



CBHS Policies and Procedures

 <p>City and County of San Francisco Department of Public Health Community Programs Community Behavioral Health Services Mayor Newsom Gavin</p>	1380 Howard Street, 5 th Floor San Francisco, CA 94103 415.255.3400 FAX 415.255.3567
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POLICY/PROCEDURE REGARDING: CBHS Electronic Signatures

Issued By: Barbara Garcia Deputy Director of Health Community Programs Date: June 23, 2010 	Manual Number: 6.00-01 Reference: DMH Letter 08-10, Jurisdiction 1 Part B Medicare Part B Medical Records: Signature Requirements, Acceptable and Unacceptable Practices; ADP Letter 08-13 California Government Code Section 16.5. This approval extends to all electronically signed records requiring signatures under Title 9 of the California Code of Regulations (CCR), sections 9400 et seq., Title 2, CCR, sections 22000-22005.
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New Policy

Preface:

The San Francisco Department of Public Health, Community Behavioral Health Services (CBHS) maintains electronic client records that support registration, clinical assessments, treatment plans, progress notes, medication management, client referrals, authorizations for care, provider payment activities and billing.

The Department of Mental Health requires all notes to be signed by: "A signature (or electronic equivalent) of the staff providing the service with professional degree, license or job title."¹

The Department of Alcohol and Drug Programs accepts electronic signatures that satisfy Federal and California law. "Electronic records and electronically signed records may replace paper-based records for purposes of an ADP audit or review."²

Definitions and Background

Federal law defines an electronic signature as "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record." Under California law, a digital signature is defined as "an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature."³

¹ CCR, Title 9, Chapter 11, Section 1810.440(c); MHP Contract with DMH, Exhibit A, Attachment 1, Appendix C

² ADP Letter 08-13

³ DMH Letter 08-10

“The purpose of a rendering/treating/ordering practitioner’s signature in patients’ medical records, operative reports, orders, test findings, etc., is to demonstrate the Part B services have been accurately and fully documented, reviewed and authenticated. Furthermore, it confirms the provider has certified the medical necessity and reasonableness for the service(s) submitted to the Medicare program for payment consideration.”⁴

For the purposes of this policy, an electronically signed record is a financial, program, or medical record that (1) is required to be signed under California or Federal law, California or Federal regulation, or organizational policy or procedure, and (2) may be requested during an audit by a DMH auditor or a DMH audit contractor.⁵

Categories of staff defined in the current version of the “Staffing Qualifications for Service Delivery and Documentation” section of the San Francisco Mental Health Plan Documentation Manual⁶ (See Appendix 3) will access, and provide documentation in, the electronic medical record.

Guidelines

CBHS electronic health record keeping systems comply with the following Certification Commission for Healthcare Information Technology (CCHIT) certification criteria⁴ or equivalent: *Security: Access Control*, *Security: Audit*, and *Security: Authentication*.⁷

CBHS maintains a signed Electronic Signature Agreement (example attached as Appendix 1.) for the terms of use of an electronic signature signed by both the individual requesting electronic signature authorization and the CBHS Director or designee. Electronic signatures based on login name and password are valid for six (6) months. Renewal of the password renews the electronic signature agreement.

Each staff will have a unique electronic signature that contains a title and/or a professional suffix to be affixed to all electronically signed documents. Electronic signature is used whenever a signature or co-signature is required for “a financial, program, or medical record that (1) is required to be signed under California or Federal law, California or Federal regulation, or organizational policy or procedure...”

⁴ Jurisdiction 1 Part B

Medicare Part B Medical Records: Signature Requirements, Acceptable and Unacceptable Practices, Extracted May 15, 2009

<http://www.palmettogba.com/palmetto/providers.nsf/DocsCat/Jurisdiction%201%20Part%20B~Articles~General~914AFCCACFAAB30F852575AD0049D41E>

⁵ *ibid*

⁶ Appendix 2. Staffing Qualifications For Service Delivery And Documentation

⁷ *Security: Access Control*, *Security: Audit*, and *Security: Authentication*, Extracted May 18, 2009

http://www.cchit.org/files/Ambulatory_Domain/CCHIT_Ambulatory_SECURITY_Criteria_2007_Final_16Mar07.pdf

Use of electronic signature and system access is governed by the CBHS User Access Control policy and related policies of San Francisco Department of Public Health including but not limited to Access Control, Password, Documentation Accountability and Security Violation policies. (See related policy links in Appendix 2)

APPENDICES

Appendix 1. Electronic Signature Agreement

Appendix 2. Related Policies Link

Appendix 3. Staffing Qualifications for Service Delivery and Documentation

Appendix 4. DMH Letter 08-10

Appendix 4. ADP Letter 08-13



City and County of San Francisco – Department of Public Health

User Confidentiality, Security and Electronic Signature Agreement Form

Revised 062510 DPH Privacy Board – 415-255-3706

Individuals with access to confidential information and information systems (PCs, network, internet, e-mail, telephones, pagers, fax machines, etc.) of the San Francisco Department of Public Health have a legal and ethical responsibility to protect the confidentiality of personal, medical, financial, personnel, and protected health information, and to use that information and those systems only in the performance of their jobs. When my signature or co-signature is required for “a financial, program, or medical record” under California or Federal law, California or Federal regulation, or organizational policy or procedure,” my user ID and password together shall constitute an electronic signature. The following applies to confidential DPH information accessed, received or sent in any format, including digital, paper, voice, facsimile, electronic signatures, etc.

I understand and agree to the following terms and conditions:

1. **I will only access, discuss, or divulge confidential DPH information as required for the performance of my job duties.** Providers may need to use all of an individual’s health information in the provision of patient care. However, access to protected health information for other purposes must be limited based on job scope and the need for the information.
2. **I will not download or maintain patient information on my privately-owned portable devices.** If using a DPH- or UCSF-provided and password-protected device, I will delete patient information (and empty it from my computer’s recycle bin) promptly when it is no longer needed to fulfill my job responsibilities.
3. **DPH information systems maintain internal logs of applications and data accessed, indicating who viewed, added, edited, printed or deleted information. I may be asked to justify my use of specific information contained in or managed by DPH information systems.**
4. **Individuals requiring access to DPH information systems will be given a user ID and password. It is my responsibility to maintain the confidentiality of patient and other information to which I have access. I agree to keep my user IDs and passwords secret and secure by taking reasonable security measures to prevent them from being lost or inappropriately acquired, modified or otherwise compromised, and to prevent unauthorized disclosure of, access to, or use of them, or of any media on which information about them are stored. If I suspect that my user ID or password has been stolen or inappropriately acquired, lost, used by an unauthorized party, or otherwise compromised, I will immediately notify the appropriate Information Systems Help Desk and request that my electronic signature be revoked.**
5. **The hardware, software, data, and outputs of DPH information systems are the property of the DPH and must be appropriately licensed for installation on a DPH computer. I will obtain prior authorization from a DPH information systems administrator before installing personal software on a DPH computer. DPH has the right to review and remove personal or unlicensed software and data on any DPH computer or information system.**
6. **Non-adherence to this Agreement may result in disciplinary action up to and including termination of employment or contractual relationship with DPH.**
7. **Violation of state and federal laws regarding patient privacy may subject me to substantial monetary penalties and/or make me the subject of a civil or criminal action pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the California Medical Information Act, the Welfare and Institutions Code, and other federal and state privacy laws.**
8. **NOTE for individuals whose entries are “signed” electronically: For the purposes of authorizing and authenticating electronic health records, my electronic signature (my user-ID plus my password) has the full force, effect, and responsibility of a signature affixed by hand to a paper document. My electronic signature establishes me as the signer or co-signer of electronic documents. My electronic signature will be valid for the length of time specified in the DPH Password Security Policy (or the database administrator, whichever is shorter) from date of issuance, or earlier if it is revoked or terminated per the terms of the user agreement. Prior to the expiration date, I will receive a system alert when my password is due to expire and be given the opportunity to renew it. Setting a new password related to user’s-ID (electronic signature) renews the terms of this agreement.**

USER NAME (PRINT)	USER SIGNATURE
USER DEPARTMENT/PROGRAM	DATE SIGNED
APPROVER NAME (PRINT)	APPROVER SIGNATURE/TITLE DATE SIGNED

Appendix 2: Related Policies

SF DPH Password Policy

SFDPH Access Control Policy

SFDPH Documentation Accountability Policy

SFDPH Security Violation Sanctions Policy

You can access to the above policies at these websites:

A. DPHNet Homepage: This menu page is accessible only to DPH Staff.

1. Under “Site”, click DPH Privacy & Data Security Policies
2. Click DPH Data Security Policies

B. Providers who do not have access to DPHNet Homepage.

1. DPH Public Site is: <https://www.sfdph.org>
2. Listed under “Knowledge Sharing & Collaboration”
3. Click Privacy Policies
4. Scroll down to DPH Data Security Policies for specific policy

Appendix 3

STAFFING QUALIFICATIONS FOR SERVICE DELIVERY AND DOCUMENTATION

Staff Qualifications are dictated in general by the following standards and scope of practice as defined by California Code of Regulations, Title 9 and the MHP.

7.1 LPHAⁱ: A "Licensed Practitioner of the Healing Arts" possesses a valid California clinical licensure in one of the following professional categories:

1. Physicianⁱⁱ (Psychiatry: 2084P0800X; Addiction Medicine: 2084A0401X; Addiction Psychiatry: 2084P0802X;
2. Licensed Clinical Psychologistⁱⁱⁱ (Psychologist or Psychology Interns: 103T00000X; Clinical Psychologist: 103TC0700X; Clinical Child & Adolescent - 103TC2200X; Addiction (Substance Use Disorder) - 103TA0400X)
3. Licensed Clinical Social Worker^{iv} (Clinical: 1041C0700X; School: 1041S0200X)
4. Licensed Marriage and Family Therapist^v (MFT or MFT Interns: 106H00000X)
5. Registered Nurse^{vi} (RN: 163W00000X; Psychiatric RN: 163WP0808X)

Privileges:

- Can function as a "Head of Service" on agency application
- Can Authorize services as directed by the MHP
- Can conduct comprehensive assessments and provide a diagnosis without co-signature
- Can co-sign the work of other staff members within their scope of practice
- Can bill for all services categories within their scope of practice (example, a psychiatrist and registered nurse can bill for Medication Support Services, however, psychologist, LCSWs and MFTs cannot)

7.2 LPHA Licensed Waivered/Registered Professional^{vii}: A "licensed waivered staff" member includes the following:

7.2.1 Registered Psychological Assistants^{viii} (Psychology Interns: 103T00000X)

Psychologist interns are individuals registered with the Board of Psychology as “Psychological Assistants” in order to obtain supervised clinical hours towards licensure as a psychologist. The waiver for Psychological Assistants is issued by DMH and is granted up to 5 years from the initial date of registration with the Department^{ix}. The waiver allows the Psychological Assistant to function as an LPHA while acquiring experience towards clinical licensure.

7.2.2 Registered Marriage Family Therapist Interns/Associate Social Workers (MFT Interns: 106H00000X)

Registered Marriage and Family Therapist Interns (MFT-Interns) and Associate Social Workers (ASW) are individuals registered with the Board of Behavioral Sciences in order to obtain supervised clinical hours and acquiring clinical experience towards licensure as a Marriage Family Therapist and Licensed Clinical Social Worker, respectively. The waiver for Registered Marriage Family Therapist-Interns and Associate Social Workers are issued by the MHP and is oversighted and regulated by the MHP.^x

Privileges:

- Registered Psychological Assistants, MFT-Interns and ASWs can function as a LPHA staff for the time dictated by the MHP and DMH.
- Registered Psychological Assistants, MFT-Interns and ASWs cannot function as the Head of Service unless they meet qualifications dictated by the California Code of Regulations.^{xi}
- Registered Psychological Assistants, MFT-Interns and ASWs can authorize services as directed by the MHP
- Registered Psychological Assistants, MFT-Interns and ASWs can conduct comprehensive assessments and provide a diagnosis without co-signature
- Registered Psychological Assistants, MFT-Interns and ASWs can co-sign the work of other staff members within their scope of practice
- Registered Psychological Assistants, MFT-Interns and ASWs can bill for all Mental Health Services, Unplanned Services and Targeted Case Management within their scope of practice
- Registered Psychological Assistants, MFT-Interns and ASWs cannot hold themselves out as independent practitioners and claim as an Enrolled Network Provider^{xii}

7.3 Graduate Student: (Mental Health Counselor: 101Y00000X; Student in an organized Health Care education program: 390200000X)

A “Graduate Student” is an individual participating in a field intern/trainee placement while enrolled in an accredited Masters in Social Work (MSW) or Masters of Art (MA)/Masters of Science (MS) Counseling training program^{xiii}. There is no minimum experience required for graduate students.

Privileges:

- Can conduct comprehensive assessments and client plans, but require a co-signature by a licensed LPHA.^{xiv}
- Can write progress notes but require a co-signature by a licensed LPHA.
- Can bill for individual and group therapy but require oversight and co-signature of a licensed LPHA staff member.
- Can bill for all Mental Health Services, Unplanned Services and Targeted Case Management within their scope of practice.

Note: Waivered/Registered Professional staff cannot co-sign for a graduate student’s therapy work.^{xv}

7.4 MHRS^{xvi} (Mental Health Counselor: 101Y00000X; Rehabilitation Counselor: 225C00000X):

A “Mental Health Rehabilitation Specialist” is an individual who meets one of the following requirements:

1. Master’s Degree in a mental health related field and two years of full-time/equivalent (FTE) experience in a mental health setting.
OR
2. Bachelor’s Degree in a mental health related field and 4 years FTE experience in a mental health setting as a specialist in the fields of: Physical Restoration, Psychology, Social Adjustment, Vocational Adjustment
OR
3. Associate Arts Degree in a mental health related field and six years of FTE experience in a mental health setting. At least two of the six years must be post AA degree experience in a mental health setting.

Privileges:

- Can function as a “Head of Service” on agency application
- Can conduct comprehensive assessments and complete Client Plans that lead to diagnoses provided by an LPHA with co-signature^{xvii}
- Can co-sign the work of other staff members within their scope of

practice

- Can bill for all Mental Health Services (except Therapy), Unplanned Services and Targeted Case Management within their scope of practice

7.5 Mental Health/Advocate and Other staff not meeting above categories^{xviii} (Case Manager: 171M00000X; Licensed Psychiatric Technician - 167G00000X; Community Health Worker: 172V00000X):

The MHP has the prerogative and program flexibility to integrate and define other staff (who provide direct or supportive specialty mental health services) as determined by the MHP administration and approved by DMH.^{xx} It should be noted that it is not a requirement that staff are paid for services provided and claimed to Medi-Cal (i.e., staff may include unpaid graduate students/trainees/interns, volunteers or advocates) as long these unpaid persons meet Medi-Cal rules and regulations regarding claiming and scope of practice.

Good clinical practice and Regulatory precedence^{xx} recommend the following considerations be included for non-licensed staff who may provide direct or supportive EPSDT services:

1. Graduated from High School or possess GED
2. Minimum of (2) years full-time experience, or its part-time equivalent, working in a program serving persons with mental disabilities
3. If the staff member does not have the required experience, the program shall document a specific plan of supervision and in-service training for the staff member which will guarantee the ongoing qualification of the staff member to perform the job (including evidence of documentation oversight) to meet minimum full-time experience qualification.
4. Staff are in receipt of at least 20 hours of in-service training per year to ensure ongoing qualification of the staff member to perform the job.

Privileges:

With evidence of on-going supervision, and within the scope of the staff member's ability, this staff member can provide the following services as dictated by the MHP-

1. Limited Mental Health Services
2. Case Management, Brokerage services



CALIFORNIA DEPARTMENT OF
Mental Health

1600 9th Street, Sacramento, CA 95814
(916) 654-2309

December 4, 2008

DMH LETTER NO.: 08-10

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: ELECTRONIC SIGNATURES AND ELECTRONICALLY SIGNED
RECORDS

The increased use of electronic health records and electronic methods of signing them has prompted the State of California Department of Mental Health (DMH) to issue standards regarding the use of electronic signatures in records reviewed by its auditors.

In addition to the addressees, this letter should be reviewed by all appropriate county staff in areas including, but not limited to, compliance, audit, clinical, quality improvement, fiscal, and information technology. Topics covered in this letter include:

- Definitions of an electronic signature and an electronically signed record
- Standards for an electronic signature used in an electronically signed record
- Information security considerations
- Obtaining consumer signatures
- Health Insurance Portability and Accountability Act (HIPAA) compliance
- DMH audit requirements for electronically signed records

Electronic Signature – Definition

Federal law¹ defines an electronic signature as “an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.”

¹ 15 USC § 7006

Under California law², a digital signature is defined as "an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature."

Electronically Signed Record – Definition

For the purposes of these standards, an electronically signed record is a financial, program, or medical record that (1) is required to be signed under California or Federal law, California or Federal regulation, or organizational policy or procedure, and (2) may be requested during an audit by a DMH auditor or a DMH audit contractor.

Standards for Electronic Signatures in Electronically Signed Records

DMH approves the use of electronic signatures in electronically signed records as equivalent to a manual signature affixed by hand for financial, program, and medical records audit purposes. This approval extends to all electronically signed records requiring signature under the California Code of Regulations, Title 9, Division 1. The electronic signature should meet the following requirements:

1. The electronic signature mechanism is a) unique to the signer, b) under the signer's sole control, c) capable of being verified, and d) linked to the data so that, if the data are changed, the signature is invalidated³.
2. Computer systems that utilize electronic signatures comply with the following Certification Commission for Healthcare Information Technology (CCHIT) certification criteria⁴ or equivalent: *Security: Access Control*, *Security: Audit*, and *Security: Authentication*.
3. Counties maintain an Electronic Signature Agreement (example attached) for the terms of use of an electronic signature signed by both the individual requesting electronic signature authorization and the county mental health director or his/her designee.
4. County mental health directors complete a County Mental Health Director's Electronic Signature Certification form (example attached), certifying that electronic systems used by the county's mental health operations, including contract provider systems, meet the standards.

² California Government Code Section 16.5 (d)

³ California Government Code Section 16.5 (a) and California Code of Regulations Section 22002

⁴ http://www.cchit.org/files/Ambulatory_Domain/CCHIT_Ambulatory_SECURITY_Criteria_2007_Final_16Mar07.pdf

5. The signed Electronic Signature Certification and signed Electronic Signature Agreements from county employees and contract providers, or copies thereof, are available to the DMH auditor at the time of an audit.

Under these standards, Mental Health Plans (MHPs) may set additional restrictions or requirements beyond what is presented in this Information Notice, provided those restrictions or requirements meet the minimum requirements stated above and are consistent with applicable state and federal laws and regulations. MHPs are responsible for identifying laws and regulations that may apply to restrictions or requirements they set.

Information Security Considerations

The Department's standards do not require encryption of the data in the electronically signed record for compliance. However, counties are still responsible for taking appropriate security measures to safeguard the contents of all electronic records and complying with Welfare and Institutions Code section 5328, the Confidentiality of Medical Information Act⁵, California Government Code section 6254, and all other applicable federal and state laws and regulations.

Obtaining Consumer Signatures

In many situations, the mental health consumer, or his/her representative, must acknowledge his/her willingness to participate in and accept the treatment plan. In paper-based systems, the consumer, or his/her representative, physically signs a document to that effect. As an alternative to paper, it is proposed that MHPs use any of the following approaches: 1) scanning paper consent documents, treatment plans or other medical record documents containing consumer signatures, 2) capturing signature images from a signature pad, 3) recording biometric information, such as a fingerprint using a fingerprint scanner, or 4) entering authenticating information known only to the consumer or authorized representative, such as a password or personal identification number (PIN). If a signature is unavailable, an electronically signed explanation must be provided by the county mental health director or his/her designee.

Health Insurance Portability and Accountability Act (HIPAA) Compliance

In addition to complying with the standards in this letter for electronic signatures and electronically signed records, MHPs and providers that manage consumer mental health

⁵ California Civil Code section 56 et seq.

information should be in full compliance with all applicable HIPAA security standards⁶. Upon future publication of HIPAA electronic signature regulations, MHPs will be required to be in full compliance within the timelines and other requirements established by the federal government.

DMH Audit Requirements for Electronically Signed Records

Electronic records and electronically signed records may replace paper-based records for purposes of a DMH audit. Counties and contract providers should conform to the standards for electronic signatures in electronically signed records set forth in this Information Notice. When DMH conducts audits and reviews, counties and contract providers should make available the following upon arrival of DMH staff at the audit site:

- Physical access to electronic health record systems
- Adequate computer access to the electronic health records needed for the audit review
- System or network access to electronic records such as user IDs and passwords
- Access to printers and capability to print necessary documents
- Technical assistance as requested
- Scanned documents, if needed, that are readable and complete

⁶ http://www.cms.hhs.gov/SecurityStandard/02_Regulations.asp

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December 4, 2008
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If you have questions or need additional information regarding electronic records or electronically signed records requirements, please contact Denise Blair at (916) 651-3084.

Sincerely,

Original signed by

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosures

cc: Denise Blair, CIO, Information Technology, DMH
Stan Bajorin, DD, Administrative Services, DMH
Carolyn Michaels, Acting DD, Program Compliance, DMH
Gigi Smith, CIO, Information Technology, ADP

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

1700 K STREET
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**ADP BULLETIN**

Title Electronic Signatures in Electronic Health Record Systems Used by Counties and Providers		Issue Date: March 9, 2010 Expiration Date: Until Rescinded	Issue No. 10 - 01
Deputy Director Approval <i>Gigi Smith</i> <i>Deputy Director</i> <i>Information Management Services Division</i>	Function: <input checked="" type="checkbox"/> Information Management <input type="checkbox"/> Quality Assurance <input type="checkbox"/> Service Delivery <input type="checkbox"/> Fiscal <input type="checkbox"/> Administration <input type="checkbox"/>	Supersedes Bulletin/ADP Letter No. 08-13	

PURPOSE

This bulletin concerns County and treatment provider use of electronic signatures in Electronic Health Record (EHR) systems when preparing and maintaining client records and files. The California Department of Alcohol and Drug Programs (ADP) is providing this information to clarify the standards and requirements for the use of electronic signatures on the electronic client records and files maintained by counties and treatment providers. Authorized individuals use electronic signatures to sign electronic records in EHR systems. ADP staff conducting audits, licensing, or certification reviews will accept electronic signatures when the signature complies with State law. The purpose of this bulletin is to communicate these State standards and requirements to counties and treatment providers.

Scope of this Bulletin

The scope of this bulletin is limited to the recognition of electronic signatures embedded within counties' and providers' EHR systems for purposes of auditing, licensing, or certification reviews conducted by ADP. The scope does not include the use of electronic signatures within claims submitted to ADP or within any other electronic transmission of data to or from ADP.

DISCUSSION

The increased use of EHR systems and electronic methods of signing records has prompted ADP to issue standards regarding the use of electronic signatures in records reviewed by its auditors and licensing and certification reviewers.



DO YOUR PART TO HELP CALIFORNIA SAVE ENERGY
 For energy saving tips, visit the Flex Your Power website at
<http://www.flexyourpower.ca.gov>

In addition to the addressees, this bulletin should be reviewed by all appropriate county staff in areas including, but not limited to, compliance, audit, clinical, quality improvement, fiscal, and information technology. Topics covered in this letter include:

- Definitions of an electronic signature and an electronically signed record
- Standards for an electronic signature used in an electronically signed record
- Information security considerations
- Obtaining consumer signatures
- Health Insurance Portability and Accountability Act (HIPAA) compliance
- ADP audit requirements for electronically signed records
- Electronic Signature - Definition

Federal law (15 USC § 7006) defines an electronic signature as "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record."

Under California law (California Civil Code § 1633, subsection f), an electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. As specified in California Civil Code § 1633, subsection h, the use of an electronic signature or digital signature shall have the same force or effect as a manual signature.

Electronically Signed Record - Definition

For the purposes of these standards, an electronically signed record is a financial, program, or medical record that (1) is required to be signed under California or Federal law, California or Federal regulation, or organizational policy or procedure, and (2) may be requested during an audit by any Federal, State, or local government audit organization or public accountant.

Standards for Electronic Signatures in Electronically Signed Records

ADP approves the use of electronic signatures in electronically signed records as equivalent to a manual signature affixed by hand for financial, program, and medical records audit or program review purposes. This approval extends to all electronically signed records requiring signature under the California Code of Regulations, Title 9, Division 1. The electronic signature should meet the following requirements:

1. The electronic signature mechanism is
 - a) Unique to the signer,
 - b) Under the signer's sole control,
 - c) Capable of being verified, and
 - d) Linked to the data so that, if the data are changed, the signature is invalidated.

2. Computer systems that utilize electronic signatures comply with the following Certification Commission for Healthcare Information Technology (CCHIT) certification criteria or equivalent: Security: Access Control, Security: Audit, and Security: Authentication.
3. Counties maintain an Electronic Signature Agreement (Exhibit 1) for the terms of use of an electronic signature signed by both the individual requesting electronic signature authorization and the County Alcohol and Drug Program Administrator or his/her designee.
4. County Alcohol and Drug Program Administrators complete a County Alcohol and Drug Program Administrator's Electronic Signature Certification form (Exhibit 2), certifying that electronic systems used by the county's alcohol and drug operations, including contract provider systems, meet the standards.
5. The signed Electronic Signature Certification and signed Electronic Signature Agreements from county employees and contract providers, or copies thereof, are available to the ADP auditor or program reviewer at the time of an audit, licensing, or certification review.

Under these standards, counties may set additional restrictions or requirements beyond what is presented in this ADP Bulletin, provided those restrictions or requirements meet the minimum requirements stated above and are consistent with applicable state and federal laws and regulations. County Alcohol and Drug Administrators are responsible for identifying laws and regulations that may apply to restrictions or requirements they set.

Information Security Considerations

ADP standards do not require encryption of the data in the electronically signed record for compliance. However, counties are responsible for taking appropriate security measures to safeguard the contents of all electronic records and complying with Welfare and Institutions Code section 5328, the Confidentiality of Medical Information Act, California Government Code section 6254, and all other applicable federal and state laws and regulations.

Obtaining Consumer Signatures

In many situations, the substance abuse consumer, or his/her representative, must acknowledge his/her willingness to participate in and accept the treatment plan. In paper-based systems, the consumer, or his/her representative, physically signs a document to that effect. As an alternative to paper, it is proposed that counties and providers use any of the following approaches:

- 1) Scanning paper consent documents, treatment plans or other medical record documents containing consumer signatures;

- 2) Capturing signature images from a signature pad;
- 3) Recording biometric information, such as a fingerprint using a fingerprint scanner;
or,
- 4) Entering authenticating information, such as a password or personal identification number (PIN), known only to the consumer or authorized representative.

If a signature is unavailable, an electronically signed explanation must be provided by the County Alcohol and Drug Program Administrator or his/her designee.

Health Insurance Portability and Accountability Act (HIPAA) Compliance

In addition to complying with the standards in this letter for electronic signatures and electronically signed records, counties and providers that manage consumer substance abuse information must be in full compliance with all applicable HIPAA security standards. Counties and providers are required to be in full compliance with the timelines and other requirements established by the federal government.

ADP Audit Requirements for Electronically Signed Records

Electronic records and electronically signed records may replace paper-based records for purposes of an ADP audit, licensing, or certification review. Counties and contract providers must conform to the standards for electronic signatures in electronically signed records set forth in this ADP Bulletin. When ADP conducts an audit, licensing, or certification review, counties and contract providers must make the following available upon arrival of ADP staff at the County or provider site:

- Physical access to EHR systems
- Adequate computer access to the EHR needed for the audit or review
- System or network access to electronic records such as user IDs and passwords
- Access to printers and capability to print necessary documents
- Technical assistance as requested
- Scanned documents, if needed, that are readable and complete

The above documentation shall be sufficient to ensure that electronically signed records are capable of verification by qualified auditors, analysts, or investigators.

QUESTIONS/MAINTENANCE

If you have questions regarding this bulletin, please contact:

John McCarthy
Enterprise Architect and Information Security Officer
Information Management Services Division
(916) 323-9892
Email: jmccarthy@adp.ca.gov

An additional copy of this document may be requested through the ADP Resource Center at (800) 879-2772. This bulletin is also available on the ADP Web page at www.adp.ca.gov.

EXHIBITS

- Exhibit 1: Electronic Signature Agreement
- Exhibit 2: Electronic Signature Certification

DISTRIBUTION

County Alcohol and Drug Program Administrators
Strategic Local Government Services, LLC
Director's Advisory Council
ADP Deputy Directors
Denise Blair, CIO, Department of Mental Health

Contact Person: Nan Dame, MSNi, BHIS Manager, Phone: 415 255-3545

Distribution:

CBHS Policies and Procedure are distributed by the Research, Evaluation, and Quality Management Section

Administrative Manual Holders
CBHS Programs
CBHS Program Managers
SFMHP Health Information Services
ISC Directors

ⁱ CCR, Title 9, Chapter 11, Section 1830.215 and Section J (4e) Non-Hospital Chart Review-EPSDT Audits in FY 06-07

ⁱⁱ Welfare & Institution Code 5600(a), Business and Professional Code 2051-2052, CCR, Title 9, Chapter 11, Section 623 and CCR, Title 9, Chapter 3.5 Section 782.39

ⁱⁱⁱ Welfare & Institution Code 5600(a), Business and Professional Code 2902, CCR, Title 9, Chapter 11, Section 624 and CCR, Title 9, Chapter 3.5 Section 782.4

^{iv} Welfare & Institution Code 5600(a), Business and Professional Code 4996, CCR, Title 9, Chapter 11, Section 625 and CCR, Title 9, Chapter 3.5 Section 782.48

^v Welfare & Institution Code 5600(a), Business and Professional Code 4980, CCR, Title 9, Chapter 11, Section 626 and CCR, Title 9, Chapter 3.5 Section 782.32

^{vi} Welfare & Institution Code 5600(a), Business and Professional Code 2725, CCR, Title 9, Chapter 11, Section 627 and CCR, Title 9, Chapter 3.5 Section 782.44

^{vii} CCR, Title 9, Chapter 11, Section 1810.254

^{viii} Welfare & Institution Code 5600(a), Business and Professional Code 2914 and CCR, Title 9, Chapter 11, Section 1810.254

^{ix} Welfare and Institution Code 5751.2, DMH Letter 02-09 and DMH Mental Health Professional Licensing Waiver Request

^x Welfare and Institution Code 5751.2, DMH Letter 02-09

^{xi} CCR, Title 9, Chapter 3, Section 620(f) and Section 622

^{xii} Business and Professions Code Section 4996.14 and 4996.18(d)

^{xiii} CCR, Title 9 Section 550

^{xiv} Business and Professions Code Section 4996.9, Section 4996.15, Section 4996.18(e) and CCR, Title 9 Section 550

^{xv} Business and Professions Code Section 4996.9 & 4996.18(e) and CCR, Title 9 Section 550

^{xvi} CCR, Title 9, Chapter 3, Section 630 and CCR, Title 9, Chapter 3.5, Section 782.35

^{xvii} Section J (4e) Non-Hospital Chart Review-EPSDT Audits in FY 06-07

^{xviii} Silent, other than CCR, Title 9, Chapter 3.5, Section 532.6

^{xix} CCR, Title 9, Chapter 11, Section 1810.110

^{xx} CCR, Title 9, Chapter 3.5, Section 532.6