MISSOURI DEPARTMENT OF MENTAL HEALTH

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DEPARTMENT OPERATING REGULATION NUMBER
DOR
8.110

CHAPTER	SUBCHAPTER	EFFECTIVE DATE	NUMBER OF PAGES	PAGE NUMBER
Regulatory Compliance	HIPAA Regulations	6/20/18	3	1 of 3

SUBJECT	AUTHORITY	HISTORY:
Retention and Destruction of Protected Health Information	Section 630.050 RSMo	See Below

PERSON RESPONSIBLE	SUNSET DATE
General Counsel	7/1/21

PURPOSE: To ensure the availability of relevant data and information, it is the policy of the Department of Mental Health (DMH) to maintain specific retention schedules for various types of individually identifiable health information in compliance with federal and state laws and professional practice standards. DMH has a records disposition schedule approved by the State Records Commission. (RSMo 109.250) Under Missouri Statute 109.120, records may be photographed, microphotographed, photostated or transferred to other material using photographic, video or electronic processes, including a computer-generated electronic or digital retrieval system. This policy shall be consistently applied with the more stringent law followed and records destroyed after the retention period has expired.

APPLIES: DMH, its facilities and workforce.

PROCEDURE:

(1) Storage: All storage systems used by facilities within DMH shall be designed and implemented to ensure the safety, security, and integrity of consumer Protected Health Information (PHI). The storage method selected shall be dependent on the security of the area and the volume of the information stored.

(A) Paper PHI records storage shall be adequate to protect the physical integrity of the record and prevent loss, destruction, and unauthorized use.

1. If the records office is shared with other departments not responsible for maintaining the records, the shelves or file cabinets shall be lockable and kept locked whenever records staff is not in attendance.

2. If PHI records are retained in a lockable office that is not shared with other staff or in a separate locked file room, open shelf filing without lockable doors is acceptable. The office or file room shall always be locked when staff is not in attendance.

3. Storage area environment should not cause damage to the records and documents and shall meet accreditation and safety standards.

4. Off site storage shall meet the above standards, be approved by the facility or DMH Privacy Officer, as applicable, and have a signed business associate's agreement.

5. A record tracking system shall be in place to identify when a record has been removed, who took the record, and where it is located.

6. When a microfilmed copy of the original paper record has been produced, it may be used as a permanent record of the original. Duplicate reproductions of all microfilmed records shall be kept by the facility originating the paper records with suitable equipment for viewing and the original microfilm maintained off site in a fireproof vault. A log shall be maintained of all microfilmed records and cross-indexed, or otherwise linked with a common identifier, with the consumer Master Patient Index or Admission/Discharge database.

(B) Electronic: electronic storage of medical records, if applicable, shall have a permanent retrievable capability, and such capability should occur even when there is a technology change.

(2) Retention: Retention of PHI records and databases shall comply with federal and state regulations; accreditation, licensure and accepted standards of practice. The more stringent between federal and state law shall be followed. This DOR shall be consistently applied and records destroyed after the retention period has expired.

(A) Master Patient Index: permanent retention

(B) Admission/Discharge Register or Database: permanent retention

(C) Medical Record: permanent retention as advised in the current Missouri DMH Records Disposition Schedule. Medical Record documents not on the schedule for permanent retention shall be kept six (6) years after the month of discharge or the month the Medicare cost report is filed, whichever is later, and for minors, three (3) years after the consumer reaches legal age as define by Missouri law.

(D) Consumer Financial Records: permanent retention per current Missouri DMH Records Disposition Schedule. These records include: consumer receipt and disbursement records, reimbursement information including but not limited to Standard Means Test, Consumer Financial File, placement files, resources files, , valuables reports. Financial documents not on the schedule for permanent retention shall be kept six (6) years after the month the Medicare cost report is filed.

(E) Accounting of Disclosure of Information, a minimum of six (6) years according to the HIPAA Privacy Rule.

(3) Destruction: Destruction of PHI in paper or electronic format shall be carried out in accordance with federal and state law and pursuant to the DMH Records Disposition Schedule. Records approved for destruction must be destroyed so that there is no possibility of reconstruction of information.

(A) Paper: Microfilm is an accepted form of records maintenance and is recognized by Missouri Revised Statute Section 109.120 as an acceptable medium substituting original paper documents in legal proceedings. When paper records have been microfilmed the original paper may be destroyed. If they are not destroyed, then their retention shall be in accord with the procedures outlined in this DOR.

1. Because all media and reproductions typically have the same legal effect as originals, when a record meets the guideline for destruction, all copies in any medium shall be destroyed.

2. Appropriate methods for destroying paper records include burning, shredding, pulping, and pulverizing.

3. Documentation of the destruction of records shall include: Date of destruction; method of destruction; description of records; inclusive date of records; statement that the records were destroyed in the normal course of business; the signatures of the individual supervising and witnessing the destruction. Destruction documents should be permanently retained. Documentation records shall be maintained by the facility Privacy Officer, or the DMH Privacy Officer, as applicable.

4. If destruction services are contracted, the contract shall include a business associate agreement that specifies: the method of destruction; the time that will elapse between acquiring and destroying the records; identify safeguards against breaches in confidentiality; indemnify the facility from loss due to unauthorized disclosure; and provide proof of destruction to the facility Privacy Officer or DMH Privacy Officer.

(B) Electronic. When electronic records or computerized data is destroyed, it shall be permanently and irreversibly non-retrievable. For procedures for the destruction of computer disks, laser disks, back-up tapes, etc., please refer to the destruction requirements as set forth in DOR 8.370.

(4) Any questions as to whether information retention or destruction is permitted or required by law shall be directed to the Facility Health Information Management Director (HIMD), the Client Information Center representative, or the facility Privacy Officer or his/her designee. Electronic data destruction questions shall be directed to the Chief Security Officer or designee.

(5) There shall be no facility policies pertaining to this topic. The Department Operating Regulation shall control.

(6) SANCTIONS: Failure to comply or assure compliance with the DOR may result in disciplinary action, up to and including dismissal.

(7) REVIEW PROCESS: Information shall be collected from the facility Privacy Officers annually to monitor compliance and identify any issues with this DOR

HISTORY: Emergency DOR effective January 15, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012. Amendment effective June 27, 2012. Amendment effective June 17, 2015. On June 20, 2018, the sunset date was extended to July 1, 2021.