



Short-term closing? To-do list includes emails to patients, call to counsel

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In case your practice suffers a temporary closure due to an accident or emergency, have on hand a list of the parties you will need to contact and the questions you will need to ask.

Every so often a cataclysmic accident makes it impossible to keep a medical practice running *in situ*, at least for a short time. Pediatric Associates of Dayton, for example, lost a day on March 18 when a car crashed into its Kettering, Ohio, offices, WHIO-TV reports. The sudden absence of a provider or a loss of power could also take a practice offline for one or several days.

There are long-term closure protocols that apply when practices shut down or relocate, involving disposition of finances, and of patient records and employee files, among other documents (*PBN* 8/22/22, 9/12/22). But it's also important to have a tight protocol handy for shorter interruptions that don't require major systemic shifts.

Cover the basics

If the cause of closure is structural, as in the Kettering case, the safety of patients, staff and contiguous homes and business should be the first concern. Remove your people, alert the neighbors, and call 911, police, fire, public utilities, or whatever department or agency directly relates to the cause.

While appropriate staff, service workers or consultants endeavor to fix the problem and get the practice back in action, management should contact the following:

Staff. Staffers who are offsite (e.g., on vacation, on sick day, working from home) need to know not to come in or log in until further notice. Onsite staff should be assigned roles in handling the practice draw-down.

"Providers need to ensure someone is in charge of clinical coordination, someone is managing calls, and someone else is handling external relationships, and that those people know the plan moving forward," says Paul Schmeltzer of the Clark Hill law firm in Los Angeles.

Payers. A heads-up is expected, and in some cases absolutely necessary, Schmeltzer says: For instance, "if the medical practice has contracts with insurers, a sudden disruption may trigger notice provisions or expectations under continuity-of-care clauses, particularly if patients are in active treatment or scheduled for urgent procedures."

Patients. All active patients should get a mass-email announcing the closure, an expected window of return, and that they'll be notified when you're back in business, as well as a separate communication when the closure is over. "Patients with urgent needs such as prescriptions, post-surgical follow-up, and high-risk conditions should be prioritized," Schmeltzer says.

The practice's website and social media should also carry the message, Schmeltzer says, and "voicemails and auto-replies should be updated immediately with practical details so that patients can access records, prescriptions and urgent care."

Legal counsel. Daniel O. Carroll, a partner with Schenck, Price, Smith & King LLP in Florham Park, N.J., who is chair of the firm's health care law department, suggests a conference on what "legal obligations must be satisfied and what rights can be asserted in the event of a sudden practice closure, such as rights and obligations under the practice's lease, bank financing documents, EHR vendor contracts, billing and collection service agreements and supply contracts." A review with counsel of the rest of your first-response protocol would also not go amiss.

Building management. This may also come up in the legal conference: Check your lease to see if it "requires the landlord to repair or rebuild office space, or if relocation is a possibility," Carroll suggests.

Also, obtain an assessment as to when and whether the office will be physically capable of reopening.

"Sudden closures resulting from building damage can raise serious regulatory concerns," Schmeltzer says. "A provider cannot operate in a facility that has compromised structural integrity, and doing so might violate building codes, OSHA

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rules, or even Medicare's conditions of participation."

Practice insurers. Depending on your portfolio, you may have separate business interruption, general liability and other coverages. All need to be notified.

If the EHR goes down

Whether it's a car crash or a power outage or something else, you may find your internet and your EHR offline. Given the sophistication of modern data storage, it's unlikely that a structural disaster will more than temporarily hinder access to patient records. A cyberattack is a different story, and requires an extensive, complicated response (*PBN 1/20/25*).

But if the event affects your internet service, Schmeltzer advises that you "resist the urge to resort to using personal email accounts, free cloud storage, or unsecured messaging because of the legal risk in using non-encrypted platforms to store or share sensitive patient information. If the medical practice cannot access their EHR, they should contact their EHR vendor and work to obtain emergency access or temporary relocation of servers to compliant environments."

If patient records are partly or fully inaccessible and this seems to be due to damage, management "can't simply point to the casualty event, throw up their hands and start new files," Carroll says. Rather, the practice is "expected to assess the damage, salvage what can be salvaged and reconstruct the affected medical records to the greatest extent possible for future patient care."

If needed, Carroll says the practice should look to "professional licensing boards and/or physician medical malpractice insurance carriers [for] guidance or white papers to reference in such instances. There may be third-party vendors that assist practice with salvaging business assets and records, including medical records."

However you retrieve or reconstitute data, the usual HIPAA protections apply — and that goes for any new data generated in the course of operations that you may find necessary to continue doing the practice's business offsite.

Resource

- WHIO-TV, "Doctor's office closed for day after car crashes into building," March 18, 2025:
www.whio.com/news/local/car-crashes-into-kettering-building/Z7M5IB6CSVD6NE6IO7ESOW5BW4/



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