil continuing professional education and medical indemnity insurance requirements you will not be able to practise medicine. Doctors who held limited registration (public interest – occasional practice) on 30 June 2010 (this type of registration is no longer available) are able to refer and prescribe but may not receive a fee for this service. You cannot write prescriptions or referrals if you opt to have a non-practising registration or let your registration lapse.¹²

Can I provide emergency care if I do not maintain my registration?

Yes. Providing emergency care is not considered to be a breach of your non-practising registration. A non-registered doctor can also provide emergency care; however, in providing emergency care you must not suggest that you are registered if this is not the case.¹²

If I let my registration lapse, can I provide gratuitous services, e.g. at my grandson’s sporting competition?

No. Unless you hold general or specialist registration you must not practise medicine, even if you are not receiving remuneration.

If I let my registration lapse, can I renew it later?

Yes. However, if you let your registration lapse you will be required to undergo criminal history, qualification and identity checks when you re-apply. If you re-apply for general or specialist registration you are required to meet continuing professional development standards and maintain professional indemnity insurance.²⁸

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Find Out
More

Further Information

For advice regarding retirement obligations call MDA National's Medico-legal Advisory Service at any time on **1800 011 255**.

“Suddenly stopping a busy professional life with tight timetables was a bit daunting – what am I actually going to do with all this free time? I needn't have worried – within a few months I had to re-start a daily diary to fit everything in.”

Dr Tom Hugh, NSW



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The case histories are based on actual medical negligence claims or medico-legal referrals; however certain facts have been omitted or changed by the author to ensure the anonymity of the parties involved.

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