

Client Alert

Healthcare Practice Group

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Changes to California's Document Retention Policy

Medi-Cal and other California health care providers will soon be required to change their document retention policies and practices for services rendered under programs administered by California's Department of Health Care Services ("DHCS Programs"). As of January 1, 2018, California law will require these providers to maintain certain healthcare information for a minimum of 10 years.

On October 5, 2017, Governor Jerry Brown approved AB 1688 (Chapter 511, Statutes of 2017), which in part amends California Welfare and Institutions Code § 14124.1 effective January 1, 2018. Section 14124.1 currently requires that providers under DHCS Programs maintain specified information for three years, including the names of the individuals to whom healthcare services were rendered and the date(s) of service. The amendment requires that these providers retain the specified information for a minimum of 10 years. The 10-year period commences on the final date of the contract period between the plan and the provider, if any, the date of any audit completion, or the date the service was rendered, whichever is later.

The new law aligns with various federal standards. For example, the Centers for Medicare & Medicaid Services ("CMS") already requires records under the Medicare Advantage program to be retained for a minimum of ten years. *See* 42 C.F.R. § 422.504(d). CMS also requires managed care organizations and their subcontractors to retain records for a minimum of 10 years under the Medicaid and CHIP Managed Care final rule. *See* 42 C.F.R. § 438.3(u). However, other California medical record retention regulations remain undisturbed, including, for example, Title 22, § 70751 of the California Code of Regulations, which requires hospitals to keep patient records for a minimum of seven years.

Hospitals and other providers under DHCS Programs should amend their document retention policies and implement procedures and practices to ensure compliance with the new law by January 1, 2018.

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