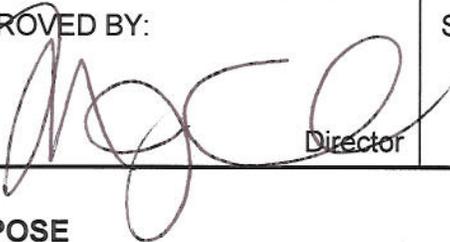




DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT NON-OPEN PROTECTED HEALTH INFORMATION (PHI) FILE	POLICY NO. 202.38	EFFECTIVE DATE 10/8/2010	PAGE 1 of 3
APPROVED BY:  Director	SUPERSEDES NA	ORIGINAL ISSUE DATE 10/1/2010	DISTRIBUTION LEVEL(S) 2

PURPOSE

- 1.1 To establish uniform policy and practices in the Los Angeles County - Department of Mental Health (LAC-DMH) directly-operated programs for retaining information on an individual prior to opening a Clinical Record.
- 1.2 To inform Legal Entity contractors of LAC-DMH that in relation to Protected Health Information (PHI) that is not contained in a Clinical Record they must have definitions analogous to those in this Policy, establish specific policy statements as indicated in this Policy, and formulate similar procedures.

DEFINITION

- 2.1 **PHI:** confidential information that is defined by Federal and State code that provides details regarding individually identifiable information relating to the: (See References 1 and 2)
 - past, present, or future physical or mental health or condition of an individual,
 - provision of health care to an individual, or
 - past, present, or future payment for health care provided to an individual.
- 2.2 **Non-Open PHI File:** A file containing all PHI related to an individual for whom there is no Clinical Record at the Provider Number where contact occurs.

POLICY

- 3.1 Specific staff of a Legal Entity must be designated as the Holder of Responsibility for Non-Open PHI Files.
 - 3.1.1 Designated staff for LAC-DMH Directly-Operated Non-Open PHI Files are:
 - 3.1.1.1 Department-wide responsibility lies with the Custodian of Records who shall be the LAC-DMH Director of Clinical Records, and



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- 3.1.1.2 Provider-site specific responsibility lies with a Keeper of Records designated by program management at each DMH site.
- 3.1.2 Legal Entities must designate the Holders of Responsibility for all of their sites.
- 3.2 All PHI pertaining to an individual prior to an episode being opened and a clinical record being created must be retained and retrievable in a Non-Open PHI File.
 - 3.2.1 A Non-Open PHI File must minimally be retained for adults and children over the age of fourteen (14) a minimum of seven (7) years and for children thirteen (13) years or younger at least until their twenty-first birthday.
 - 3.2.2 LAC-DMH programs should refer to the LAC-DMH Clinical Records Guidelines: Chapter 5 "Retention" for additional retention requirements.
- 3.3 Legal Entities must establish similar policy and procedural requirements.
- 3.4 Ownership
 - 3.4.1 All Non-Open PHI Files of LAC-DMH directly-operated programs are the property of LAC-DMH even though the information contained in the file belongs to the individual.
 - 3.4.2 Non-Open PHI Files of Legal Entities are the property and responsibility of the Legal Entity even if that contract terminates.
 - 3.4.2.1 If a Legal Entity goes out of business, LAC-DMH, at its option, may assume responsibility for the Non-Open PHI Files of the closing Legal Entity.
- 3.5 Content of the Non-Open PHI File
 - 3.5.1 LAC-DMH directly-operated programs must use the Department's approved content and forms for documentation. Any program wishing to make exceptions to either the data elements or format of any clinical form must seek written approval from the Clinical Records Director.



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3.5.2 Legal Entities are responsible for establishing the content and forms that are to be a part of their Non-Open PHI File.

PROCEDURE FOR DMH ONLY

- 4.1 All Non-Open PHI Files shall be filed alphabetically in a secure area of the record room or location designated for non-opened cases.
- 4.2 Non-Open PHI Files will include all documentation regarding an individual prior to a Clinical Record being created at that Provider Number.
- 4.3 All Non-Open PHI Files will be incorporated into any subsequent clinical record created for the individual in accord with the Department's approved chart order for their program.
- 4.4 When a request for copies of documents in the Non-Open PHI File is made, the information must be provided upon completion of a valid "Authorization for Request or Use/Disclosure of Protected Health Information (PHI)" and/or "Client's Request for Access to Health Information" in accordance with DMH Policy No. 500.1 Use and Disclosure of Protected Health Information Requiring Authorization and DMH Policy No. 500.3 Client's Right to Access Protected Health Information, respectively.
- 4.5 Off site storage of Non-Open PHI Files must be arranged through the LAC-DMH Custodian of Records.
 - 4.5.1 If a LAC-DMH directly-operated clinic closes, its management shall work with the LAC-DMH Custodian of Records or his/her designee to ensure the proper and orderly transfer, storage, or destruction of all Non-Open PHI Files.

REFERENCES APPLICABLE TO DMH ONLY

1. Applicable Federal Code as of September 2010: Health Insurance Portability and Accountability Act of 1996 (HIPAA) – Administrative Simplification (Code of Federal Regulations, Title 45, Parts 160 and 164)
2. Applicable State Code as of September 2010: California Welfare and Institutions Code – Section 5328

RESPONSIBLE PARTY

LAC-DMH Program Support Bureau, Quality Assurance Division