



COLLEGE OF  
NATUROPATHIC PHYSICIANS  
OF BRITISH COLUMBIA

## **Guideline: Leaving or Transferring Practice – Ownership, Storage, and Access to Clinical Records**

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*The guiding principle for registrants closing, leaving or transferring practice is the assurance of the continuity of patient care and the preservation of patient records.*

Review the College of Naturopathic Physicians of British Columbia Bylaws, in particular Part 6 – Registrant Records, at: <http://www.cnpbc.bc.ca/>

### **Ownership of Clinical Records**

In some circumstances, patient clinical records belong to the registrant who created the clinical record. However, the information in the record belongs to the patient. The patient has a right to access the clinical information and obtain a copy of documents in the record, but not to obtain the record itself.

There are exceptions in regard to the ownership of clinical records; for example, when a registrant generates a clinical record in the course of employment, the employer may own the record. A partnership agreement may also impact the issue of ownership. It is important that registrants recognize that no one rule applies to all circumstances. Registrants are encouraged to seek their own legal advice respecting their particular circumstances.

Registrants in a group practice or who share office expenses with other registrants are advised to have an agreement respecting ownership of clinical records generated during the course of the practice, and the management of records in the event someone leaves the group or the group dissolves. An associate who moves to a new practice is entitled to retain copies of clinical records for every patient for whom the associate is the treating naturopathic physician

### **Security and Storage of Clinical Records**

Sections 84 and 87 of the Bylaws require registrants to “safely and securely store” all personal information and to make reasonable security arrangements to prevent unauthorized access, collection, use, disclosure, disposal or patients’ personal health information.

Section 84 of the Bylaws additionally requires registrants to retain personal information for seven years. However, registrants should note that certain claims of negligence and/or malpractice may be brought beyond seven years. As such, it is recommended that registrants consult with a lawyer prior to destroying patient files.

A registrant who uses an electronic patient record must ensure that the system has adequate safeguards to protect the confidentiality and security of information, including but not limited to, ensuring:

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- a) an unauthorized person cannot access identifiable health information on electronic devices;
- b) appropriate password controls or data encryption are used;
- c) secure backup of data; and
- d) when hardware is disposed of that contains identifiable health information, all data is removed and cannot be reconstructed.

Reference documents published by the Office of the Privacy Commissioner of BC ([www.oipc.bc.ca](http://www.oipc.bc.ca)) may provide useful guidance to registrants in meeting their privacy obligations, in particular the Privacy Toolkit developed in association with the *College of Physicians and Surgeons of British Columbia* and the *BC Medical Association* <https://www.oipc.bc.ca/guidance-documents/1470>.

### **Patient Access to Records**

As noted above, a patient whose personal health information is contained in a clinical record has a right of access to that information. Under section 90 of the Bylaws, a registrant must provide a patient access and/or a copy of the clinical record within 45 days of the patient's request.

The patient's right to a copy of his or her clinical record is not absolute. For instance, under section 90 of the Bylaws, a registrant may refuse to disclose part or all of a clinical record if there is a significant likelihood of harm to the patient or a third party. Registrants are encouraged to seek the guidance of legal counsel if they are considering denying a request for access or are otherwise unsure about how to respond to a request for access from a patient.

When a naturopathic physician is requested to provide access to, or a copy of, a patient record to a third party, the registrant should ensure that he or she received a signed consent from the patient which specifically authorizes access to the record and/or a copy of it. If the direction for the patient is not clear, or if there are any concerns regarding informed consent, clarification should be obtained from the patient.

Section 90(5) of the Bylaws states that patients may be charged a reasonable fee for reproduction of personal information. The amount charged must not exceed that set out in Schedule "B" of the College's Bylaws. Registrants must ensure that privacy and security of clinical records or other personal information is maintained during reproduction. It is not appropriate to have copies made at unsecure third-party facilities.

### **Closing, Leaving, or Transferring Practice**

Guiding principles for naturopathic physicians include the assurance of continuity of patient care and the preservation of patients' clinical records.

When a registrant ceases to practice naturopathic medicine, he or she must either transfer his or her patient clinical records or retain the records for the required period of time. Obligations regarding secure storage and patient access to records, as noted above, continue to apply. A colleague may undertake this responsibility, or other independent arrangements must be made. Note: Section 86(1)(b) of the Bylaws requires registrants who have ceased practicing to notify the College of that fact as well as the steps the registrant has taken to transfer or otherwise dispose of clinical records.

Care of any patient under acute, active, treatment should – with the patient’s consent – be transferred to a colleague immediately. All outstanding reports or test results must be reviewed and acted upon by a qualified naturopathic physician or other licensed health professional. Obligations regarding secure storage and patient access to records, as noted above, continue to apply.

A registrant who is closing his or her practice should provide patients with notification of practice closure as soon as practicable in order to allow patients an opportunity to find another health care provider. This is in accordance with section 33 of the College’s *Code of Conduct*. When providing this notification, the registrant should remind patients where they can go to obtain emergency or urgent care. Notification should be documented in the clinical file.

Patients should be assisted in their search for a new naturopathic physician by providing a list of registrants in the registrant’s local area, by directing patients’ to the College’s public register (available at <http://www.cnpbc.bc.ca/>) or to the British Columbia Naturopathic Association (available at <http://www.bcna.ca/> or (604) 737-6646) for a referral.

In a case when an associate naturopathic physician moves to a new practice location, a letter should be sent jointly by the associate and the clinic owner to all the patients. This letter should inform the patients of the associate’s future whereabouts and ask patients to indicate in writing whether they wish for their clinical records to follow the associate to his or her new practice, or to remain at the clinic. The letter should also inform patients whether, in the event a response is not received, their files will remain at the clinic or leave with the associate.

As previously noted, an associate who moves to a new practice is entitled to retain copies of clinical records for every patient of whom she or he is the treating naturopathic physician. The clinic owner may also retain either copies or originals of any records that will follow the associate, but should be responsible for covering any costs associated with the reproduction of those records.

**There is no property in a patient. A patient must have the right to choose his or her naturopathic physician. The decision whether to switch to another naturopathic physician at the clinic, or to follow the departing naturopathic physician to the new clinic, rests with the patient.**