Deputy Secretary for Operations-Office of Regulations and Policy Coordination-POLICY 02.10.02
Version Effective May 16, 2002

POLICY ON THE MANAGEMENT OF RECORDS

SHORT TITLE: RECORDS POLICY

I. EXECUTIVE SUMMARY

The Department of Health and Mental Hygiene (DHMH) shall have a program for the continual, economical, efficient and secure management of the records of the Department. This policy defines record and non-record material, medical records, record schedules, accessibility, and other applicable terminology.

This policy recognizes the authority of Annotated Code of Maryland, the Code Of Maryland Agency Regulations (COMAR), and directives of the Maryland State Archives and Department of General Services in determining the management of the Department's records. Federal laws and regulations that affect the Department's records are also cited, including the Health Insurance Portability and Accountability Act. Relevant guidelines, forms, websites, and other resources are also referenced.

The Deputy Secretary for Operations is designated by the Secretary to be the responsible official over the DHMH Records Management Program. The Deputy Secretary shall appoint a Records Officer for Headquarters; in addition, the Director of each DHMH Facility and the Health Officer at each Local Health Department (LHD) shall each appoint a Records Coordinator for their respective location. Records management support staff shall be assigned by management, as needed, with a minimum of one Records Coordinator per facility, LHD, Administration, or program and one Records Manager per functional unit in order to ensure that all of the Department's records are actively managed by personnel familiar with them. Names and phone numbers of unit Records Managers are to be provided to the respective Records Coordinators. The roles and responsibilities of the Records Officer, Coordinators and Managers at both headquarters and non-headquarters units are defined.

The DHMH Records Officer and Coordinators will ensure that all records are maintained, stored, and disposed of in accordance with applicable laws, regulations, guidelines, and this policy. The DHMH Records Officer shall submit an annual report on the status of the DHMH Records Program to the Deputy Secretary for Operations. The Records Officer, Coordinators, and other records custodians shall be trained to respond to Public Information Act (PIA) requests. The control and release of personal, confidential, proprietary or restricted information must comply with COMAR standards, and State and Federal laws. Records Officers shall keep informed of the requirements of the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Coordinating Committee (HICC), the Maryland State Archives, and DHMH Information Resources Management Administration (IRMA) data policies to ensure the proper handling of electronic records/ information under their control.

II. BACKGROUND

State agencies are required by State Government Article, §10-633 to have a Records Management Program (http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-633). This program is to provide for the continual, economical, and efficient management of the records of the Agency. A properly executed Records Management Program can offer protection for the Agency's records, reduce operating cost, reduce the amount of records storage space required in the office, reduce the number of file cabinets required to house these records, provide the means to dispose of records no longer required by the Agency, and provide a system of control and accountability.

The Maryland Public Information Act (PIA) (http://www.oag.state.md.us/Forms/book.pdf) requires State agencies to make their records available to the public unless specifically excluded from this requirement. Personal records, research data, and other restricted information may require special controls for release or accessibility in order to comply with the PIA, HIPAA, DHMH Information Assurance Policy (IAP), and other directives. The confidentiality and privacy of medical records and personal health care information must be protected and secured in accordance with relevant policies. The DHMH Records Officer, Records Coordinators, and designated records custodians shall be trained to respond to public information (PIA) requests.

DHMH employees also need to be aware of records management criteria set by other DHMH units including, but not limited to the Health Information Coordinating Council (HICC), the Information Resources Management Administration (IRMA), the Office of the Inspector General, the Fiscal Services Administration, the Office of Contract Policy, Management and Procurement, and the Personnel Services Administration.

This policy updates and replaces DHMH Policy 02.03.07, (formerly DHMH 7920), which became effective June 1998. Changes include a shift in program responsibility, conversion to a standard format, electronic links, updated references, annual reporting requirement, and new privacy, security, and access information.

III. POLICY STATEMENTS

A. DEFINITIONS- The vocabulary of "records management" needs to be closely monitored because confusion, mistakes, and even disasters have resulted from misinterpretation of words due to the context in which they are used. To some people, the word "records" may evoke images of 45 rpm vinyl disks or 78 LP's in contrast to paper documents, but there are also much more subtle, contextual interpretations that may cause problems. For example, sometimes, the word "record" may be used to mean a piece of paper or microfilm, and another time, it refers to the information contained on these materials. In one context, "copy" can mean an imitation or duplicate of a record which can be discarded when no longer needed, while in another context, a "copy of a birth certificate", for instance, may be treated as an official document, afforded special handling, restricted access, and even shredding for disposal. The following definitions are useful and appropriate in the context of the DHMH Records Management Program, but they may not be adequate for the context and needs of HIPAA, PIA, COMAR, or other programs that are referenced in this policy, particularly with regard to copies and non-record materials.

1. **Records, record materials,** or **public records** may be defined as any paper, correspondence, form, photograph, recording, microform, magnetic tape, diskette, compact disk (CD), file, table, chart, map, drawing, database, or other document (including e-mail), regardless of physical form or characteristics, that has been made or received by a unit of DHMH in connection with the transaction of official business, and that needs to be preserved for informational value or as evidence of a transaction.

2. Non-records materials are items created, copied, downloaded, or acquired for reference, exhibition, distribution, or back up, including manuals, pamphlets, newspapers and informational letters; copies of documents used as working, reading, 'tickler' and suspense files; speech notes, reminders, shorthand notes, notebooks which have been transcribed; other temporary materials used to control internal work-in-progress including meeting reminders, calendars, e-mail, voice-mail or telephone messages of a non-policy nature; reference materials (dictionaries, telephone directories, etc.), stocks of publications or other reproduced information.

3. **Records schedule**- The Records Retention and Disposal Schedule (DGS Form 550-1) (http://www.dhmh.state.md.us/forms/sf_rmf.htm) is an official document listing and describing the records series of a program or office, and also providing authorization for destruction of those records that are not essential to operations upon attaining a stated time period; or, in the case of archival materials, identifying those records deemed to be of permanent value or deserving permanent retention. The preferred organizational level to prepare DHMH schedules is Program or Administration, Board, or Executive Office. The DHMH Facilities and the Local Health Departments will have General Schedules prepared for their records, but individual locations may require supplemental schedules for unique records series. <Insert link to Schedule Guidelines>

4. **Transmittal- The Records Transmittal and Receipt** (DGS Form 550-5) (http://www.dhmh.state.md.us/forms/sf_rmf.htm) is an official document used as a notification for the records center, as a shipping document, receipt, and warehouse locator. Only records listed on an authorized Records Schedule may be placed into Records Center storage. Transmittals may also be used to transfer permanent records to the archives at Annapolis but they must be entered on separate forms from records destined for storage. <Insert link to Transmittal Guidelines>

5. **Accessibility**- The availability of public records or information for viewing or copying by the public, without unnecessary cost or delay, in accordance with established procedures. When records are restricted due to privacy or security concerns, accessibility is limited to designated individuals. The accessibility of records must be balanced against the privacy and security of information entrusted to the Department, so that the rights of individuals are protected in both instances.

6. Records Management Staff

   i. The DHMH **Records Officer** has overall responsibility for the

DHMH Records Program and works with **Records Coordinators** to assure compliance with laws, regulations and policies governing records management throughout the Department.

ii. **Records Coordinators** at facilities and LHD's are responsible for implementing and managing the DHMH Records Program at their locations. Coordinators review the records transmittal forms prepared by the unit Records Managers to assure that they are correct before submitting them to the Records Officer for processing. The Coordinators will also maintain the Records Program files for their Administration, Facility or LHD.

iii. **Records Managers** maintain each unit's files in accordance with the schedules, pack records into standard cartons for storage when no longer needed in office, and prepare appropriate forms and other documentation as needed. When required, Records Managers will perform records surveys, inventories, or other evaluations to assure compliance with mandates.

iv. **Records Custodians** are employees designated by Program Directors to be responsible for controlling particular records series or electronic record systems, including public access (PIA requests), changes and updates, storage and disposal, security, etc. See DHMH 02.01.06 Information Assurance Policy for additional information on custodians. http://www.dhmh.state.md.us/policies/summary.htm .

B. LAWS, REGULATIONS, AND OTHER AUTHORITIES

1. DHMH is a State agency, and as such, all of the records of the Department, it's programs, facilities, Boards, Commissions, and Local Health Departments, are "public records" or "records of public officials' which makes them subject to State rules on Maryland's public records, which include, but are not limited to the following:

- Maryland's Public Information Act
  http://www.oag.state.md.us/Forms/book.pdf
- The Statewide Records Inventory
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-634
- The Executive Order on Internal Audits
  https://constmail.gov.state.md.us/comar/01/01.01.1994.06.htm.
- The Annual Report of Personal Records
  http://mlis.state.md.us/cgi-win/web_statutes.exe?g49B&29

2. In addition to State laws and regulations, Federal requirements are also in place which affect records management, including but not limited to FMLA, OSHA, and the Health Insurance Portability and Accountability Act (HIPAA). Because HIPAA standardizes most health care information, the law will eventually transform most transactions and records of DHMH, in addition to the way business is conducted. Privacy and protection of individual identifying health care information is a key component of HIPAA. Records management staff must keep informed of these changes as they are implemented.

3. Other sources of guidance for records management include this and other DHMH policies, DHMH records management guidelines, the Maryland State Archives, and the State Records Center (DGS).

C. THE DHMH RECORDS MANAGEMENT PROGRAM

1. In compliance with State Government Article, §10-633, the Department shall have a Records Management Program to provide for the continual, economical and efficient management of the record and non-record material of DHMH. See http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-633. This Program shall include appropriate measures to ensure both public accessibility and protection/confidentiality of designated materials.

2. "Each program shall prepare, for its own use, a Records Retention and Disposal Schedule (DGS Form 550-1) listing all of the program's record series." COMAR 14.18.02 requires that all DHMH records series to be listed on records schedules http://www.mdarchives.state.md.us/msa/intromsa/html/reg02.html

3. Deputy Secretariats or Administrations that oversee DHMH Facilities and Local Health Departments (LHD's) shall prepare and maintain General Schedules specifically for their collective use, to include all of the records or record series at each location.

D. ASSIGNMENTS AND DUTIES

1. The Deputy Secretary for Operations is designated by the Secretary as the person responsible for the Department's Records Management Program.

2. The Deputy Secretary for Operations shall appoint a Records Officer for DHMH Headquarters. Headquarters shall include programs in outlying areas as designated by management.

3. The Director of each DHMH Facility and the Health Officer at each Local Health Department shall also appoint a person with authority and who is a member of management to be their Records Coordinator. The names and phone numbers of Records Coordinators are to be provided to the DHMH Records Officer at Headquarters.

4. The Director of each Administration or Program assigned to DHMH Headquarters shall appoint a person to be the Records Coordinator for the respective program, and shall submit the name of the Records Coordinator to the DHMH Records Officer.

5. Supervisors of each program unit at DHMH shall assign the duties of Records Manager to a responsible administrative or clerical employee of that unit who is familiar with the unit's records. Names and phone numbers of Records Managers are to be provided to the Records Coordinator.

6. Records Coordinators will provide assistance and advice to each unit's Records Managers and will act as liaison to the DHMH Records Officer.

7. The Records Coordinator of each program will be trained to respond to requests for records under the Maryland Public Information Act (PIA).

8. Records Coordinators will keep the Records Officer apprised of any records management issues, including schedule deficiencies, changes in program requirements, non-listed records series, storage or transfer problems, and records security needs which may occur at their location.

9. The DHMH Records Officer will provide guidance, instruction, or records management training to headquarters Records Coordinators and Managers.

E. RESPONSIBILITIES

1. The Records Officer shall maintain a permanent file of all authorized Retention Schedules (http://www.dhmh.state.md.us/forms/sf_rmf.htm) that currently, and previously applied to the DHMH (http://indhmh/records). Support files, including indexes, databases and spreadsheets of the schedules, transmittals, receipts, and disposal certificates are to be maintained for overall management of the Department's records.

2. The transfer of records to the State Records Center in Jessup or to the State Archives in Annapolis shall be responsibility of the facility or LHD Records Coordinators or the DHMH Records Officer for all headquarters units. Copies of all documentation will be provided to the DHMH Records Officer at headquarters. All records transactions for headquarters units including processing of schedules, transmittals, and certificates will be reviewed and/or forwarded through the DHMH Records Officer

3. The DHMH Records Officer will maintain logs of all activity with both the State Records Center and Maryland State Archives. A suspense file will be maintained for all submitted transmittals and proposed schedules, and the Records Officer will periodically follow up on suspense documents that may be past due.

4. Prior to sending records to the State Records Center or Maryland State Archives, the Records Officer will assure the following requirements are met:

a. all listed records are covered by an authorized schedule;
b. records recommended for storage are not eligible for immediate disposal or disposal within one year of transfer;
c. records are economically packed in approved, correctly assembled Records Center cartons, which are clearly and correctly labeled to identify the source agency, type of records, and batch information;
d. the transmittal form has been reviewed, corrected and/or returned to the agency for correction in order to avoid difficulty processing upon arrival at the State Records Center or State Archives;
e. a batch identification number has been assigned to each

transmittal form, and an advance copy of each form has been submitted under cover letter to the State Records Center or State Archives, requesting a transfer date and permission to transfer records to the center;

f. permission has been granted by the State Records Center or State Archives for the transfer of the subject batch of records on that date.

5. After processing and upon return of the completed DGS FORMS 550-5, **Records Transmittal and Receipt** from the State Records Center, or other form of receipt from the State Archives, the Records Officer will compare documents with the suspense copies of the documents that were submitted, to ensure the accountability of all records. A copy of each receipt will be returned to the appropriate Records Coordinator/Manager who will also perform reconciliation against the original submittals, updating information as required. Missing boxes, if any, will be researched and accounted for, and any other data changes, such as revised disposal dates, will be noted. Suspense copies of Transmittal Forms may then be destroyed.

6. Each Records Coordinator/Manager shall ensure that, prior to in-house disposal of any record material, two copies of the **Certificate of Records Disposal** (DGS Form 550-2) http://www.dhmh.state.md.us/forms/sf_rmf.htm are submitted to the Records Officer who will verify that disposal of the records is authorized by a **Records Retention and Disposal Schedule** (DGS 550-1).

7. The Records Officer shall ensure that a signed original of the completed **DGS FORM 550-2, Certificate of Records Disposal,** is sent to the DGS State Records Center. Another copy, maintained by the Records Coordinators, is filed as a component of the "audit trail" for the unit's records, documenting which records have been destroyed.

8. The DHMH Records Officer, with cooperation from Records Coordinators and Managers, will provide an annual DHMH Records Program Report to the Deputy Secretary for Operations that will include a summary of annual records transactions (storage, transfer, disposal, retrieval, etc.), records program needs (security, equipment, space), records program compliance by units, Public Information Act requests, training accomplishments, survey results, and other appropriate information.

9. Each program's Records Coordinator will be responsible for maintaining their entire program's records management files including copies of all applicable Schedules, Records Inventory Forms, Records Transmittals and Receipts Forms for records in storage, Certificates of Records Disposal, and other documentation. The Coordinator will act as liaison between the Records Managers and Records Officer, forwarding copies of all transaction documents, and keeping a copy for the Program files.

10. Non-headquarters Records Coordinators, with assistance from unit Records Managers shall be responsible for the management of all DHMH records at that location, including the following:

a. Maintaining all records management documentation including Schedules, Transmittals, and Certificates of Records Disposal
b. Maintaining and protecting all records,
c. Responding to PIA requests for information,
d. Transferring records to storage to conserve office file space,
e. Disposal of records in accordance with schedule retention criteria.

11. The Records Coordinator at each non-headquarters unit will keep the DHMH Records Officer apprised of any records management issue at the facility or LHD including schedule deficiencies, records storage problems, non-listed records series, changes in program requirements, etc.

12. The Records Coordinator at each non-headquarters unit shall provide assistance and guidance to the Records Managers in the performance of their duties, and shall act as liaison to the DHMH Records Officer at headquarters.

13. When organizational changes occur within the Department, new or revised schedules are to be prepared by the Coordinators of the reorganized units and drafts submitted to the Records Officer within one month of the effective date of organization change. The draft revision must reflect any relocation of record materials, ownership of records in storage, and the current retention needs and practices of the affected unit. The revision may be as simple as changing the name on the Schedule or may require a new inventory, assessment, and rewriting. Unit Records Managers must work through their Coordinator, who is responsible for developing and submitting the new schedule.

F. ALTERNATIVES TO PAPER FILES

1. The Records Officer shall periodically review the paper record accumulation and storage procedures to ascertain if a need exists for the use of an alternative to paper records (e.g. micrographics, imaging systems, etc.) and if this alternative is economically and programmatically feasible.

2. The DHMH Records Officer shall request assistance in specific assessments from various media specialists at DGS, DBM, or IRMA in order to determine if alternatives to paper records are advantageous. The assessments shall emphasize the cost factor between the different systems and the practicality of the alternative method(s) over paper records. Consideration will be given to the rate of obsolescence and the cost of migrating to subsequent formats or stages of development for alternative media or technologies. (For example, transfer of film to videotape might not be an acceptable long-term storage solution, whereas, disc storage might be approved as a preferable alternative).

3. Non-paper media, including audio/video devices (cameras/recorders), electronic drives (PDA's/hard drives), and storage devices such as chips, diskettes, CD's, film and tape must be assessed for content before disposal. Non-record material or records series eligible for disposal under an approved schedule shall be erased or made unreadable by crushing, shredding, incinerating, or otherwise removing or destroying the data. Information transferred to a new device shall be verified to be accessible before destruction

of the old device. See IRMA Protocols on Data Remanance and Disposal of Computers (http://indhmh/top_poly/policies/htdatrm.htm). No records, regardless of content, age, or media format are to be destroyed unless and until they first meet the retention criteria of an approved records schedule. Therefore, any records not currently on a schedule must be put on a schedule that is to be submitted to the State Archivist for approval.

G. PRIVACY, SECURITY, AND SAFE DISPOSAL OF RECORDS

1. The records of DHMH are public records. The information of the Department shall be protected as required by law, maintained accurately, and be made available to the public as required by law. The rights of individuals to obtain public information and the rights of the individuals to keep their personal information private are both important but opposite sides of the accessibility/privacy issue.

Maryland's Public Information Act http://www.oag.state.md.us/Forms/book.pdf provides for both of these rights by allowing only limited access by certain individuals to information that is personal or otherwise restricted by law. Employees who are custodians of DHMH records, such as the Records Officer and Coordinators, may have a need to access and provide information to the public as a result of a PIA request, and therefore, at the discretion of the Program Director, these individuals are to receive PIA training.

2. Records Managers and Coordinators who are responsible for preparing records for storage or disposal should be aware that unneeded non-record materials should not be discarded without first assuring that no information on the documents is personal or confidential. Even non-record copies of sensitive information must be shredded or destroyed before disposal, regardless of format or type of media.

3. Records management employees must also ensure that permanent records are preserved and transferred periodically, when no longer needed in office, to the State Archives. This also applies to documents that are scanned or microfilmed - the originals are still to go to the archives along with a copy of the new media, unless specifically refused by the Archives. Only after refusal may records designated on the schedule as permanent be redesignated as disposable and be destroyed.

4. While some programs may have their own shredders for convenience, DHMH Headquarters paperwork is shredded under contract monitored by the Central Services Division. If you have records which are eligible for disposal that require shredding in office, contact your Records Coordinator, Records Officer, or the Central Services Division at (410) 767-6808 for instructions. Certificates of Records Disposal (http://www.dhmh.state.md.us/forms/sf_rmf.htm) require certifying that disposal has taken place in accordance with specified instructions, so if shredding is listed, the signer must identity the records being shredded, and certify that shredding of these documents has taken place as of the cited date.

5. When preparing records for storage, boxes that contain personal or confidential information may not be stacked in hallways or aisles. Boxes are to be kept in locked rooms until they are picked up for transfer to the Records Center.

6. Records, which contain private, classified, or proprietary information must be protected both in office and in storage. The Information Resource Management Administration has prepared a policy for the protection and availability of information, including records. DHMH employees are required to comply with DHMH 02.01.06 http://www.dhmh.state.md.us/policies/summary.htm the Information Assurance Policy (IAP).

IV. REFERENCES

- Annotated Code of Maryland, State Government,
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-613 -Accessibility of Records
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-616 -Custodian of Records
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-624 -Personal Records
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-634 -Records Inventory
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-633 -Records Management
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-639 -Public Records
  http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&10-640 -Non-record Material
- Maryland Public Information Act, http://www.oag.state.md.us/Forms/book.pdf , OAG, 1999.
- Records Retention and Disposition Schedules, Code of Maryland Agency Regulation (COMAR) 14.18.02, http://www.mdarchives.state.md.us/msa/intromsa/html/reg02.html.
- Procedures for Access to DHMH Records, COMAR 10.01.08, (Select Chapter 8)
  https://constmail.gov.state.md.us/comar/dsd_web/comar_web/subtitle_chapters/10_Chapters.htm
- Electronic Records (COMAR14.18.04),
  http://www.mdarchives.state.md.us/msa/intromsa/html/reg04.html.
- Records Management Manual, Department of General Services, rev. 1993 updated for DHMH use, March 2002. <Web team Insert link to records manual>
- DHMH POLICY 02.01.06, http://www.dhmh.state.md.us/policies/summary.htm
  DHMH Information Assurance Policy.
- DHMH Schedule Preparation Guidelines <Web team insert link to Schedule Guidelines>.
- DHMH Transmittal Preparation Guidelines <Web team insert link to Transmittal Guidelines>.

APPROVED: _____ EFFECTIVE DATE: May 16, 2002
Georges C. Benjamin, M.D., Secretary