**20:62:03:09.  Management of patient records.** For patient information controlled by a licensee or licensee's estate, a licensee shall:

 (1)  Provide copies of all medical records, reports, and x-rays upon the request of a patient or designee pursuant to SDCL chapter 36-2;

 (2)  Have a plan in place to allow the transfer of active patient records to the patient or the patient's designee, legal guardian, a health care facility licensed under SDCL chapter 34-12 or a corporation organized for the purpose of owning and operating a health care clinic. If active patient records cannot be so transferred, they shall be retained by the licensee or estate in possession of them or destroyed. Prior to any transfer or destruction of active patient records, reasonable notice of at least thirty days shall be given by mail to the patient, legal guardian, or the patient's designee at the last known address stating the proposed disposition of the records and giving a deadline prior to which the records may be claimed.

 Nothing in SDCL 36-9A or this article prevents a licensee from destroying records which have become inactive or for which the whereabouts of the patient is no longer known to the licensee.

 **Source:** 45 SDR 9, effective July 30, 2018.

 **General Authority:** SDCL 36-9A-41.

 **Law Implemented:** SDCL 36-9A-12, 36-9A-13, 36-9A-13.1.