

DHEC and State Archives: Records Retention Policy, Process and Current Challenges

Documents DHEC Retains

Records created or received in the course of agency business are public records, including information maintained in paper or electronic format, and are maintained and disposed of in accordance with the S.C. Public Records Act and agency policies and procedures. DHEC maintains a variety of records, including personnel, administrative, financial, vital statistics, health, licensing, permitting and other types of records.

DHEC Records Retention Policy

In accordance with the S.C. Public Records Act, all records maintained by DHEC are covered by an approved retention schedule, regardless of the storage media used. The SC Department of Archives and History (State Archives) has developed General Retention Schedules that apply to several categories of public records. In addition to the general retention schedules, DHEC's Records Officer works with State Archives to develop Agency Specific Retention Schedules. Per agency policy, no DHEC form or record may be destroyed without a retention schedule that has been approved by the State Archives. Agency records are destroyed or purged only after the retention schedule has been met and approval has been received from the Records Officer and, when required, from State Archives.

DHEC Records Retained at Archives & History

Currently, DHEC's process is to retain the records for as long as DHEC needs them, and then transfer them to the State Records Center (SRC), a division of State Archives, for temporary storage. DHEC also transfers records for permanent retention to State Archives' main office on Parklane Road in Columbia.

State Archives has established processes for the transfer of records to their main office and to the SRC, which DHEC has incorporated into DHEC's agency policy and procedures. The process for the transfer of DHEC records for *permanent* retention to State Archives' main office works well. However, DHEC has concerns with the current backlog for records that aren't permanently retrained and are to be transferred to *temporary* storage at SRC.

State Archives process for the transfer to SRC for temporary storage requires SRC's prior approval of the transfer and obtaining this approval has been an issue. Once the transfer is approved, DHEC transports the records to the SRC.

Current Challenges

DHEC has a backlog of records for temporary storage across the state waiting for SRC's approval so they can be transferred to the SRC. The current backlog at SRC has left many DHEC health departments with no physical space to store records. The four regions have more than 3,400 boxes currently awaiting authorization to transport them to the SRC for storage, and our Division of Vital Statistics has more than 800 boxes waiting for approval. Some DHEC facilities, such as our Bureau of Laboratories, will soon exceed their physical storage capacity.

Another concern is that once the records are transferred to the SRC, there is a long turnaround time for SRC to log the records and provide DHEC with their location in case the records need to be retrieved. Importantly, this impacts DHEC's ability to respond to individual requests or subpoenas, which could lead to DHEC being unable to meet state and federal requirements.

DHEC values the relationship with State Archives and is working with State Archives to resolve the issues with temporary storage. In March 2017, DHEC offered to supply staffing to the SRC for assistance in logging DHEC records, but SRC declined our offer. In April 2017, DHEC sent the attached letter to State Archives outlining our concerns in an attempt to facilitate resolution of the temporary storage issues. DHEC continues to work with State Archives to address our concerns.

April 27, 2017



April 25, 2017

Mr. Richard Harris, Director of Records Management Services
S.C. Department of Archives and History
8301 Parklane Road
Columbia, South Carolina 29223

Dear Mr. Harris:

The S.C. Department of Health and Environmental Control (DHEC) utilizes the State Records Center (SRC) for temporary storage of its records. On March 24, I provided Mr. Richie Wiggers, Manager of the State Records Center, copies of a Business Associate Agreement (BAA) and related Memorandum of Agreement (MOA) for review. For convenience, I have also enclosed them in this correspondence.

The federal Health Insurance Portability and Accountability Act (HIPAA) requires written agreements (such as a BAA) for business associates who perform services on behalf of covered entities that involve access by the business associate to protected health information. Because DHEC is a covered entity, in storing our records, the SRC is our business associate under HIPAA. For further information on HIPAA requirements, please refer to 45 C.F.R. Part 164 or to the Office of Civil Rights' website at <https://www.hhs.gov/hipaa/for-professionals/covered-entities/sample-business-associate-agreement-provisions/index.html>.

Our relationship with the SRC is important to us. However, the current back-log at SRC has left many of our health departments with no physical space to store records, and others have ceased pulling records to send to the SRC for storage. The four regions each have between 300 and 800 boxes currently awaiting authorization to transport them to the SRC for storage, and our Division of Vital Statistics has over 400 boxes. Our Bureau of Laboratories will exceed its physical storage capacity early this summer.

In addition, staff informed me they are not receiving the box numbers once boxes are sent to the SRC and therefore cannot request the records be returned if needed. This issue apparently dates back to July 2016. Without the box number from the SRC, we have no way to request the records back from temporary storage. Importantly, we have received subpoenas and individual requests for records and are unable to provide the copies due to the fact the records cannot be located at the SRC.

In order to resolve these issues, DHEC offered to arrange a temporary contractor to assist with DHEC records in March 2017. Mr. Wiggers declined the offer of assistance and expressed concern about liability of having DHEC employees or agents on SRC property.

In order for DHEC to remain in compliance with state and federal law and regulation, we must have the BAA in place and have the ability for records to be returned to us on request. Please return the signed BAA and MOU by May 12, 2017, and provide a plan and timeline for resolving the back-log issues. I am happy to discuss additional solutions at your convenience.

Sincerely,

Signature Redacted

Angela Wertz
Compliance Officer

Enclosures