



College of Respiratory
Therapists of Ontario

Ordre des thérapeutes
respiratoires de l'Ontario

RETENTION OF PERSONAL HEALTH RECORDS

Practice FAQs

February 2017

QUESTION

I work for a small home care company. If a client asks that we destroy their medical records, can we do so as long as we are no longer providing them with any respiratory services?

ANSWER

The commonly accepted standard in both the hospital and community setting is to retain Personal Health Records (PHR) for a minimum of 10 years before disposing of them. The *Public Hospitals Act* states that Ontario hospitals must retain records containing personal health information for at least 10 years from the date of the last entry for those over the age of 18 years. For those under 18 years of age, the *Public Hospitals Act* requires records to be maintained for at least 10 years after the client reaches 18 years old. The *Personal Health Information Protection Act* (PIHIPA) does not set out any specific retention period, but it does require records containing personal health information to be kept for as long as needed to allow a client to exhaust any future legal recourse. The *Limitations Act*, which deals with the legal statute of limitations, states that legal proceedings can be brought up to 15 years after any alleged act or omission. Therefore, 10 years is the minimal PHR retention period and it is advisable to extend that timeframe to at least 15 years.

The client's records cannot be destroyed for at least 10 years, but you can offer to invoke the "lock box provision". This involves putting the client's information into a sealed envelope marked "Private and Confidential - not to be disclosed without the express consent of the client or unless otherwise required by law". While this is the same disclosure criteria that applies to all personal health information, some clients find this additional step reassuring.

If you have any questions about a professional practice issue, please contact Carole Hamp, Manager of Quality Practice at extension 33 or hamp@crto.on.ca.