SADA
THE SOUTH AFRICAN DENTAL ASSOCIATION

MEMBER HANDBOOK

The Exit Plan

Closing or Selling Your Dental Practice

A practical and legal guide for SADA members

COVERING

- Health Professions Act
- Labour Relations Act
- Basic Conditions of Employment Act
- SARS Requirements
- National Health Act
- POPIA
- Hazardous Substances Act

This handbook is a general practical guide only and does not constitute legal, tax or financial advice. SADA members should obtain advice specific to their circumstances before acting — see the Introduction. The legislation, regulations, professional rules and guidance referred to in this document may be amended or updated from time to time. Practitioners should therefore ensure that they refer to the current applicable requirements and seek professional or legal advice where necessary.

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1. Introduction

Closing a dental practice, whether through retirement, sale, relocation, ill health, or any other reason, is a significant professional, legal and administrative undertaking. It touches on your obligations as an employer, as a registered health practitioner, as a custodian of patient information, and as a taxpayer.

This handbook has been prepared by the South African Dental Association (SADA) to give members a practical, step-by-step overview of the main legal and regulatory requirements that apply when winding down, selling, or otherwise closing a dental practice in South Africa. It draws on the requirements of, among others:

- The Health Professions Act 56 of 1974 and the Health Professions Council of South Africa (HPCSA) Ethical Rules and Guidelines (including Booklet 9 — Guidelines on the Keeping of Patient Records);
- The Labour Relations Act 66 of 1995 (LRA) and the Basic Conditions of Employment Act 75 of 1997 (BCEA);
- The National Health Act 61 of 2003;
- The Protection of Personal Information Act 4 of 2013 (POPIA);
- The Hazardous Substances Act 15 of 1973 (radiation-emitting equipment, e.g. dental X-ray units); and
- The requirements of the South African Revenue Service (SARS) and the Companies and Intellectual Property Commission (CIPC), where relevant.

> *Note: This handbook is provided by SADA purely as general, non-binding guidance for members, summarising the law and regulatory guidance as understood at the date of publication. It does not constitute legal, labour, tax or accounting advice, and must not be relied upon as such. It is not a complete or authoritative statement of the law, and it creates no obligation, undertaking, warranty or representation on the part of SADA, whether as to accuracy, completeness or currency. Laws, HPCSA guidelines and SARS procedures change from time to time, and requirements may differ depending on a member's individual circumstances. Every member remains solely responsible for independently verifying current requirements with the relevant authority (HPCSA, SAHPRA, SARS, CIPC, the Information Regulator, or other applicable body) and for obtaining their own professional advice from a suitably qualified attorney, accountant or other adviser before acting on any matter, particularly any decision affecting staff, patients or records. SADA accepts no responsibility or liability for any action taken, or not taken, in reliance on this handbook.*

Wherever possible, start planning your closure at least three to **six months** in advance. Many of the obligations below, such as notifying patients, consulting with staff, arranging record storage, and deregistering with SARS and the HPCSA, have their own timelines, and leaving them until the last moment increases both legal risk and stress.

2. Overview

Every closure is different, but most practices need to work through the same broad categories of decision. This handbook follows that order:

Step	What it covers	Section
1	Decide on closure route: cease operating, sell as a going concern, or transfer patients to another practitioner	S3, S5
2	Plan for staff — consultation, notice, final pay, UIF	S3
3	Plan for equipment, radiation equipment, leases and stock	S4
4	If selling: valuation, sale agreement, restraint of trade, HPCSA notification	S5
5	Decide what happens to patient records (retain vs transfer)	S6, S8
6	Apply the correct retention periods	S7
7	Notify medical schemes, professional indemnity insurer, and other insurers	S9
8	Deregister with SARS (and CIPC, if applicable)	S10
9	Work through the summary checklist	S11

A useful way to think about closure is in three parallel tracks that all need attention at the same time: people (staff and patients), property (equipment, premises, records), and paper (regulatory and tax deregistration). The sections below deal with each in turn.

3. What Happens to Your Employees When You Close or Sell Your Practice?

Before deciding what to do with your employees, it is important to establish how the practice is being closed, sold or transferred. The employment consequences are different depending on what happens to the practice itself.

There are two common scenarios:

Scenario A — Complete closure of the practice

The practice closes permanently, and no other person takes over and continues the business. This may occur due to the primary practitioner retiring, emigrating, passing away unexpectedly, etc.

If the closure means that employees' positions no longer exist, the termination of their employment will ordinarily constitute a dismissal for reasons based on the employer's operational requirements. The employer will generally need to follow the consultation process in section 189 of the Labour Relations Act (LRA).

Employees may, depending on the circumstances, be entitled to notice or payment in lieu of notice, severance pay, accrued leave pay and any other remuneration legally due to them.

Scenario B — Sale or transfer of the practice

If you sell your dental practice to another dentist or business, and the practice continues operating as a dental practice, your employees may move across to the new owner.

In some cases, the law treats this as a transfer of the business as a going concern. This is where section 197 of the Labour Relations Act (LRA) may apply.

If section 197 applies:

- your employees generally transfer automatically to the new owner;
- their employment does not end simply because the practice has been sold;
- the new owner generally takes over the employees on their existing terms and conditions of employment; and
- matters such as accrued leave, salaries and other employment obligations need to be properly dealt with as part of the transfer.

However, not every sale of a dental practice is a section 197 transfer. Whether section 197 applies depends on the specific circumstances of the transaction and, in particular, whether the business is transferred as a going concern.

For this reason, both the buyer and seller should obtain legal advice before the sale is concluded. The sale agreement should clearly set out what will happen to the employees and who will be responsible for outstanding leave, employment benefits, claims and other employment-related liabilities.

In simple terms: selling a practice does not necessarily mean that you can terminate your employees and the new owner hires them again. If the practice is transferred as a going concern, the employees may automatically move to the new owner under section 197 of the LRA.

3.1 What to Do with Employees

If your practice employs staff such as dental assistants, oral hygienists, receptionists, and practice managers, closing the practice will, in almost every case, end their employment. How you do this matters: getting it wrong

exposes you to claims of unfair dismissal at the CCMA, even where the underlying reason (closure of the business) is entirely legitimate.

3.2. Retrenchment for Operational Requirements: What This Actually Means for You

If you are closing your practice down completely and the business will not be transferred to another person who will continue operating it, employees whose positions become redundant will ordinarily be dismissed for reasons based on the employer's operational requirements. This is commonly referred to as retrenchment and is regulated by section 189 of the LRA.

Even though the decision to close the practice may be legitimate, the employer must still follow a fair process before terminating the employees' employment. The fact that the practice is closing does not remove the employer's obligation to consult with affected employees

Even though the reason is legitimate, it is vital that a fair *process* is followed; skipping steps is what gets employers into trouble at the CCMA, not the decision to close itself.

Here's what that process looks like in practice, step by step:

> *Important: The process described below applies to employers who are not subject to the additional requirements of section 189A of the Labour Relations Act 66 of 1995 (LRA). Where an employer employs 50 or more employees, section 189A may apply if the prescribed employee-number and retrenchment thresholds are met. Section 189A imposes additional procedural requirements and, in certain circumstances, provides for the involvement of the Commission for Conciliation, Mediation and Arbitration (CCMA) and a longer consultation process.*
>
> *Accordingly, employers with 50 or more employees should obtain appropriate labour-law advice before commencing a retrenchment process to ensure that the applicable requirements under sections 189 and 189A of the LRA are followed.*

3.2.1 Step 1 — Give written notice and explain why (section 189(3))

Before making any final decision, put the proposal in writing and explain that you are considering closing the practice, the proposed timing and the reasons for the closure. This starts the consultation process and is not a dismissal letter.

The notice should provide the relevant information required by section 189, including the reasons for the proposed dismissals, alternatives considered and why they were rejected, the number and categories of employees affected, the proposed selection criteria and timing, severance pay and any assistance offered, the possibility of future re-employment, and the number of employees currently employed and dismissed for operational reasons in the previous 12 months.

Employees must be given a genuine opportunity to respond before any final decision is made. A dismissal letter should only be issued once the consultation process has been completed.

Example: "I am considering closing the practice from 30 November due to retirement. I would like to consult with you before any final decision is made."

3.2.2 Step 2 — Actually consult, don't just inform

This is the part employers get wrong most often. Consultation means a genuine two-way conversation, not a formality before you do what you'd already decided. You must give staff (or their union/representative, if they have one) a real chance to respond. The consultation should consider measures to avoid the dismissals altogether; minimise the number of dismissals; change the timing of the dismissals; mitigate the adverse effects on employees; agree on fair and objective selection criteria, where applicable; and reach agreement on severance pay.

Practical tip: There is no prescribed number of consultation meetings. The employer should allow sufficient consultation for employees to make representations and for the employer to properly consider those representations before making a final decision. An exchange of letters/emails is also encouraged, where you set out the reasons and invite input, and keep a written record of what was discussed.

3.2.3 Step 3 — Respond in writing to any alternatives raised

If an employee suggests something like "could I take over running the practice?" or "could you keep me on until the lease ends?", address it in writing, even if the answer is no. Explain why it isn't feasible. This shows you genuinely considered it rather than dismissing it out of hand.

3.2.4 Step 4 — Use fair selection criteria (if only some staff are affected)

This matters more when part of the practice continues (e.g. you're scaling down, not closing entirely) and you need to choose who stays and who goes. Common fair criteria include LIFO ("last in, first out"), skills, experience, or performance record, applied consistently and not to target a specific person you simply want gone. If you are closing entirely and every employee's job ends, this step is less of an issue since everyone is affected equally.

Step 5 — Give proper notice

Once consultation has genuinely run its course (not before), you can issue notice of termination. Check both: Statutory minimum under the BCEA (generally 1 week if employed for less than 6 months, 2 weeks if 6 months–1 year, 4 weeks if more than 1 year), and contractual notice in their employment contract, if longer. Whichever is *longer* applies. If you can't have them work the notice period (e.g. the practice premises are already handed back), under BCEA section 38, an employer can pay remuneration instead of requiring the employee to work the notice period.

Step 6 — Pay severance pay, on top of everything else

Severance pay is separate from notice pay; it's compensation for the job loss itself, calculated as **at least one week's remuneration for every completed year of continuous service** (BCEA section 41).

Example: A dental assistant who worked for you for 6 years and 8 months is entitled to at least 6 weeks' severance pay (the 8 months don't count as a further completed year). This is in addition to:

- outstanding notice pay,
- accrued but unused annual leave, and
- any pro-rata bonus/commission owed.

An employee may lose the statutory entitlement to severance pay if the employee unreasonably refuses an offer of alternative employment with the employer or another employer, subject to the requirements of the BCEA.

3.3 Selling the practice as a going concern: section 197 LRA

The sale of a dental practice does not automatically constitute a transfer of a business as a going concern. Section 197 applies where the transaction meets the legal requirements for a transfer of a business as a going concern. The parties should obtain appropriate advice before assuming that section 197 applies. If you are selling your practice to another practitioner who will continue operating the business, the parties must determine, based on the circumstances of the transaction, whether the sale constitutes a transfer of a business as a going concern for purposes of section 197 of the LRA. Do not assume that section 197 applies or does not apply without obtaining appropriate advice. The legal consequence is important and different from retrenchment:

- Employees automatically transfer to the new owner if section 197 applies. Their employment is not terminated, and continuity of employment is preserved. The new employer assumes the rights and obligations relating to their employment, subject to the provisions of section 197.
- You and the buyer should agree, in the sale agreement, which of you is responsible for accrued leave pay, any outstanding disputes, and organisational obligations up to the transfer date;
- Employees and any representative trade union should be appropriately informed about the proposed transfer and its implications. Where consultation is required by applicable law or is otherwise appropriate, it should be undertaken before the transfer; and
- The transfer itself does not ordinarily provide a lawful basis for dismissing employees. If the new employer subsequently wishes to terminate an employee's employment, it must have a legally permissible reason and comply with the applicable requirements of the LRA.

3.4 Practical steps for every closure

- Issue each employee with a certificate of service on termination (BCEA section 42) recording their full name, occupation, period of employment and, at the employee's request, the reason for termination;
- Complete the required UIF documentation and provide the employee with the documentation required to enable the employee to apply for UIF benefits.;
- Settle final pay in full including outstanding salary, accrued but untaken annual leave, notice pay (or pay in lieu), severance pay (if retrenched), and any pro-rata bonus or commission due;
- Notify the relevant retirement fund or administrator of the employee's termination where required and provide the employee with any documentation reasonably required to process the employee's fund benefits;
- Keep employment, payroll and retrenchment documentation for at least the applicable statutory retention period. BCEA records are generally required to be retained for three years, subject to any longer period required by another law, regulatory requirement, contractual obligation or for purposes of a pending or reasonably anticipated dispute.

3.5 What if the practice cannot afford to pay its employees?

Closing a practice because of financial difficulties requires particular care. Financial distress does not, by itself, terminate the employment relationship or remove the employer's obligations under the LRA or BCEA.

If the practice may be unable to meet its employment obligations, obtain legal and financial advice before closing the practice, terminating employees or disposing of its assets. This is particularly important where:

- the practice is unable to pay employees' salaries when they fall due;
- the practice cannot afford notice pay, accrued leave pay or severance pay;
- creditors are threatening legal action, enforcement or liquidation proceedings;
- the practice may be insolvent or approaching insolvency;
- liquidation or business rescue is being considered;
- the dentist intends to sell the practice while employee, creditor or other liabilities remain outstanding; or
- the dentist intends to close the practice but continue operating another business or practice.

Employees may remain entitled to outstanding remuneration, accrued annual leave, notice pay and, where applicable, severance pay. Simply closing the practice and leaving employees unpaid may expose you to claims for these amounts and to disputes concerning the fairness of any dismissals.

Where the practice is being sold or transferred while liabilities remain outstanding, you should obtain advice on the treatment of those liabilities and the effect of the transaction on employees and other creditors. This

should include determining whether the transaction constitutes a transfer of a business as a going concern in terms of section 197 of the LRA.

Do not assume that financial difficulty or closure allows the practice to avoid its employment obligations. Obtain appropriate advice before taking steps that may affect employees or the practice's creditors.

4. What to Do with Your Equipment

4.1 General equipment and stock

- Compile an asset register (chairs, compressors, autoclaves, instruments, furniture, IT equipment) and decide, item by item, whether it will be sold with the practice, sold separately, donated, or scrapped;
- Check finance and lease agreements; leased or financed equipment cannot simply be sold or abandoned; you will need to settle the finance, negotiate an early-termination amount, or arrange for the lessor/financier's consent to any sale or cession;
- Return or arrange settlement for equipment under rental or service agreements (e.g. compressor servicing, IT support, sterilisation servicing contracts) and cancel these contracts with appropriate notice;
- Dispose of expired, unused or unwanted medicines, scheduled substances and dental materials in accordance with the applicable legal requirements and the requirements of the relevant supplier, pharmacy or waste-disposal service provider (do not simply discard medicines or scheduled substances in general waste);
- Arrange final collection and settlement of accounts with your medical/dental waste disposal contractor, and obtain a final waste disposal certificate for your records.
- Deal with consumables such as gloves, masks, suction tips and other dental materials. Agree whether these items will be included in the sale or transferred to the new owner and ensure that expired or unusable consumables are appropriately disposed of.

4.2 Radiation-emitting equipment (dental X-ray units and CBCT machines)

Dental X-ray equipment is regulated as a Group III hazardous substance under the Hazardous Substances Act 15 of 1973, and its use requires a licence issued by SAHPRA's Directorate: Radiation Control. This has specific consequences on closure:

- You may not simply sell, discard, or leave a licensed X-ray unit unattended. The licence holder must comply with SAHPRA Radiation Control's requirements for the transfer, sale, relocation or disposal of the equipment and obtain the necessary approval before the transaction or disposal is completed;

- If the unit is being sold to another licensed practice, the new owner must hold (or apply for) their own licence for that equipment at the new premises, and the change of ownership/location must be reported to Radiation Control;
- If a unit is being scrapped, arrange disposal through a supplier or contractor experienced in decommissioning radiation equipment, and retain proof of lawful disposal;
- Keep the equipment's Individual Equipment Record (IER) file until disposal/ transfer has been confirmed by SAHPRA, as it may be requested during the process.

> *Note: Contact SAHPRA's Radiation Control Directorate for the current form and procedure applicable to the transfer, relocation, sale or disposal of the X-ray equipment, as these administrative requirements may be updated from time to time.*

4.3 Premises

- Review your lease agreement for the notice period required to terminate, any "make-good" or reinstatement obligations, and the return of your deposit;
- Arrange final electrical, plumbing and compressed-air safety sign-off if required by your landlord or municipal by-laws, particularly relevant to dental surgeries with medical gas or suction installations;
- Notify the HPCSA, SAHPRA, your medical malpractice/indemnity insurer, SADA, medical schemes/BHF (practice number administration), and SARS that the practice has closed or that you are no longer practising from the premises, as applicable. Ensure that any required deregistration, cancellation or change of practice details is completed.

5. Selling Your Practice

Selling a going-concern practice to another dentist is one of the most common ways South African practitioners exit practice. Because a dental practice combines a business, a professional relationship of trust, and (usually) a store of confidential patient information, a sale needs more care than an ordinary small-business transaction.

5.1 Valuation and structuring the sale

- Practices are typically valued with reference to a combination of adjusted annual turnover, EBITDA (a measure of the practice's operating profitability), goodwill (patient base, location, reputation), and the fair value of equipment, stock and any property. Engage an accountant or practice valuation specialist experienced in dental/medical practices.

- Note: EBITDA stands for Earnings Before Interest, Tax, Depreciation and Amortisation. In simple terms, it is a measure of how profitable the practice is from its normal day-to-day operations, before taking into account interest, tax and certain accounting costs. Adjusted EBITDA may exclude unusual, once-off or owner-specific expenses to provide a more realistic picture of the practice's normal profitability.
- Decide whether the sale is of the business as a going concern (assets, goodwill, patient files, staff transferring under section 197 — see 3.2) or a sale of shares/member's interest, if the practice trades through a company or CC. The tax and VAT treatment differs materially between the two and should be confirmed with your accountant;
- A sale of a going concern can, if correctly structured and both parties are VAT vendors, qualify for the zero-rating provisions of the VAT Act; get this confirmed in writing by your accountant/tax adviser before implementation, as the requirements are technical.

5.2 Regulatory and ethical considerations

- There is no general prohibition in South Africa on selling the goodwill of a private dental practice, but the sale and any related agreements (including restraint-of-trade or non-compete clauses) must not compromise patients' rights to choose their own practitioner, to confidentiality, or to continuity of care;
- The buyer, if newly registering the practice or a new practice name, must ensure their own active HPCSA registration, practice number (with the Board of Healthcare Funders PCNS division), and any facility-specific licences (e.g. the X-ray licence dealt with in 4.2) are in place before or at handover;
- Notify the HPCSA of the change in practice ownership/details and notify SADA and DP/indemnity provider of your updated membership status.
- If you want to retire from active practice but wish to remain on the HPCSA register, you should be aware that you remain subject to the applicable continuing professional development (CPD) requirements, including the requirement to obtain the prescribed 25 clinical and 5 ethics CEUs within each 12-month rolling period. Practitioners who do not intend to maintain these requirements should consider whether remaining on the register is appropriate and obtain confirmation from the HPCSA regarding their registration category and obligations.

5.3 Patients and records in a sale

Where a practice (and not just the underlying assets) is sold to a continuing practitioner, HPCSA guidance treats this in the same way as any change of practitioner: patients must be informed and given a genuine choice. See section 8 for the detailed process, and section 6/7 if the sale does not include the patient records (e.g. you retain and archive them yourself).

5.4 Sale agreement checklist

- Purchase price, payment terms/guarantees, and allocation of the price between goodwill, equipment, stock and (if applicable) property;
- Effective date and handover arrangements, including a transitional period for introductions to patients and staff;
- Warranties regarding the equipment, compliance history, and absence of undisclosed HPCSA or CCMA matters;
- Treatment of employees under section 197 (see 3.2) and allocation of accrued leave liability;
- Arrangements for patient records — transfer, joint access during transition, and compliance with POPIA and HPCSA Booklet 9;
- Responsibility for outstanding patient accounts/debtors and medical scheme claims in progress;
- Who retains responsibility (and insurance) for historical treatment — typically the seller retains professional liability for their own past treatment, which is why run-off indemnity cover matters (see 9.1).

6. Patient Records If the Practice Is Closed (Not Transferred)

Where a practice closes and is not taken over by another practitioner, the HPCSA's Guidelines on the Keeping of Patient Records (Booklet 9, paragraph 10.5) set out specific obligations:

1. Within three months of closure, you must inform all patients in writing that the practice is closing as from a specific date;
2. The notice must invite patients to request that their records be transferred to another health care practitioner of their choice;
3. After the closure date, the remaining records must be kept in safekeeping for a period of at least twelve (12) months by an identified health care practitioner or health institution, who has full authority to deal with the files as appropriate; subject always to the rules on professional confidentiality (i.e. not further disclosed without authorisation).

In practical terms this means you (or the identified health care practitioner/practice group you nominate) must remain contactable and responsible for the records for at least these 12 months, and be able to action patient requests for copies or transfers during that time.

The twelve-month safe-keeping period is not the same as the applicable record-retention period. The expiry of the twelve-month period does not, by itself, mean that the records may be destroyed. Records must continue to be retained for the applicable retention period set out in Section 7 and any longer period required by law or reasonably necessary in the circumstances.

6.1 If you pass away or become incapacitated

The HPCSA guidelines also deal with the position where a sole or partnership practitioner passes away: the records form part of the deceased's estate and are administered by the executor. If the practice is taken over by another practitioner, the executor hands the records over, and the new practitioner must inform patients of the change and their right to choose. If the practice is not taken over, the executor must inform patients in writing and keep the remaining files safely for at least twelve months.

It is good practice to record, in your will or practice succession plan, who should be approached to fulfil this role.

The person responsible for the practice or records should also ensure that records are not destroyed merely because the practice has closed or because a patient has requested their deletion. The applicable retention periods and any outstanding legal, professional or regulatory matters must be considered before records are destroyed.

6.2 Practical storage options

- Secure off-site physical archiving with a reputable records-storage company (with a written retrieval/confidentiality agreement);
- Secure, encrypted, access-controlled electronic archiving of scanned or already-electronic records, with a password-protected and regularly tested backup;
- Arrangement with a colleague or former partner to hold records on your behalf, formalised in writing; or
- Where practical, transfer to a relief practitioner who agrees to manage ongoing requests.

> *Note: Whichever option you choose, POPIA requires patient information, including health information, to be processed lawfully and securely and in accordance with the applicable conditions for lawful processing, including any applicable requirements governing further processing and retention.*

7. Retention of Records: Timeline

There is no single retention period that applies to every record; the applicable minimum depends on the patient and the type of record. The table below summarises the main statutory and HPCSA-recommended minimums. Always apply the longest period that could apply to a given record.

Category	Minimum retention period	Basis
Adult patients (general)	At least 6 years from the date the record became dormant. Where	HPCSA Booklet 9, para 9.2

Category	Minimum retention period	Basis
	reasonably practicable, consider retaining records for longer, particularly where there may be a continuing clinical, medico-legal or regulatory reason to do so.	
Minors (under 18 at last treatment)	Until the minor's 21st birthday (3 years after reaching majority at 18)	HPCSA Booklet 9, para 9.3.1
Obstetric records	At least until the patient's 21st birthday, or longer where required or reasonably appropriate in the circumstances.	HPCSA Booklet 9, para 9.3.1
Mentally incompetent patients	For the patient's lifetime	HPCSA Booklet 9, para 9.3.2
Occupational health records (where OHSA applies)	20 years after the last treatment, or such longer period as may be required by the applicable legislation.	Occupational Health and Safety Act 85 of 1993; HPCSA Booklet 9, para 9.4
Records with possible latent/long-onset conditions	At least 25 years, or longer where required by law or reasonably necessary because of the nature of the condition or potential claim.	HPCSA Booklet 9, para 9.6
Employment/payroll records (staff, not patients)	Generally at least 3 years after termination	BCEA record-keeping practice
Financial/accounting and tax records	At least five years, or longer where required by applicable tax legislation or where an audit, investigation, objection, appeal or other tax dispute remains outstanding.	Tax Administration Act 28 of 2011

> *Note: The HPCSA's guidance provides minimum retention periods for different categories of patient records. These periods should not necessarily be treated as a reason to destroy a record as soon as the minimum period has expired. The HPCSA guidance indicates that records should ideally be retained for as long as possible, particularly where electronic storage makes longer-term retention reasonably practicable. The applicable retention period should be determined by considering the nature of the record, the patient, the applicable legislation and professional requirements, and whether there is any complaint, claim, investigation, audit or other matter for which the record may still be required.*

7.1 Retaining records beyond the minimum period

The expiry of a minimum retention period does not mean that a record must immediately be destroyed. Where electronic storage is reasonably practicable, practitioners should consider retaining records for longer where they may still be relevant to the patient's care or to a potential complaint, claim, investigation, audit or regulatory matter.

If there is an existing or reasonably anticipated legal, professional or regulatory dispute, complaint, investigation or claim, the relevant records should not be destroyed merely because the ordinary retention period has expired.

When in doubt, retain the record and obtain appropriate advice before destroying it.

7.2 When and how can records be destroyed?

Once the applicable retention period has expired, records may be destroyed provided that there is no legal, professional, regulatory, contractual or other reason requiring them to be retained for longer.

Before destroying records, consider whether there is any existing or reasonably anticipated complaint, claim, investigation, audit or other matter for which the records may be required.

Records must be destroyed securely and in a manner that prevents the information from being reconstructed or accessed by unauthorised persons.

For paper records:

- shred the records using a secure shredding service or otherwise destroy them in a manner that prevents reconstruction; and
- do not place identifiable patient records in ordinary refuse or recycling.

For electronic records:

- ensure that records are securely deleted in accordance with the practice's information-security procedures;
- consider whether copies or backups remain stored on servers, cloud systems or other devices;
- where records are stored by an external service provider, confirm the provider's arrangements for secure deletion and retention of backups; and
- where an external service provider is used to destroy records, obtain appropriate confirmation or a certificate of destruction where available.

The practitioner should maintain a destruction register recording sufficient information to identify which records were destroyed and when they were destroyed. The register should not contain clinical information.

8. Access to and Transfer of Patient Records

The practitioner or practice remains responsible for creating, maintaining, storing and protecting the patient's health record in accordance with the applicable legal, professional, confidentiality and information-protection requirements.

This responsibility should not be confused with the patient's rights in relation to the information contained in the record. Patients have rights of access to information concerning their health and treatment, subject to the applicable legal requirements. The fact that the practitioner or practice maintains the original health record does not mean that the practitioner may use, disclose, alter or destroy the information without complying with the applicable legal and professional requirements.

- Patients must be told, in writing, that the practice (or their treating practitioner) is changing, and given a genuine opportunity to choose to remain with the new practitioner or to have their records transferred elsewhere; patients cannot simply be transferred without notice and choice;
- Where a patient requests that their records be transferred to another practitioner, the records should be transferred securely in accordance with the patient's request and the applicable professional, confidentiality and access requirements. The practitioner should retain sufficient documentation to establish what was transferred, when it was transferred and to whom;
- A reasonable fee may be charged for copies or administrative services where legally permitted. However, access to or transfer of patient records should not be withheld merely because the patient has an outstanding account;
- Where a patient asks for records to be sent to a new, unrelated practitioner (rather than following the sale), action this within a reasonable time and keep a written log of what was sent, when, and to whom, for your own protection;
- Obtain the incoming/receiving practitioner's written acknowledgement of receipt for a bulk transfer of files (e.g. on a practice sale), and keep that acknowledgement as part of your own closure records.

The transfer of patient records constitutes processing of personal information and must comply with POPIA. Patient information should only be transferred where there is a lawful basis for doing so, and the transfer must be secure, limited to what is necessary and handled in accordance with the patient's rights, confidentiality obligations and applicable professional requirements.

9. Ongoing patient treatment and continuity of care

Closing a dental practice does not necessarily bring a patient's treatment to an end. Before closing the practice, the dentist should identify patients who are undergoing active treatment, require follow-up or have outstanding treatment and make appropriate arrangements for continuity of care.

The HPCSA identifies continuity of care as an important purpose of maintaining patient health records. The National Patients' Rights Charter also provides that a patient should not be abandoned by a health professional or health facility that has taken responsibility for the patient's care without an appropriate referral or hand-over.

Before the practice closes, review the patient list and identify patients who: are undergoing orthodontic treatment; have unfinished restorative, endodontic, prosthodontic, implant-related or other dental treatment; have temporary restorations or other temporary treatment requiring follow-up; are awaiting laboratory work; require follow-up appointments, reviews or monitoring; require urgent or emergency treatment or follow-up; have been referred to another practitioner but whose treatment or referral has not yet been completed.

9.1 Informing patients and arranging continuity of care

Patients affected by the closure should be informed as soon as reasonably practicable that the practice is closing and what arrangements are being made for their ongoing care.

Where another dentist is taking over the practice, patients should be informed of the change and of the arrangements for their ongoing treatment and records. Patients should be given appropriate information regarding their options for continuing treatment with the new practitioner or transferring their records to another practitioner of their choice, subject to the applicable legal and professional requirements.

Where the practice is closing without a successor, the dentist should make reasonable arrangements for patients requiring ongoing, urgent or emergency care to be referred to an appropriate practitioner.

Patients should be given sufficient information to understand:

- the date on which the practice will close;
- whether another dentist will be taking over the practice;
- what will happen to their patient records;
- how they can obtain or arrange the transfer of their records;
- who they should contact regarding ongoing treatment; and

- where appropriate, where they can obtain urgent or emergency dental care after the practice closes.

9.2 Patients undergoing active or incomplete treatment

Particular care should be taken with patients whose treatment cannot reasonably be completed before the practice closes.

The dentist should assess the status of each patient's treatment and determine whether it should be:

- completed before the practice closes;
- transferred to another dentist;
- referred to an appropriate specialist or other practitioner; or
- otherwise managed in a manner that ensures reasonable continuity of care.

This is particularly important where interruption of treatment could result in harm, deterioration, complications or significant inconvenience to the patient.

The receiving practitioner should be provided with the relevant clinical information and patient records necessary to continue the treatment, subject to the applicable confidentiality and information-protection requirements.

The hand-over or referral should be documented in the patient's record.

9.3 Laboratory work and treatment in progress

Before closure, review all outstanding laboratory cases and other treatment that remains in progress.

The dentist should identify:

- laboratory work that has already been paid for;
- work that has been completed but not yet delivered or fitted;
- work that has been sent to a laboratory but has not yet been completed;
- work that has been ordered but not yet commenced; and
- any outstanding laboratory accounts.

Where treatment is transferred to another dentist, arrangements should be made for any outstanding laboratory work to be completed, transferred or otherwise dealt with appropriately.

The receiving practitioner should be informed of the status of any outstanding laboratory work that is relevant to the patient's ongoing treatment.

9.4 Urgent and emergency care

Patients who are known to require urgent or emergency follow-up should be identified before the practice closes and appropriate arrangements made for their care.

Where appropriate, these patients should be provided with the contact details of the practitioner or facility responsible for their ongoing care and information regarding available emergency dental services after the practice closes.

The dentist should not simply close the practice and leave a patient who is known to require urgent follow-up without reasonable information about where appropriate care can be obtained.

9.5 Documenting continuity of care

The dentist should keep a record of the steps taken to arrange continuity of care, including, where applicable:

- patients identified as requiring ongoing treatment or follow-up;
- referrals made;
- information and records transferred;
- the date of the transfer or referral;
- the practitioner or facility to whom the patient was referred;
- arrangements made for outstanding treatment or laboratory work; and
- significant communications with patients concerning the closure or transfer of care.

Good documentation is particularly important where treatment is incomplete or where a patient may later allege that appropriate arrangements for continued care were not made.

The closure of a dental practice should be planned so that the administrative closure of the business does not result in the abandonment of patients who still require care.

10. Notify Insurers of the Closure of Your Practice

10.1 Professional indemnity/malpractice insurance

This is one of the most important and most often overlooked steps in closing a practice, because dental negligence claims can be brought years after treatment.

- There is not a general statutory requirement applicable to every private dental practitioner to maintain professional indemnity cover; however, contractual, institutional, employment or other requirements may apply;
- If you hold claims-made cover, ask specifically about run-off cover (also called an extended reporting period); this covers claims reported after your policy ends, for treatment given while you were covered. Insurers are not obliged to offer run-off cover, so confirm availability, cost and duration (which can extend to 10 years or more) well in advance;
- If you hold occurrence-based cover, confirm with your insurer in writing how claims arising from treatment provided during the period of cover will be dealt with after you stop practising, retire or otherwise close the practice. Do not assume that cover will continue indefinitely; the position depends on the terms of the policy;
- Keep your policy documents, payment history and any run-off certificate permanently, as you, your executor, or a claimant's attorney may need to refer to them many years later.

10.2 Practice, premises and other insurance

- Notify your short-term insurer (buildings, contents, equipment, business interruption, cyber/data breach cover) of the closure date and arrange cancellation or transfer, checking for any notice period required under the policy;
- If equipment is being sold, confirm whether cover needs to continue up to the handover date, and arrange the buyer's own insurance to start from that date;
- Cancel or transfer any group life, disability or key-person insurance policies linked to the practice, and check whether any of these need to remain in force to protect a loan or franchise/finance agreement until it is settled;
- If you provided staff with group risk benefits (e.g. group life or funeral cover through the practice), notify the insurer/administrator of the termination date for each affected employee and confirm any continuation options available to them.

10.3 Medical schemes and administrators

- Notify the Board of Healthcare Funders (BHF) PCNS division and the medical schemes you claim from that your practice number is being deactivated, and confirm the effective date;
- Submit outstanding claims as soon as reasonably possible and confirm with the relevant administrator how claims will be handled after the practice number is deactivated or transferred;

11. SARS: Tax Deregistration

Closing or selling a dental practice may have tax consequences, and the dentist should ensure that the practice's tax affairs are properly dealt with before and after closure.

The tax steps required will depend on how the practice operates, including whether it is operated as a sole proprietorship, partnership, company or other entity, and which tax types the practice is registered for.

The dentist should therefore consult their accountant or tax adviser before closure to determine which registrations must be cancelled, which returns and reconciliations remain outstanding, and whether the closure or sale gives rise to any additional tax liability.

11.1 Tax registrations

Depending on the circumstances, the practice may be registered for one or more of the following:

- Income Tax;
- VAT;
- PAYE and other employer-related taxes;
- Skills Development Levy (SDL);
- Unemployment Insurance Fund (UIF); and
- Turnover Tax, where applicable.

The relevant SARS registrations should only be cancelled once you have established that the practice has ceased, or will cease, the activities giving rise to the relevant registration and that the applicable requirements for cancellation have been met.

Closing the physical practice does not necessarily mean that all tax obligations end immediately. Outstanding returns, reconciliations, payments and other SARS requirements may still need to be completed after the practice has stopped trading.

11.2 VAT

If the practice is registered for VAT, the dentist should obtain advice on the VAT consequences of the closure or sale before cancelling the registration.

From 1 April 2026, the compulsory VAT registration threshold is R2.3 million in taxable supplies in a consecutive 12-month period. The voluntary registration threshold is R120,000, subject to the applicable VAT requirements.

Where a practice has ceased carrying on its enterprise and will not recommence within the following 12 months, cancellation of the VAT registration may be available, subject to SARS' requirements.

The dentist should ensure that:

- all outstanding VAT returns are submitted;
- VAT is accounted for on taxable supplies up to the applicable final tax period;
- the VAT consequences of assets retained by the practice or dentist are considered; and
- any outstanding VAT liabilities are addressed.

You should not simply stop submitting VAT returns or charging/accounting for VAT because the practice has closed. The effective cancellation date and final VAT obligations should be confirmed with SARS.

11.3 Employees and employer tax obligations

If the practice employs staff, the dentist should ensure that all employer-related tax obligations are finalised.

This may include:

- submitting outstanding employer declarations and reconciliations;
- paying outstanding PAYE, SDL and UIF amounts;
- issuing the required employee tax certificates; and
- cancelling the relevant employer registrations once the practice no longer has employees and the applicable requirements have been met.

The appropriate SARS process should be confirmed at the time of closure, as SARS' administrative procedures and forms may change.

11.4 Records and tax compliance after closure

Closing or deregistering the practice does not mean that its tax records can immediately be destroyed.

Accounting, tax and supporting records should be retained for the applicable period required by tax legislation. SARS generally requires records to be retained for five years in the circumstances specified by the Tax Administration Act, with different or longer periods applying in certain circumstances, including where an audit, investigation, objection or appeal remains outstanding.

You should retain, where applicable:

- tax returns and assessments;
- VAT records and returns;
- invoices and accounting records;
- payroll and employer tax records;
- financial statements;

- supporting documentation for deductions and expenses; and
- correspondence with SARS concerning the practice.

Retain confirmation of relevant deregistration and other important tax correspondence.

11.5 Practical steps

Before closing the practice, the dentist should:

1. obtain advice from their accountant or tax adviser regarding the tax consequences of the proposed closure or sale;
2. identify all SARS tax types for which the practice or entity is registered;
3. submit outstanding tax returns, reconciliations and declarations;
4. settle or make appropriate arrangements for outstanding tax liabilities;
5. determine whether any VAT, income tax or other tax consequences arise from the sale or disposal of practice assets;
6. complete the applicable SARS deregistration processes once the relevant requirements have been met;
7. retain confirmation of deregistration and other important SARS correspondence; and
8. retain accounting and tax records for the applicable statutory retention period.

Do not assume that closing the practice automatically ends its tax obligations. The dentist should ensure that the practice's SARS affairs are properly finalised and that appropriate records are retained after closure.

> *Note: Work with your accountant or tax practitioner on this section — the sequencing (e.g. VAT vs income tax vs CIPC) and the treatment of a going-concern sale for VAT purposes are technical, and errors can delay deregistration or trigger unnecessary assessments.*

11.6 CIPC: Deregistration of a company or close corporation

If the dental practice operates through a company, close corporation or other registered legal entity, closing the practice does not automatically bring the entity to an end. The entity should be formally dealt with through the appropriate CIPC process, where applicable.

Where the entity qualifies for voluntary deregistration, it must have ceased operations and meet the applicable CIPC requirements. Before applying, ensure that its affairs, including assets, liabilities, tax and other statutory obligations, have been properly finalised. Directors or members may remain personally liable for unresolved matters following deregistration.

> *Practical tip: If the practice is operated through a company or CC, obtain advice from the entity's accountant or legal adviser early in the closure process. The CIPC and SARS processes should be coordinated rather than treated as separate administrative steps.*

12. Summary Checklist

A practical checklist to work through when closing or selling a dental practice. This checklist is not exhaustive and should be read together with the relevant sections of the handbook.

3–6 months before closure

- ☐ Decide whether the practice will close completely, be sold/transferred, or continue under a new owner.
- ☐ If selling, obtain a valuation and appropriate legal, financial and tax advice.
- ☐ Determine whether the sale may constitute a transfer of a business as a going concern under section 197 of the LRA.
- ☐ If employees may be retrenched, obtain advice and begin the required section 189 consultation process before terminating employment.
- ☐ Review the lease, equipment finance/lease agreements and other important contracts for termination or transfer requirements.
- ☐ Review professional indemnity and other insurance arrangements, including run-off cover.
- ☐ Review the patient list and identify patients requiring ongoing, incomplete, urgent or emergency treatment.
- ☐ Identify outstanding laboratory work, temporary restorations, prepaid lab work .

Before the closure date

- ☐ Inform affected patients of the closure and make appropriate arrangements for continuity of care.
- ☐ Arrange referrals or hand-over of ongoing treatment where necessary and document the arrangements.
- ☐ Inform patients how they can obtain or transfer their records.
- ☐ Arrange for patient records to be kept securely by an identified health practitioner or health institution after closure, where required.

- ☐ Do not destroy patient records merely because the practice has closed or a patient requests deletion.
- ☐ Review the applicable retention periods and identify any records that must be retained for longer because of a complaint, claim, investigation or other legal or regulatory matter.
- ☐ Complete outstanding patient treatment, transfer treatment where appropriate, and deal with outstanding laboratory work.
- ☐ Reconcile deposits and advance payments and determine whether treatment will be completed, transferred or refunded.

Employees

- ☐ Complete the required consultation process before any retrenchment.
- ☐ Give the required notice or payment instead of notice.
- ☐ Calculate and pay outstanding salary, leave pay, severance pay and other amounts due, where applicable.
- ☐ Complete the required UIF and employer-related processes.
- ☐ Issue certificates of service and required employee tax certificates.

At closure / after closure

- ☐ Deal with equipment, medicines, clinical waste, radiation equipment and other practice assets appropriately.
- ☐ Notify relevant professional bodies, medical schemes and insurers of the closure or change in practice details, where applicable.
- ☐ Finalise outstanding SARS returns, reconciliations and liabilities and complete applicable deregistration processes.
- ☐ If operating through a company or close corporation, obtain advice on the appropriate CIPC and SARS processes.
- ☐ Retain tax, accounting and employment records for the applicable statutory retention periods.
- ☐ Retain confirmation of important deregistrations and other regulatory correspondence.

- ☐ Continue to maintain the security and confidentiality of patient records for as long as they are retained.
- ☐ Securely destroy records only once the applicable retention period has expired and there is no reason to retain them for longer, and keep a destruction register.

13. Resources

Regulatory and professional bodies

- Health Professions Council of South Africa (HPCSA): www.hpcsa.co.za, including the Ethical Rules of Conduct and Booklet 9: Guidelines on the Keeping of Patient Records
- South African Health Products Regulatory Authority (SAHPRA), Radiation Control: for licensing and regulatory requirements relating to dental X-ray equipment, including its sale, transfer, movement or disposal.
- Commission for Conciliation, Mediation and Arbitration (CCMA): www.ccma.org.za, for guidance on retrenchment and dismissal procedures
- South African Revenue Service (SARS): www.sars.gov.za, “Closing a Business or Company” guidance
- Companies and Intellectual Property Commission (CIPC): www.cipc.co.za, for deregistration of companies/close corporations
- Information Regulator (South Africa): www.inforegulator.org.za, for POPIA guidance on retention and disposal of personal information

Key legislation and guidelines referenced

- Health Professions Act 56 of 1974, and the HPCSA Ethical Rules of Conduct and Guidelines for Good Practice
- Labour Relations Act 66 of 1995 (LRA)
- Basic Conditions of Employment Act 75 of 1997 (BCEA)
- National Health Act 61 of 2003
- Protection of Personal Information Act 4 of 2013 (POPIA)
- Promotion of Access to Information Act 2 of 2000 (PAIA)
- Occupational Health and Safety Act 85 of 1993
- Hazardous Substances Act 15 of 1973
- Tax Administration Act 28 of 2011
- Value-Added Tax Act 89 of 1991
- Companies Act 71 of 2008 / Close Corporations Act 69 of 1984

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