

Risk Review Online

Your direct link to better risk management practices

a publication of **Princeton Insurance**

PARTNERSHIP. PREVENTION. PROTECTION.

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Unexpected Medical Record Damage

protecting your records when the water rushes in

Accidents or unexpected disasters can result in extensive water damage to important documents such as medical records and X-ray films. In recent years, New Jersey has seen its share of flooding, including the most recent damage from Hurricane Irene and subsequent heavy rain. Broken water pipes or an overflowing floor drain can cause unexpected damage to stored medical records in a basement or storage room. Water damage can also be the often-unanticipated side effect of fire fighting efforts.

When a practice faces a loss such as water damaged records and X-ray films, there are steps that should be taken:

- Report the loss to your insurance carriers (general liability and property)
- Check the records themselves
 - Are there some which are only partially destroyed and may be restored?
 - Are there records which are totally destroyed?

Reporting to your carrier

To facilitate any claim you make, you may wish to take pictures of the damage. A series of pictures over the period of clean-up may also be beneficial, especially when dealing with a loss suffered due to fire-related water damage.

Keep a copy of the letter you send to your property carrier, and copies of the pictures, too. If you are named in a malpractice suit and asked to produce the records, this evidence will help respond to any allegations that records were negligently or willfully destroyed (spoliation).

Partially destroyed records

Moisture in any form and paper don't mix; paper when exposed to water begins to deteriorate. The same process occurs with an X-ray film jacket but in a slower process. Moisture infiltrates the paper's cell structure, followed by swelling and discoloration. An environment is then created that will permit the growth of mold and bacteria on the surface of the paper or X-ray film jacket. This can occur in a domino-like effect, spreading from folder to folder.

Water-damaged medical records, film, and file jackets can be restored. The complete restoration of water-soaked documents can be an expensive process, yet it may be wise to attempt to salvage them. This process has to begin as quickly as possible, and a restoration company needs to be contacted. Since this company will be working with your patients' records, you will need to have a HIPAA Business Associate agreement with them.

The restoration company will place the materials into commercial freezers. Freezing, followed by vacuum freeze drying, has been shown to be one of the most effective methods of removing water from paper records and films. This is done to stop the process of deterioration or destruction. Once frozen, the materials are moved to a freeze-drying chamber. Air within the freeze drying chamber is removed through a vacuum process and the temperature lowered. The moisture within the materials is converted to a vapor state and then taken out of the chamber. The temperature within the freeze drying chamber is gradually increased over time, and any residue moisture is removed. Freeze-drying methods have been used in the recovery of books, manuscripts, leather, maps, historical and collectible items and textiles in the form of flags, needlework, silks and tapestries.

If water damage has resulted from fire-fighting measures, cooperation with the fire marshal and health and safety officials is vital for a realistic appraisal of the feasibility of a safe salvage effort. Fire officers will decide when a building is safe to enter. In these instances, salvage operations are planned so that the environment of water-damaged areas can be stabilized and controlled both before and during the removal of the medical records and films. In warm weather, mold growth may be expected to appear within 48 hours. Mold can also be expected to appear in poorly ventilated areas within the same time frame. It is therefore imperative to

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reduce high humidity and temperature and vent the areas as soon as feasible. Water-soaked material must be kept as cool as possible with good air circulation. To leave such materials more than 48 hours in temperatures 70 degrees Fahrenheit or higher and a relative humidity above 60% without good circulation will certainly result in heavy mold growth and lead to a higher recovery/restoration cost.

Completely destroyed records

When records are completely destroyed, the challenge to the practice will be twofold. The destroyed records will need appropriate disposal, and new records will have to be constructed from information the practice can assemble.

Destroying damaged records completely must be done to protect patient confidentiality and comply with HIPAA regulations. Dry the records and then shred them if possible. No intact record or X-ray may be discarded. As noted above, be aware of the likelihood that mold will develop. Lower humidity and ventilate the area where records are stored. When ready to destroy the records, the practice should keep a log of all records that are destroyed, as is done with planned record destruction. This log should include the following information:

- name
- date of birth
- social security number
- dates of first and last visit
- general problems and procedures performed in the office
- documentation of what was destroyed, how it was destroyed, and the date of destruction

Reconstructing records can be done by pulling together information from other systems and files available to the practice. Patients should be notified of the flood event and the damage done to records. A history form can be sent to each patient along with this notification letter with a request that the patient complete this form to the best of their ability. A copy of this letter should be filed in the patient's reconstructed medical record.

Once each chart is rebuilt, there should be clear documentation explaining that it was reconstructed. This documentation should include at least the following:

- date chart was reconstructed
- reason for reconstruction
- sources of information for reconstruction
- efforts made to obtain other information (if applicable)
- a statement that, due to reconstruction, the information contained in the chart as of the reconstruction date is considered inexact

Medicare and the patients' other insurance carriers may also expect to be notified that patient records have been lost. These organizations expect the practice to provide medical record documentation to support patient claims. When the medical record is destroyed they may want the practice to sign a form which attests to the unexpected loss of the record.

Prevention

It may feel like it's too late to talk about preventing this sort of damage, but each hurricane or nor'easter produces calls from practices that had never flooded before and thought they were safe. Some had taken what they thought were appropriate precautions, only to find later they were not enough.

It is appropriate to evaluate your storage space at least twice a year, though a quarterly examination would be even better. More frequent inspections are appropriate when weather is unusually harsh, no matter the season. Weather extremes expose the vulnerabilities of buildings much more quickly.

Routine prevention steps should include stacking records and X-rays off the floor. Use shelving units, if possible, and position them as high off of the floor as possible. Keep in mind; however, that storing records too high can pose a potential injury concern for staff. A sturdy step stool may be needed to safely access these records. And, if you know the storm of the century is coming, take time to pull those lower boxes up out of the basement.

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Finally, develop a system of routine record destruction so that you only keep the records you are supposed to keep. This will reduce the clutter in your storage area and reduce the number of records exposed to the risk of storm damage. You will find more information on routine record retention and destruction systems in the Princeton Insurance Office Practice Toolkit.

In summary, each facility or physician/dental office should perform a risk and hazard vulnerability assessment and include document restoration as part of emergency preparedness and disaster planning.

Ask your local emergency management office if your office is located in a known floodplain. Determine the elevation of your office in relation to local rivers, creeks, bays and the ocean. If your practice could be subject to flooding, medical records should be located at the highest level possible inside the office. Plastic tarps can be placed in rolls over the stored records and then unrolled when a storm approaches to protect against rain and roof damage. Take any paper out of the lower drawers of your desks and file cabinets and place them in plastic bags or plastic containers that can be placed on top of the units.

Physicians who maintain paper records should also consider storing copies of their administrative records (financial, insurance, patient scheduling, patient lists) off-site in a secured area outside the floodplain area.

For more helpful resources, visit: <http://www.archives.gov/preservation/disaster-response/salvage-procedures.html>.