

KALAMAZOO COMMUNITY MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

ADMINISTRATIVE POLICY & PROCEDURE 07.04

Subject: Record Retention and Disposal	Section: Information Management	
Applies To: <input checked="" type="checkbox"/> KCMHSAS Staff <input checked="" type="checkbox"/> KCMHSAS Contract Providers		Page: 1 of 4
Approved: <div style="text-align: center;">----- (Jeff Patton, Chief Executive Officer) </div>		
Revised: 01/01/2014	Supersedes: 02/03/2012	First Effective: 04/13/2004

PURPOSE

To establish the safe keeping of records including retention and destruction in accordance with applicable standards and requirements.

DEFINITIONS

Community Mental Health Services Program Records

General Schedule #20 covers records that are common to a Community Mental Health Services Program (CMHSP). The General Schedule may not address every single record that a particular agency may have in its possession. The General Schedule does not mandate that any of the records listed on the schedule be created. Further, a record is not defined by the media used but by the content of the media. However, if they are created in the normal course of business, the schedule establishes a retention period for them (refer to http://www.michigan.gov/documents/hal/mhc_rm_gs20_195724_7.pdf).

Non-Record Material

1. Full definition in General Schedule #1.
2. Includes drafts, duplicates, convenience copies, publications and other materials that do not document agency activities.
3. Can be disposed of when they have served their intended purpose and in the normal course of business.¹
4. Sometimes multiple offices possess copies of the same record. Only the “office of record” is responsible for following the retention period that is specified. Duplicates

¹ Both records and non-records are subject to legal holds. Therefore, it is important to destroy both in the normal course of business, i.e. in accordance with this Policy and before a legal hold is implemented.

do not need to be retained.

(refer to:

http://www.michigan.gov/documents/hal_mhc_rms_GS1_local_110758_7.pdf)

Public Record

The Michigan Freedom of Information Act (FOIA) (Public Act 442 of 1976, as amended) defines public records as recorded information “prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created”.

POLICY

Records generated by Kalamazoo Community Mental Health and Substance Abuse Services (KCMHSAS) shall be stored and maintained in a safe and confidential manner in accordance with good practice guidelines, and shall meet all legal requirements.

STANDARDS

- I.** The length of time records are kept by the KCMHSAS will be determined by the type of record and the regulations which apply to that type of record. In cases where legal regulations may have different requirements for the same type of record, the more stringent requirement should be applied.
- II.** Archived records must be tracked and retrievable in a timely manner.
- III.** Agencies must immediately cease the destruction of all relevant records (even if destruction is authorized by an approved Retention and Disposal Schedule) if they receive a FOIA request, if they believe that an investigation or litigation is imminent, or if they are notified that an investigation or litigation has commenced. If relevant records exist in electronic formats (i.e., e-mail, digital images, word processed documents, databases, back-up tapes, etc.), the agency needs to notify its information technology staff. Failure to cease the destruction of relevant records could result in penalties.

PROCEDURE

- I.** Records may be retained on paper, electronically (i.e., network driven, PC hard drive, CD ROM) or micro filmed.
 - A.** Information maintained in its original form must be on material that will maintain its integrity over the required storage time.
 - B.** The storage of records should be maintained within a secured, waterproof, climate controlled and highly fire resistant location.
 - C.** Electronic and microfilmed records from within the past 12 months must be made readily available in hard copy for KCMHSAS, Michigan Department of Community Health (MDCH), and other external reviews and audits as required.
- II.** In the process of storage or disposal, the confidentiality of consumer and other protected

health information must be maintained.

- III. Records should be retained for at least a minimum length of time as outlined in the Retention and Disposal Schedule ([exhibit A](#)).
- IV. There are some situations in which the disposal/destruction of records must be stopped. It is prohibited to destroy documents and records that pertain to any litigation or government investigation, or to any matter in which litigation or a government investigation is reasonably foreseeable. Further, if a public record is requested, any process that may have been in place for destruction of the requested record must be suspended.
- V. At the request of KCMHSAS when a contractual provider's contract is terminated for specific reasons, all records must be retained per the Retention and Disposal Schedule ([exhibit A](#)). All records need to be accessible to KCMHSAS. At the discretion of KCMHSAS a request may be made to the terminating provider to return all records to the Health Information Manager for individuals served through the CMHSP within a specified timeframe.

REFERENCES

- State of Michigan; Department of History, Arts and Libraries – Records Management; Records Retention and Disposal Schedule – 05/08/07
- Public Act 258 of 1974 (Michigan Mental Health Code) supplemented through Act 152 of 1996. Sections 746, 748, and 749
- The Health Insurance Portability and Accountability Act of 1996 - 42 CFR, Part 160 and 164
- Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH Act), enacted as part of the American Recovery and Reinvestment Act of 2009
- M.C.L. 15.231-15.232 – Freedom of Information Act, Definitions; M.C.L. 18-1284-1292 – Management and Budget Act, Records Management; M.C.L. 399-1-10 – Historical Commission Act; M.C.L. 750-491 – Penal Code, Public Records
- Southwest Michigan Behavioral Health Policy
 - 7.1 (Data Storage, Retention and Maintenance)

NOTE

The Michigan Compiled Laws are available online at <http://www.legislature.mi.gov/>

EXHIBITS

- A. Retention and Disposal Schedule
(refer to: http://www.michigan.gov/documents/hal/mhc_rm_gs20_195724_7.pdf for description of each type of record)