



## OHIO CHEMICAL DEPENDENCY PROFESSIONALS BOARD

<b>Title:</b>	SUNSHINE LAWS (PUBLIC RECORDS AND OPEN MEETINGS, CONFIDENTIAL PERSONAL INFORMATION (CPI), AND RECORDS MANAGEMENT AND RETENTION SCHEDULE)
<b>Type:</b>	Policy
<b>Id Number:</b>	20-PP-02
<b>Related References:</b>	Addendum A
<b>Legal References:</b>	See references within, if any. Acts: Ohio Public Records Act, Open Meetings Act, Personal Information Systems Act ORC Chapter 4758, to wit: 125.18, 149.43, 1306.01, 3701.74, 3701.741, 3701.742, 4758.06, 4758.13, 4758.15, 4758.17, 4758.20, 4758.21, 4758.31 OAC Chapter 4758, to wit: 4758-1-02, 4758-1-0, 4758-20-01, 4758-20-02, 4758-20-03, 4758-20-04, 4758-20-05, 4758-20-06
<b>Supersedes:</b>	Prior versions and any other guidance issued for public records and open meetings, confidential personal information, and records management and retention schedule.
<b>Effective Date:</b>	February 21, 2020
<b>Next Review Date:*</b>	July 21, 2021
<b>Implementation Date:</b>	February 21, 2022
<b>Approved:</b>	Jill Smock, Executive Director   (ratification of action by the Board on 2/21/2020)

\* The Executive Director, or designee, shall review position, policy, and procedures statements (collectively Statements) on or before the stated review date listed above and if applicable, make any necessary revisions in accordance with any Board Statements regarding development, review, dissemination and acknowledgement.

Pursuant to Ohio Revised Code 4758.15, the Executive Director (ED) has been granted discretionary authority on behalf of the Board to develop, implement, maintain, and amend position statements to support rules, policies, and position statements.

Unless otherwise stated, all employees, Board members, and contractors for the Board (collectively Board employees) shall follow all laws, rules, policies, and procedures. A Board employee may be subject to discipline up to and including removal for violating laws, rules, policies, and procedures.

Definitions as stated in Chapters 4758 of the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) are incorporated by reference herein.

I. **Purpose:** The purpose of this policy is to provide direction to the public and Board employees regarding for public records and open meetings, confidential personal information, and records management and retention schedule in accordance with appropriate laws.

II. **Authority:** Pursuant to Ohio Revised Code 4758.15, the Executive Director (ED) has been granted discretionary authority on behalf of the Board to develop, implement, maintain, and amend policies to support rules, policies, and position statements. The ED has been granted discretionary authority on behalf of the Board and shall also develop, implement, maintain, and amend the Information Technology Security Strategic Plan procedure in accordance with Ohio Revised Code (R.C.) section 125.18.

III. **Applicability:** Unless otherwise stated, all employees, Board members, and contractors for the Board (collectively Board employees) shall follow all laws, rules, policies, and procedures.

IV. **Violation:** A Board employee who violates this policy may be subject to discipline up to and including removal.

V. **Definitions:**

A. Definitions as stated in Chapters 4758 of the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) are incorporated by reference herein.

B. Sunshine Laws are collectively Ohio's Public Records and Open Meetings laws that gives Ohioans access to government meetings and records.

VI. **Policy:**

A. Public Records and Open Meetings:

1. The Board is a public office that adheres to the Sunshine Laws; nothing stated herein shall supersede or modify the same.

2. Unless specifically exempt from disclosure under Ohio law all Board records are public and meetings open.

3. The Ohio Sunshine Law manual annually published by the Ohio Attorney General's Office, shall serves as a guide for this Board regarding open government laws.

B. Records Production:

1. Certified records shall be provided in accordance with law only upon request.

2. Any fees assessed for records production or certification may be set by the ED not to exceed any amounts set by law.

C. IT Policy/Electronic Records: The Board hereby incorporates by reference the State of Ohio IT Policy/Electronic Records IT-07 regarding electronic records as this Board's policy regarding the same.

D. Confidential Personal Information (CPI)

1. Data Privacy Point: The Data Privacy Point of Contact for the Board is the ED.

2. The following is the criteria for determining level of access required for an employee; Board member and/or contractor to access CPI; level of access and which supervisory employees of the Board may authorize employees to access to CPI:

a) Access:

(1) Due to the performance of cross duties by some Board staff, some staff employees may have access to all CPI in the Board's possession, with the exception of CPI contained in employee personnel records, for which only the ED may access.

(2) Board members shall not have access to CPI unless that Board member serves as the Board Designee for disciplinary cases and/or application reviews.

b) Transmittal:

(1) The ED, or their designated administrative professional with specific authorization given by the ED on a case-by-case basis, shall transmit investigative and/or medical records (collectively "documents").

(2) Documents transmitted to a Board Designee shall be transmitted securely or shall have CPI redacted before transmittal.

(3) Documents transmitted to Expert Witness Contractors shall have CPI redacted before transmittal.

E. Records Management and Retention Schedule

1. Custodian: The ED is the official custodian of the Board's records.

a) As the record's custodian is also responsible for the Board's personal information system and CPI.

2. Management:

a) All public records must be organized and maintained securely and in such a way that they can be made available for prompt inspection and copying.

b) All Board employees are responsible to maintain all records in their control securely.

3. Disposal: All records are to be disposed of in accordance with the Board's record retention schedule or the DAS general schedule adopted by the Board. See below. The Board shall follow all disposal procedures set forth by the state archivist/Ohio History Connection and other applicable law.

a) For the one-time disposal of obsolete records in the Board's custody that are no longer needed in the transaction of current business, the board shall submit to the state records program (including DAS, the AIS and the state archivist/Ohio History Connection) an application for a one-time records disposal;

b) For newly received or generated records, within one year after the date of creation or receipt, the Director shall update the DAS RIMS schedule for disposition or retention of such records in the manner prescribed by applicable and law and procedures.

4. Retention: In accordance with ORC Chapter 149, all records maintained are on a records retention schedule which is part of the department of administrative services (DAS) state records program.

5. Schedule:

a) Board records are subject to records retention schedules.

b) The Board's current records retention schedule shall be available at a location readily available to the public as required by ORC.

- c) For records not identified on the Board's records retention schedule or the DAS General Schedules for retention or destruction.
- d) The Board shall follow the Department of Administrative Services (DAS) records retention schedule for universal internal records such as payroll, OAKS reports, etc.
- e) The ED may amend the DAS records retention schedule by written procedure or by written executive directive by the Board.
  - (1) The Board suggests but does not mandate that the ED submit any amended records retention schedule to DAS with a request that the DAS website reflect the same.
- f) The schedule shall be reviewed regularly for updates needed by law or rule change, or after an Auditor of State (AOS) audit report has been released, to identify records due for destruction or retention.
  - (1) Changes or modifications of the records retention schedule are sent to DAS state records management, the AOS and the state archivist/Ohio History Connection for written review and/or approval.

**Helpful Links**

Sunshine Laws: [www.ohioattorneygeneral.gov](http://www.ohioattorneygeneral.gov)

State of Ohio IT Policy/Electronic Records IT-07:

<http://das.ohio.gov/Portals/0/DASDivisions/DirectorsOffice/pdf/policies/informationtechnology/IT-07.pdf>

Ohio Department of Health adjusted price Index

DAS records retention schedule: <https://apps.das.ohio.gov/rims/General/General.asp>

## **Addendum A: Sunshine Laws Highlights**

For information and reference purposes only.

Refer to Ohio Sunshine Laws as authority.

- **Electronic Records:**

Generally, records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device (such as a Blackberry) are to be treated in the same fashion as records in other formats, such as paper or audiotape. See R.C. 1306.01. Public record content transmitted to or from private accounts or personal devices is subject to disclosure.

- **Response Timeframe:**

Public records are to be available for inspection during regular business hours, which does not include holidays recognized by the State of Ohio. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. Prompt and reasonable take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested.

- **Requests:**

No specific language is required to make a request for public records. However, the requester must at least identify the records requested with sufficient clarity to allow the Board's office to identify, retrieve, and review the records. If it is not clear what records are being sought, the Board's office must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which the office keeps its public records.

The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. However, the law does permit the Board to ask for a written request, the requestor's identity, and/or the intended use of the information requested, but only:

- 1) if a written request or disclosure of identity or intended use would benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; and
- 2) after telling the requestor that a written request is not required and that the requester may decline to reveal the requestor's identity or intended use.

- **Existing Records:**

In processing the request, the Board does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. Although not required by law, the Board's office may accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.

- **Inspection:**

In processing a request for inspection of a public record, a Board employee must accompany the requester during inspection to make certain original records are not taken or altered.

- **Denial of Records:**

If the requester makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the denial must provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the office. Any denial of public records requested must include an explanation, including legal authority. If the initial request was made in writing, the explanation must also be in writing.

- **Redaction:**

If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest released. When making public records available for public inspection or copying, the Board shall notify the requestor of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

- **Copying and Mailing Costs:**

Those seeking public records may be charged for “costs” in advance, in an amount determined by the ED not to exceed the fee schedule established by R.C. 3701.74, 3707.741, and 3701.742 pertaining to a patient or a patient’s personal representative, and any other applicable laws. See also <https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/medical-records-price-index>.

The requester may choose whether to have the record duplicated upon paper, upon the same medium in which the public record is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office’s normal operations.

## Addendum B: Sunshine Laws Highlights Record Retention

Agency Series No.	Record Series Title	Description	Record Retention Schedule
CDP01	Applications: pending or issued active	<p>For a certificate, license, or endorsement: Original application files for applications that resulted in the issuance of a credential.</p> <p>Includes initial applications, renewal, and restoration/reinstatement applications, etc.</p>	<p>Retain physical file until scanned to electronic medium for storage in the credentialing file and scan is checked for accuracy; then shred physical file.</p> <p>Retain electronic medium, or physical file if it was not scanned, for a period of 10 years from the date of application; then, delete electronic medium / shred physical file.</p>
CDP02	Applications: pre-application documents and application abandonment	<p>For a certificate, license, or endorsement: (1) Original application files and (2) pre-application documentation received prior to but no application was subsequently submitted (e.g. education transcripts and criminal background checks).</p> <p>Includes initial applications, renewal, and restoration/reinstatement applications, etc.</p>	<p>Retain physical file until scanned to electronic medium for storage in the credentialing file and scan is checked for accuracy; then shred physical file.</p> <p>For application abandonment, retain electronic medium, or physical file if it was not scanned, for a period of 1 year from the date of application; then, delete electronic medium / shred physical file.</p> <p>For pre-application documentation abandonment, retain electronic medium, or physical file if it was not scanned, for a period of 1 year from the last date of submission to the board; then, delete electronic medium / shred physical file.</p>
CDP03	Applications: denied or withdrawn	Original application files for applications for a certificate, license, or endorsement but were withdrawn by the originator or denied by the Board. Includes initial applications, renewal, and restoration/reinstatement applications, etc.	<p>Retain physical file until scanned to electronic medium for storage in the credentialing file and scan is checked for accuracy; then shred physical file.</p> <p>For withdrawn applications, retain electronic medium, or physical file if it was not scanned, for a period of 1 year from board action; then, delete electronic medium / shred physical file.</p> <p>For denied applications, retain electronic medium, or physical file if it was not scanned, for a period of 4 years from date of final appeal; then, delete electronic medium / shred physical file.</p> <p>Exception: Limited data may be maintained in a database in perpetuity (e.g. basic demographics, information taken from the application, and case information).</p>

CDP04	Credentials: Expired or surrendered	Credentialing files for a certificate, license, or endorsement that has expired or been surrendered.	<p>Retain physical file until scanned to electronic medium for storage in the credentialing file and scan is checked for accuracy; then shred physical file.</p> <p>For expired credentials, retain electronic medium, or physical file if it was not scanned, for a period of 4 years from the date of expiration; then, delete electronic medium / shred physical file.</p> <p>For surrendered credentials, retain electronic medium, or physical file if it was not scanned, for a period of 4 years from the date of board action; then, delete electronic medium / shred physical file.</p> <p>Exception: Limited data may be maintained in a database in perpetuity (e.g. basic demographics, credential information, and case information).</p>
CDP05	Dismissed Action: ethics grievance not certified to a formal action	<p>Grievance received; unconditionally dismissed.</p> <p>Grievance received; conditionally dismissed and not reopened.</p>	<p>Retain physical file until scanned to electronic medium for storage in the credentialing file and scan is checked for accuracy; then shred physical file.</p> <p>For unconditional dismissals, retain electronic medium, or physical file if it was not scanned, for a period of 1 year from the date of dismissal; then, delete electronic medium / shred physical file.</p> <p>For conditional dismissals, retain electronic medium, or physical file if it was not scanned, for a period of 5 years from the date of dismissal; then, delete electronic medium / shred physical file. (This does not apply to a conditional dismissal that is reopened.)</p> <p>Exception: Exception: Limited data may be maintained in a database in perpetuity (e.g. basic demographics, credential information, and case information).</p>
CDP06	Formal Actions: ethics grievance certified to action	Files containing information pertaining to formal actions against licensees, which include copies of Board Orders, consent agreements, notices of opportunity for hearing, appellate decisions and entries, probationary modifications, etc.	<p>Retain physical file until scanned to electronic medium for storage in the credentialing file and scan is checked for accuracy; then shred physical file.</p> <p>Retain electronic medium, retain electronic medium, or physical file if it was not scanned, for a period of 10 years from the date of final appeal; then, delete electronic medium / shred physical file.</p>

			Exception: Exception: Limited data may be maintained in a database in perpetuity (e.g. basic demographics, credential information, and case information).
CDP07	Criminal Justice Information	Applies to all.	<p>For Criminal Justice Information that is a matter of public record and originates from a court, retain electronic medium, or physical file if it was not scanned, until the application is approved or date of final appeal; then, delete electronic medium / shred physical file.</p> <p>For Criminal Justice Information that is not a matter of public record or does not originate from a court, retain electronic medium, or physical file if it was not scanned, for a period of 10 years from the date of final appeal; then, delete electronic medium / shred physical file.</p>

Anything not listed above will follow the DAS records retention schedule:  
<https://apps.das.ohio.gov/rims/General/General.asp>