

409: RECORDS MANAGEMENT, RETENTION AND DISPOSITION

Adopted: February 21, 2017

409.1 SECTION 1:

COUNTY RECORDS COMMISSION COMPLIANT

Whereas House Bill 72 went into effect in 2014 allowing single county boards, with the approval of the county commissioners, to join the records commission utilized for all county offices or to continue to create their own public records commissions, the Huron County MHAS Board passed MOTION #3 at its February 4, 2014 Board meeting designating and authorizing the Huron County Record Commission to exercise all of the duties and responsibilities of a special taxing district records commission on behalf of the Board and requesting affirmation of this action by the Huron County Commissioners, which later was given.

The County Records Commission consists of the president of the Board of County Commissioners, the Prosecuting Attorney, the Auditor, the Recorder and the Clerk of the Court of Common Pleas.

As the records of a county board are maintained, in part, at the offices of the county auditor and county treasurer which serve the Board, each should adhere to the disposal system established by that county's records commission.

The function of a county records commission is to provide rules for retention and disposal of records of the county, to review schedules of records retention and disposition submitted by county offices and to review applications for one-time disposals of obsolete records. When the county records commission has approved any county application for onetime disposal of obsolete records or any schedule of record retention and disposition, the commission shall send that application or schedule to the Ohio Historical Society (OHS) for its review. OHS is designated by section 149.31 of the ORC as the “archives administration for the State of Ohio and its political subdivisions.”

Applications for one-time disposals of obsolete records and for schedules of records retention and disposition submitted by the County Records Commission to OHS shall be reviewed within a period of not more than sixty days after its receipt of it. During the sixty-day review period, OHS may select for its custody from the application for one-time disposal of obsolete records any records it considers to be of continuing historical value, and shall denote upon any schedule of records retention and disposition any records for which OHS will require a certificate of records disposal.

Accordingly, the MHAS Board's Records Management, Retention and Disposition Policy shall cover all public records of the Board and shall be in compliance with the policies and procedures of the County Records Commission, the Ohio Historical Society (OHS) and Ohio law pertaining to the managing, scheduling and disposing of public records. The Board's schedule of public records management, retention and disposition shall be OHS-approved and any records disposed of shall first be entertained by the County Records Commission, which will forward such requests as necessary to OHS.

409.2 SECTION 2:

OHIO HISTORICAL SOCIETY COMPLIANT

The Board shall utilize the OHS definitions, policies and forms stipulated in the OHS *Records Management for Local Governments* publication to manage, schedule and dispose of public records, as follows:

1. A local records commission:
 - A. Provides rules for retention and disposal of records;
 - B. Reviews retention schedules and disposal requests submitted by an office;
 - C. Provides that proper procedures are followed for the scheduling and disposing of records; and
 - D. Revises retention schedules.
2. Records may be administrative, fiscal, legal or historical and are defined by section 149.011 of the ORC, as follows:
 - A. "Records" include any document, device or item regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the ORC, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations or other activities of the office.
3. The Ohio Historical Society (OHS)'s three-prong test for a record is that it:
 - A. Is stored on a fixed medium: paper, film, tape, disk/electronic;
 - B. Is created, received or sent under jurisdiction of a public office; and
 - C. Serves to document the organization, functions, policies, decisions, procedures, operations and all activities of the office.
4. A Records Inventory assists a public office to determine:
 - A. What records an office creates;
 - B. Where the records are stored; and
 - C. How long they should be kept.

5. Records retention periods may be expressed in three ways:
 - A. Time;
 - B. Event or action (eg., until audit report is released); and
 - C. Time and event (eg. retain 3 years after case is closed).
6. A record retention schedule form lists ongoing record series and their retention schedules in order to:
 - A. Provide for ongoing disposal;
 - B. Prevent buildup of unnecessary records, saving space and improving efficiency; and
 - C. Assist to negotiate public records requests.
7. A record disposal form lists record series to be disposed that have met their retention periods in order to:
 - A. Provide documentation of legal disposal of public records; and
 - B. Provide documentation of records transferred to a historical agency when appropriate.

409.3 SECTION 3:

FORMS AND SCHEDULES TO MANAGE, RETAIN AND DISPOSE OF RECORDS

The OHS Record Retention (RC) schedule approved for use by the Board and the OHS forms to be utilized to submit requests to the County Records Commission and the OHS are included in the 400 APPENDIX sections of these policies and procedures.

The OHS documents include the following:

1. RC-1 One-time disposal of obsolete records
 - A. Part 1 identification and approval:
 - 1) Includes name the local governmental agency;
 - 2) Includes contact information;
 - 3) Includes signatures of both the responsible agency official and the records commission chair; and

- 4) When approved, contains signatures of ODH and Auditor of State representatives.

B. Part 2 records to be disposed:

- 1) Column 1 schedule number may simply number each obsolete series on the form.
- 2) Column 2 lists, describes and provides the date span of record series that are no longer being created by the office and are not already listed on an approved RC-2.
- 3) Column 3 indicates the media type of the record disposed and if any of the records will be retained in a different media type.

2. RC-2 Record Retention Schedule

A. Part 1 identification and approval:

- 1) Includes name of the local governmental agency;
- 2) Provides contact information and includes signatures of both responsible official and records commission chair; and
- 3) When approved, contains signatures of OHS and Auditor of State representatives.

B. Part 2 retention schedule:

- 1) Lists and describes every ongoing records series;
- 2) Includes a schedule number, retention period and media type for each records series; and
- 3) Provides a check box for OHS to identify records of potential historic value for which an RC-3 must be submitted.

3. RC-3 Certificate of Records Disposal

A. Part-1 identification and approval:

- 1) Includes name the local governmental agency; and
- 2) Provides contact information and includes signature of responsible official.

B. Part-2 records to be disposed:

- 1) Columns 1-3 list the record series titles and schedule numbers from the approved RC-2 retention schedule and the date the RC-2 was approved by the records commission.
- 2) Columns 3-4 indicate the media type of the record being disposed and if any of the records will be retained in a different media type.
- 3) Column 5 gives the date span of the records to be disposed.
- 4) Column 6 contains the proposed date the records will be disposed.

409.4 SECTION 4:

AVAILABILITY OF PUBLIC RECORDS

It is the policy of the Board that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of this office to strictly adhere to the state's Public Records Act.

Section 149.43 of the ORC provides that all public records shall be open, at reasonable times, for inspection. All public records shall be prepared and made available within a reasonable period of time for inspection to any person during regular business hours. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time.

“Reasonable” takes into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested. In order to enhance the ability to identify requested records, the Board may ask for the request in writing, although the requestor shall be advised that a request in writing is not mandatory.

Public notice shall be displayed in the Board office with its policy regarding availability of public records and the cost of those records if paper copies are requested or required.

409.5 SECTION 5:

DISCLOSURE OF INFORMATION REGARDING MENTALLY ILL PERSONS

Section 5122.31 of the ORC, which provides confidentiality for the records that directly or indirectly identify a patient or former patient or person whose hospitalization or commitment has been sought shall be kept confidential and shall not be disclosed by any person except:

- If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interest of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

- When disclosure is provided for in Chapters 340 or 5119 of the Revised Code or in accordance with other provisions of state or federal law authorizing such disclosure;
- That hospitals, boards of alcohol, drug addiction and mental health services and community mental health services providers may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;
- Pursuant to a court order signed by a judge;
- That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;
- That hospitals and other institutions and facilities within the department of mental health and addiction services may exchange psychiatric records and other pertinent information with other hospitals, institutions and facilities of the department, and with community mental health services providers and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs and a discharge summary, if any;
- That hospitals within the department and other institutions and facilities within the department may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient or for the emergency treatment of an individual;
- That a patient's family member who is involved in the provision, planning and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interest of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure;
- That community mental health providers may exchange psychiatric records and certain other information with alcohol, drug addiction and mental health services boards and other service providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs and discharge summary, if any;
- That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;
- That records in the possession of the Ohio Historical Society may be released to the closest living relative of a deceased patient upon request of that relative;
- That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter; and
- That records and reports relating to a person who has been deceased for fifty years or more are no longer considered confidential.

In each instance, when information is exchanged among service providers, the custodian of the records must attempt to obtain the patient's consent for the disclosure.

Statute allows for information to be disclosed to community mental health boards and staff members to evaluate the quality, effectiveness, and efficiency of services of the boards to determine if such services meet the minimum standards imposed by the Department Director. However, information obtained during such evaluation should not be released with the name of the patient.

In some instances, records pertaining to the patient's diagnosis, course of treatment, treatment needs and prognosis may be released to the prosecuting attorney. Under such circumstances, the prosecuting attorney need not attempt to obtain the patient's consent for the disclosure.