



## LEAVING / CLOSING A PT JOB OR PRACTICE

When you leave a physical therapy practice, whether you have been a contractor or an employee, and whether you are leaving on amicable terms or amid some tension, it's a difficult time to start negotiating details about client records and how best to tell your clients why you are leaving and where you are going. Ideally, all of these things have been discussed ahead of time, and, even better, are outlined in your employment contract. Start by consulting your employment contract to determine if there is an agreement on what procedure to follow when you leave the practice. If not, it may be helpful to come to an agreement on these details – before the situation arises. A lawyer may be of assistance in outlining acceptable business practices from a legal perspective.

While the College does not have jurisdiction over business agreements from a public interest perspective, there are a few things to consider if you are leaving a private practice.

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### Notifying Clients

The Code of Ethical Conduct states that one of a physical therapist's ethical principles is *to respect people's autonomy to make decisions that apply to their lives and to have control over their lives as much as possible. Autonomy requires a physical therapist to respect a client's freedom to decide for themselves.* Presumably, respecting a client's needs and wishes includes respecting their right to choose where they want to receive physical therapy treatment and who they want to provide that treatment.

- clients should be advised in advance that you are leaving the clinic. Ideally, from a client perspective, the client should be given the option to choose whether to continue at the current clinic with a new physical therapist or to seek treatment elsewhere.
- if the client declines that option and asks about your new location, and your employment contract includes a non-solicitation clause (i.e. you are not allowed to let clients know where you are moving to), then the client can be



provided with the College contact information. The client can call the College or use the online to find your new workplace details. Be sure to update workplace information in the College database!

Keep in mind the power differential that exists between a physical therapist and a client. If you recommend that they follow you to a new clinic, they may feel compelled to do so, even if they would rather continue to receive treatment at the current clinic location. Encouraging clients to move to your new place of employment during a client's treatment time could be perceived by the client as the physical therapist placing their own financial interests ahead of the client's interests. The option of providing College contact information respects the client's right to choose, and keeps the focus on providing client care during the appointment.

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## Clinical Records

As described in the Standard of Practice: Privacy and Record Retention, the physical therapist is responsible for retaining clinical records for a minimum of sixteen years from the date of last entry, or to the age of majority (19 years old) plus sixteen years.

### *Ownership*

#### **Moving to a new clinic**

When a physical therapist leaves a clinic, there is often a question of whether the clinical records stay at the clinic or whether they move with the physical therapist who compiled the records. Ideally, the employment contract should include information that clarifies the ownership rights to clinical records. From a public interest perspective, a client may need to access the clinical record in future, and would likely return to the clinic where it was compiled to request a copy of the record. If the clinical records will be moving with the departing physical therapist, clients should be advised where the records will be stored. If the clinical records will be staying with the clinic, the physical therapist is responsible to ensure that those client records will not be abandoned in the future. An agreement in writing with the clinic would assist the physical therapist in meeting their obligations in this regard.

#### **Closing a practice or leaving the profession/retiring**



When a physical therapist closes a practice, retires, or leaves the profession, they are still responsible for appropriately storing their clients' clinical records for the required number of years. The College Bylaws, Section 86 (5)(a), outlines the options available to registrants in this situation, which are:

- transfer the records to another full registrant
- make arrangements for safe and secure storage of the records and provide clients with access
- return the record to the client themselves

The College needs to be informed of the steps taken to transfer or store those records within 21 days – see Standard of Practice: Privacy and Record Retention.

### *Access*

It's important to ensure that your employment contract sets out an agreement for enduring access to clinical records for both you (the physical therapist) and the client should the need for access arise in the future. This is especially important when a physical therapist works at a clinic owned by a non-physical therapist, as that owner maybe unaware of these requirements. An agreement (preferably in writing) must be reached to ensure enduring access for the duration of the retention period. If you are closing a practice, retiring, or leaving the profession, there must always be arrangements made for clients to have access to the records in the future if required, and the College must be made aware of what those arrangements are.

Remember that if the records are electronic, you may need to involve the service provider to confirm how enduring access will be possible not only when you leave a practice but also if you change service providers.

### *Privacy*

Keep in mind that privacy legislation in BC prevents the use of personal information for a purpose other than what it was originally collected for. This means that client information provided for the purpose of receiving physical therapy services at Clinic X cannot be used for the purpose of soliciting business for Clinic Y according to the Personal Information Protection Act (PIPA). In order to make copies of a client's clinical record to take to a new location, written consent from the client is required. This applies to a client's home contact information also.

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## Review Your Employment Contract Today

Often the College receives calls from registrants at the time they are leaving a clinic or place of employment, and it then becomes clear that there was insufficient information in their employment contract to effectively plan their transition to their next work location. Take a look at your contract now, and review the conditions regarding procedures when you leave the clinic in the future:

- what can the physical therapist tell the client about where they are going when they move to another place of employment?
- where will the clinical records be kept (and how will clients be informed if they will become the property of the physical therapist when they leave)?
- if the clinical records will remain at the clinic, what agreement is in place with the clinic owner to ensure enduring access to those records for both the physical therapist and the client for the duration of the retention period?

If you are in the process of negotiating a contract with your employer or a clinic owner, keep these things in mind, and be sure to consider consulting a lawyer to be sure that the contract contains acceptable business practices, and that your professional (College ) and your contractual obligations don't conflict.

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