



COUNTY OF YOLO

HEALTH AND HUMAN SERVICES AGENCY

POLICIES AND PROCEDURES

SECTION 5, CHAPTER 4, POLICY 001

ELECTRONIC SIGNATURE AND ELECTRONICALLY SIGNED RECORDS

A. PURPOSE:

To ensure compliance with all applicable Federal and State requirements for electronic signature systems, and to ensure the appropriate use of electronic signatures by Yolo Health and Human Services Agency (HHS) behavioral health staff and behavioral health contract providers.

B. FORMS REQUIRED/ATTACHMENTS:

1. Electronic Signature Agreement Form [HHS Form #5-4-001A]
2. County Mental Health Director's Electronic Signature Certification Form [HHS Form #5-4-001B]

C. DEFINITIONS:

1. **Electronic or Digital Signature** -- 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." (15 U.S.C §2007.)
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." (Cal. Govt. Code §16.5(d).)
2. **Electronically Signed Record** -- 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 the Department of Health Care Services (DHCS) auditor or a DHCS audit contractor.
3. **Biometrics** -- means a method of verifying an individual's identity based on measurement of the individual's physical feature(s) or repeatable action(s) where those features and/or actions are both unique to that individual and measurable.
4. **Handwritten Signature** -- means the scripted name or legal mark of an individual handwritten by that individual and executed or adopted with the present intention to authenticate writing in a permanent form. The act of signing with a writing or marking instrument such as a pen or stylus is preserved. The scripted name or legal mark, while conventionally applied to paper, may also be applied to other devices that capture the name or mark.

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D. POLICY:

HHSA recognizes that the increased use of electronic health records and electronic methods of signing them has prompted the State Department of Mental Health (DMH) which was restructured to the DHCS to issue standards regarding the use of electronic signatures in records reviewed by its auditors. Because these standards now exist and in an effort to move forward technologically in pace with current business practice in use in California and other states, HHSA adopts these standards and authorizes the use of electronically signed records and electronic signatures. HHSA considers electronic records, electronic signatures and handwritten signatures executed to electronic records to be trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper.

Where electronic signatures and their associated electronic records meet the standards stated in this policy and procedure, HHSA will consider the electronic signatures to be equivalent to full handwritten signatures, initials, and other general signings unless specifically excepted by State or Federal laws or regulations.

Electronic records that meet the standards stated in this policy and procedure may be used in lieu of paper records unless paper records are specifically required.

E. PROCEDURE

1. Standards for Electric Signatures in Electronically Signed Records

DHCS 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:

- a. The electronic signature mechanism is:
 - i. unique to the signer;
 - ii. under the signer's sole control;
 - iii. capable of being verified;
 - iv. linked to the data so that, if the data are changed, the signature is invalidated.

(Cal. Govt. Code §16.5(a); 2 C.C.R §22002.)

- b. 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. (www.cchit.org.)
- c. HHSA behavioral health staff and behavioral health contract providers using electronic signatures shall complete an Electronic Signature Agreement Form [HHSA Form #5-4-001A] for the terms of use of an electronic signature signed by both the individual requesting electronic signature authorization and the Director or his/her designee. The completed Electronic Signature Agreement forms shall be kept on file in the HHSA Behavioral Health Quality Management Unit.

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- d. The County Mental Health Director or his or her designee shall complete the County Mental Health Director's Electronic Signature Certification Form [HHS Form #5-4-001B], certifying that electronic systems used by the county's mental health operations, including contract provider systems, meet the standards.
- e. The signed County Mental Health Director's Electronic Signature Certification Form [HHS Form #5-4-001B] and the completed and signed Electronic Signature Agreements Forms [HHS Form #5-4-001A] for HHS behavioral health staff and behavioral health contract providers, or copies thereof, shall be available to the DHCS auditor at the time of an audit.

2. Information Security Consideration

The standards do not require encryption of the data in the electronically signed record for compliance. However, all 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 shall apply. (Cal. Welf. & Inst. Code §5328; Cal. Civ. Code §56 et seq.; Cal. Govt. Code §6254.)

3. Signature/Record linking

Electronic signatures and handwritten signatures executed to electronic records shall be linked to their respective electronic records to ensure that the signatures cannot be excised, copied, or otherwise transferred to falsify an electronic record by ordinary means.

4. General Requirements

- a. Each electronic signature shall be unique to one individual and shall not be reused by, or reassigned to, anyone else.
- b. Before HHS establishes, assigns, certifies, or otherwise sanctions an individual's electronic signature, the identity of the individual shall be verified.
- c. Persons using electronic signatures shall, prior to or at the time of such use, certify that their electronic signature is intended to be the legally binding equivalent of their traditional handwritten signature by completing an Electronic Signature Agreement Form [HHS Form #5-4-001A.]
- d. The certification shall be submitted on the County Mental Health Director's Electronic Signature Certification Form [HHS Form #5-4-001B] and signed with a traditional handwritten signature.
- e. Persons using electronic signatures shall, upon request, provide additional certification or testimony that a specific electronic signature is the legally binding equivalent of the signer's handwritten signature.

5. Electronic Signature Components and Controls

- a. Electronic signatures that are not based upon biometrics shall:
 - i. Employ at least two distinct identification components such as an identification code and password;

- ii. Be used only by their genuine owners; and
 - iii. Be administered and executed to ensure that attempted use of an individual's electronic signature by anyone other than its genuine owner requires collaboration of two or more individuals.
- b. Electronic signatures based upon biometrics shall be designed to ensure that they cannot be used by anyone other than their genuine owners.

6. Obtaining Consumer Signatures

- a. 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, HHSa shall have the ability to use any of the following approaches:
- i. scanning paper consent documents, treatment plans or other medical record documents containing consumer signatures;
 - ii. capturing signature images from a signature pad;
 - iii. recording biometric information, such as a fingerprint using a fingerprint scanner; or
 - iv. entering authenticating information known only to the consumer or authorized representative, such as a password or personal identification number (PIN).
- b. If a signature is unavailable, an electronically signed explanation must be provided by the County Mental Health director or his/her designee.

7. 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, HHSa and providers that manage consumer behavioral health information should be in full compliance with all applicable HIPAA security standards and all other applicable Federal and State laws and regulations, including but not limited to 42 C.F.R. Part 2 and California Welfare and Institutions Code section 5328. (45 C.F.R. 160, 162, and 164; 42 C.F.R. Part 2; Cal. Welf. & Inst. Code §5328.)

8. DHCS Audit Requirements for Electronically Signed Records

Electronic records and electronically signed records may replace paper-based records for purposes of a DHCS audit. HHSa in its provision of behavioral health services and programs and behavioral health contract providers should conform to the standards for electronic signatures in electronically signed records set forth in this policy and procedure and in DMH Letter 08-10. When DHCS conducts audits and reviews, HHSa and behavioral health contract providers should make available the following upon arrival of DHCS staff at the audit site:

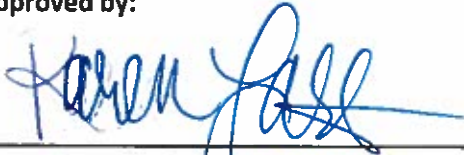
- a. Physical access to electronic health record systems
- b. Adequate computer access to the electronic health records needed for the audit review

- c. System or network access to electronic records such as user IDs and passwords
- d. Access to printers and capability to print necessary documents
- e. Technical assistance as requested
- f. Scanned documents, if needed, that are readable and complete

F. REFERENCES

1. 15 U.S.C § 7006
2. Cal. Govt. Code §16.5(d)
3. Cal. Govt. Code §16.5 (a) and 2 C.C.R. §22002
4. www.cchit.org
5. Cal. Welf. & Inst. Code §5328
6. Cal. Civ. Code §56 et seq.
7. Cal. Govt. Code §6254
8. CMS Regulations & Guidance www.cms.gov/Regulations-and-Guidance/Regulations-and-Guidance.html
9. 45 C.F.R Parts 160, 162, and 164
10. 42 C.F.R. Part 2
11. DMH Letter 08-10

Approved by:



Karen Larsen, Director
Yolo County Health and Human Services Agency

10/24/17

Date



COUNTY OF YOLO

Health and Human Services Agency

Karen Larsen
Director

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ELECTRONIC SIGNATURE AGREEMENT [HHS FORM #5-4-001A]

This Agreement governs the rights, duties, and responsibilities of Yolo County Health and Human Services Agency (HHS) behavioral health staff and behavioral health contract providers regarding the use of an electronic signature in their provision of behavioral health services for HHS.

1. I, the undersigned, understand that this Agreement describes my obligations to protect my electronic signature, and to notify appropriate authorities if it is stolen, lost, compromised, unaccounted for, or destroyed. I agree to the following terms and conditions:
2. I agree that my electronic signature will be valid for one year from date of issuance unless my name, job title, or certification changes, or this agreement is revoked or terminated per its terms. I will be notified and given the opportunity to renew my electronic signature each year prior to its expiration. The terms of this Agreement shall apply to each such renewal.
3. I will use my electronic signature to establish my identity and sign electronic documents and forms. I am solely responsible for protecting my electronic signature. If I suspect or discover that my electronic signature has been stolen, lost, used by an unauthorized party, or otherwise compromised, then I will immediately notify the Yolo County Mental Health Director or his/her designee and request that my electronic signature be revoked. I will then immediately cease all use of my electronic signature. I agree to keep my electronic signature secret and secure by taking reasonable security measures to prevent it from being lost, modified or otherwise compromised, and to prevent unauthorized disclosure of, access to, or use of it or of any media on which information about it is stored.
4. I will immediately request that my electronic signature be revoked if I discover or suspect that it has been or is in danger of being lost, disclosed, compromised or subjected to unauthorized use in any way. I understand that I may also request revocation at any time for any other reason.
5. If I have requested that my electronic signature be revoked, or I am notified that someone has requested that my electronic signature be suspended or revoked, and I suspect or discover that it has been or may be compromised or subjected to unauthorized use in any way, I will immediately cease using my electronic signature. I will also immediately cease using my electronic signature upon termination of employment or termination of this Agreement.

6. I further agree that, for the purposes of authorizing and authenticating electronic health records, my electronic signature has the full force and effect of a signature affixed by hand to a paper document.

_____ PRINTED NAME	_____ SIGNATURE	_____ DATE
_____ ORGANIZATION	_____ EMAIL	_____ TELEPHONE
_____ YOLO COUNTY APPROVER SIGNATURE (COUNTY MENTAL HEALTH DIRECTOR OR DESIGNEE)	_____ TITLE	_____ DATE



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Karen Larsen
Director

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COUNTY MENTAL HEALTH DIRECTOR'S ELECTRONIC SIGNATURE CERTIFICATION [HHS FORM #5-4-001B]

I certify that the electronic signatures affixed to the electronic mental health records on the computer systems employed by or on behalf of the Yolo County and its contract providers meet or exceed all of the standards, information security considerations, regulations and laws applicable to them.

PRINTED NAME OF COUNTY MENTAL
HEALTH DIRECTOR

SIGNATURE OF COUNTY MENTAL
HEALTH DIRECTOR

DATE