People, Procedures, and a Policy: Electronic Health Records and Public Records Law

2016 Annual State Health Director's Conference
January 21, 2016

Presented by the Records Analysis Unit
NC Department of Natural and Cultural Resources

Public Records Laws

✓NCGS 121

✓NCGS 132

State Archives of North Carolina
NATURAL AND CULTURAL RESOURCES

Chapter 132.

Public Records.

§ 132-1. "Public records" defined.

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books,

regardless of physical form or characteristics

law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every ... itution, board, commission, ... of any county, unit, special d...

in connection with the transaction of public business

(b) The public records and public information compiled by the agencies of North Carolina govern... erefore, it is the policy of this State that the people ... nformation free or at minimal cost unless otherwise ... imal cost" shall mean the actual cost of reproducing the public record or public informati... s. 1.)

property of the people

free or at minimal cost

Public Records Requests

State Archives of North Carolina
Government Records Section

Confidentiality

- HIPAA Privacy Rule
- NCGS 130A-12
- NCGS 130A-45.8

Public Records Law

FOR NORTH CAROLINA LOCAL GOVERNMENTS

David M. Lawrence

UNC
SCHOOL OF GOVERNMENT

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LOCAL GOVERNMENT SCHEDULES

FOR GOVERNMENT

- Digital Records
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- State Records Center
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- Forms
- Retention Schedules
  - › Local Government Schedules
  - › State Agency Schedules
  - › University Schedules
  - › Authorized Destruction
- Records Management Services and Training
- Imaging and Microfilming

🏠 > For Government >> Retention Schedules >> Local Government Schedules

Retention Schedules - Local

- › Retention Schedules
  - ▪ Draft Schedules
- › Records Analysts
- › Forms
- › Authorized Destruction of Records

Local retention and disposition schedules are a tool for the employees of local governments across the state to use when managing the records in their offices. It lists records commonly found in local governmental offices, and gives an assessment of their value by indicati

These schedules are an agreement between th Resources, and as the inventory and schedule 5 (c) and G.S. §132-8 to provide.

These schedules must be approved by your go to the schedule. That approval should be made may be done as part of the consent agenda, by signature page to the Records Analysis Unit, G 27699-4615 or fax it to 919-715-3627. If you are contact a Records Analyst.

http://archives.ncdcr.gov/
ForGovernment/
RetentionSchedules/
LocalSchedules.aspx

If you have an item that not listed on your retention and disposition schedule, please contact a Records Management Analyst. The analyst will help to see if there is an existing item on the schedule that will allow to retain and dispose of the record. If the item cannot be found on the current schedule, the analyst will discuss the nature of the records with to determine if the records have historical value. If the records have historical value, we

RECORDS RETENTION AND
DISPOSITION SCHEDULE

LOCAL HEALTH
DEPARTMENTS

Division of Historical Resources
Archives and Records Section
Government Records Branch

September 7, 2007

i

Program Operational Records

Adult Health Records

All Health Dept. Programs

Animal Control Programs

Business Office & Patients' Financial Records

Environmental Health Records

Epidemiology Records

Health Education Records

Home Health Records

Laboratory Records

Maternal & Child Health Records

Orthopedic Records

Patient Clinical Records

Pharmacy Records

Radiology Records

School Health Records

Vital Records

Women, Infants, And Children (WIC) Records

STANDARD-9. ALL HEALTH DEPARTMENT PROGRAMS

Public health records created or received in local health departments and used to manage and monitor federal, state, and local programs.

Comply with applicable provisions of G.S. §130A-12 regarding confidentiality of local health department records containing privileged patient medical information, or information protected under 45 CFR Parts 160 and 164 (Health Insurance Portability and Accountability Act - HIPAA).

ITEM #	STANDARD-9: ALL HEALTH DEPARTMENT PROGRAMS		
	RECORD SERIES TITLE	**DISPOSITION INSTRUCTIONS**	**CITATION**
1.	**ACCREDITATION RECORDS** Records generated or accumulated to prove compliance with those standards outlined by accrediting agencies whether public or private. File includes public notices requir... suppo... and/o...	a) Retain records with historical value permanetly. b) Destroy in office remaining records 6 months after expiration date of applicable accreditation period to which the records	10A NCAC 48A-0101
2.	**CLIN...** Recor... summ... record... See als...		
3.	**ENC...** Forms... staff and clients.		
4.	**FEE SCHEDULES** Billing guides and schedules of fees charged for services.	Destroy in office 5 years after superseded. Records involved in a pending audit, legal or other official action may not be destroyed before that audit or action is resolved.* Retention Note: Records supporting the expenditure of federal funds passed through the Department of Health and Human Services may be destroyed on a fiscal year basis when written permission has been received from the DHHS Office of the Controller.[1]	

Retention Note: Records supporting the expenditure of federal funds passed through the Department of Health and Human Services may be destroyed on a fiscal year basis when written permission has been received from the DHHS Office of the Controller.[1]

*See AUDITS, LITIGATION AND OTHER OFFICIAL ACTIONS, page vii.
[1]See "DHHS Records Retention and Disposition Schedule for Grants". This document is published semiannually by the DHHS Controller's Office.

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DHHS Controller's Schedule for Grants

Identify records series in DNCR's Local Health Departments schedule

→

Is this program supported by Federal funds passed through DHHS?

Yes → Use the DHHS Office of the Controller's schedule

No → Use DNCR's schedule
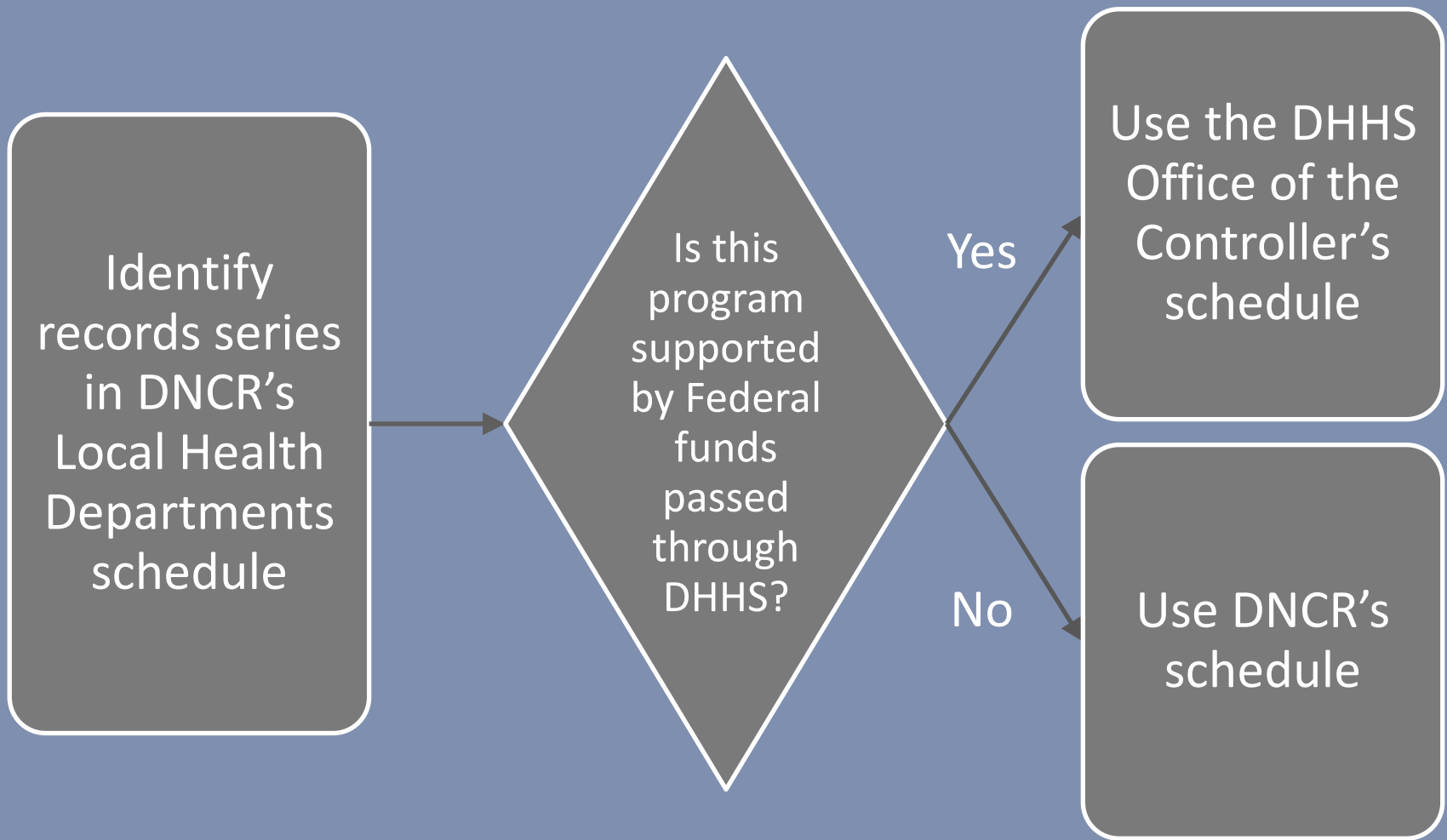
Records Retention

- [Records Retention and Disposition Schedule Memorandum](#) (September 2014)

- [Records Retention and Disposition Schedule Background](#) (September 2014)

- [Records Retention and Disposition Schedule Spreadsheet](#) (September 2014)-REV-02.05.2015

Other Sites of Interest:

[Office of State Controller (OSC)](#)
[Office of State Auditor (OSA)](#)
[Department of State Treasurer](#)
[National Association of State Human Services Finance Officers](#)

[NC Office of the Controller Home Page](#)	[NC Department of Health and Human Services](#)	[North Carolina Home Page](#)

Last updated February 6, 2015

North Carolina Department of Health and Human Services Controller's Office
Attachment to Memorandum entitled "North Carolina DHHS Records Retention and Disposition Schedule for Grants"

Grant Name (North Carolina Accounting System Name/Official Grant Name)	State Fiscal Year To Be Purged	Date that Fiscal Records May Be Purged
Cuban-Haitian Refugee	SFY 04	May 1, 2012
Cuban-Haitian Refugee	SFY 05	November 1, 2012
Cuban-Haitian Refugee 90RQ0033/01-03 FFY 2009 - 2011	SFY 09	Do Not Purge - Retain Files
Cuban-Haitian Refugee 90RQ0033/01-03 FFY 2009 - 2011	SFY 10	Do Not Purge - Retain Files
Cuban-Haitian Refugee 90RQ0033/01-03 FFY 2009 - 2011	SFY 11	Do Not Purge - Retain Files
Improving Child Welfare Outcomes Through Systems of Care	SFY 04	May 1, 2011
Improving Child Welfare Outcomes Through Systems of Care	SFY 05	June 1, 2012
Improving Child Welfare Outcomes Through Systems of Care	SFY 06	Do Not Purge - Retain Files
Improving Child Welfare Outcomes Through Systems of Care	SFY 07	Do Not Purge - Retain Files
Refugee School Impact	SFY 05	Do Not Purge - Retain Files
Refugee School Impact	SFY 06	Do Not Purge - Retain Files
Refugee School Impact 90ZE0076/01-05 2005 - 2009	SFY 05	Do Not Purge - Retain Files
Refugee School Impact 90ZE0076/01-05 2005 - 2009	SFY 06	Do Not Purge - Retain Files
Refugee School Impact 90ZE0076/01-05 2005 - 2009	SFY 07	Do Not Purge - Retain Files
Refugee School Impact 90ZE0076/01-05 2005 - 2009	SFY 08	Do Not Purge - Retain Files
Refugee School Impact 90ZE0076/01-05 2005 - 2009	SFY 09	Do Not Purge - Retain Files
Child Support ARRA	SFY 09	Do Not Purge - Retain Files
Child Support ARRA	SFY 10	Do Not Purge - Retain Files
Food Stamps	SFY 06	January 1, 2012
Food Stamps	SFY 07	January 1, 2013
Food Stamps	SFY 08	Do Not Purge - Retain Files
SNAP (aka Food Stamps)	SFY 09	Do Not Purge - Retain Files
SNAP (aka Food Stamps)	SFY 10	Do Not Purge - Retain Files
SNAP (aka Food Stamps)	SFY 11	Do Not Purge - Retain Files
SNAP (aka Food Stamps)	SFY 12	Do Not Purge - Retain Files
SNAP ARRA	SFY 09	Do Not Purge - Retain Files
SNAP ARRA	SFY 10	Do Not Purge - Retain Files
Community Services Block Grant moved to DSS effective 7/1/2011		
Community Services Block Grant	SFY 10	Do Not Purge - Retain Files
Community Services Block Grant	SFY 11	Do Not Purge - Retain Files
Child Development Grants		
Headstart	SFY 05	April 1, 2011
Headstart	SFY 06	April 1, 2012
CCDF - Mandatory	SFY 04	November 1, 2011

Destruction Regulation

North Carolina Administrative Code 7.4.M.0510

(1) burned, unless prohibited by local ordinance;

(2) shredded or torn so as to destroy the record content of the documents or materials concerned;

(3) placed in acid vats so as to reduce the paper to pulp and to terminate the existence of the document or materials concerned; or

(4) sold as waste paper, provided that the purchaser agrees in writing that the documents or materials concerned will not be resold without pulverizing or shredding the documents so that the information contained within cannot be practicably read or reconstructed.

Destruction Regulation

North Carolina Administrative Code 7.4.M.0510

Confidential Records

- the data, metadata, *and physical media* are destroyed in such a manner that the information cannot be read or reconstructed under any means.
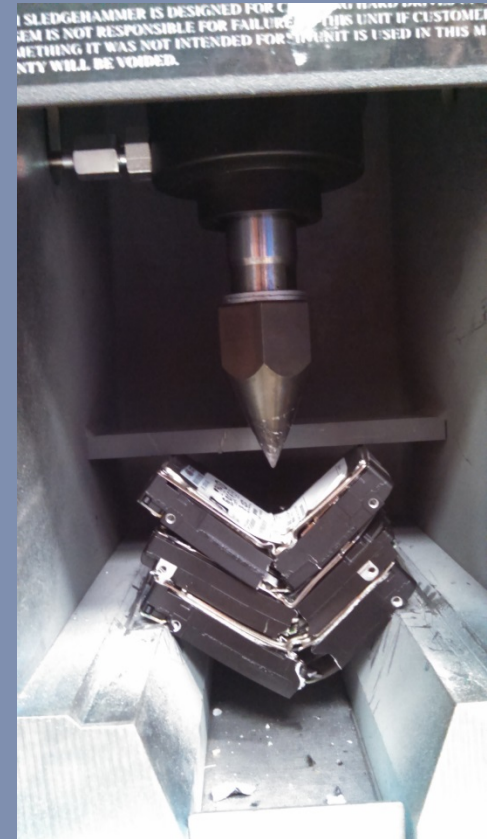
Source: Carteret County IT

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Electronic Health Records Laws

- HIPAA Security Rule

  —*HIPAA Privacy Rule extends to EHRs*

- HiTECH Act of 2009

  —*HIPAA Security Rule extends to business associates*

- NCGS 90-412

Challenges of Electronic Records

"Digital information lasts forever – or five years, whichever comes first."

-Jeff Rothenberg

Immunization Records	(if not in NCIR) Patient reaches age 90 years or dies, and has not received services within past 10 years
STD/HIV/AIDS (Clinical) Records	Patient's lifetime or 10 years after documented cure

Threats to Electronic Records
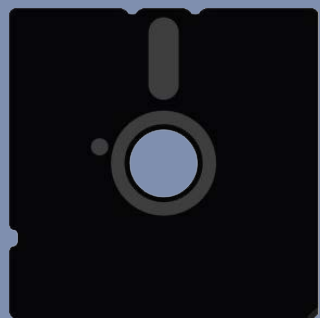
1971 – 1980s   **1982 – 1990s**   **1994 – 2000**   **1990s– 2000s**   **1999 - ?**   **2005 - ?**

Electronic Records Must Be ...

- Admissible in courts of law

- Authentic

- Reliable and trustworthy

- Accessible

- Secure

Guidelines for Managing Trustworthy Digital Public Records Version 2.0

April 2000
Revised July 2013 and October 2013

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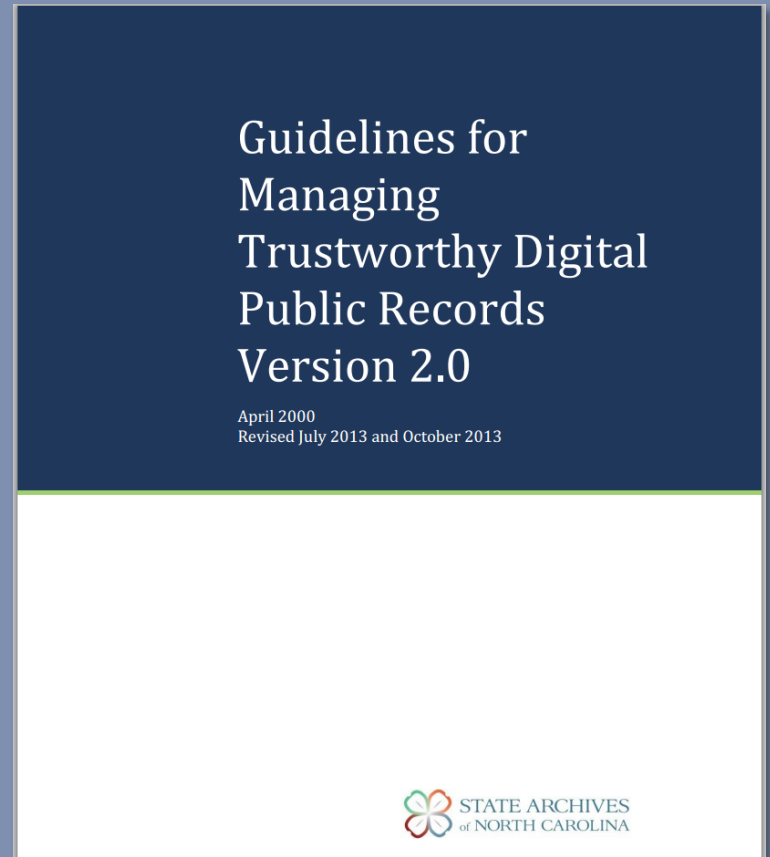
Planning vs. reacting

"Instead of just letting the technology rush ahead of us and then trying to catch up in terms of privacy and security, we should be baking those things into the systems from the start."

— Lillian Ablon, technology researcher for Rand Corp.

1 People

- Produced by methods that ensure accuracy

- Accuracy: "The degree of precision to which something is correct, truthful, and free of error or distortion, whether by omission or commission" (SAA)

- "Documentation integrity involves the *accuracy* of the complete health record" (AHIMA)
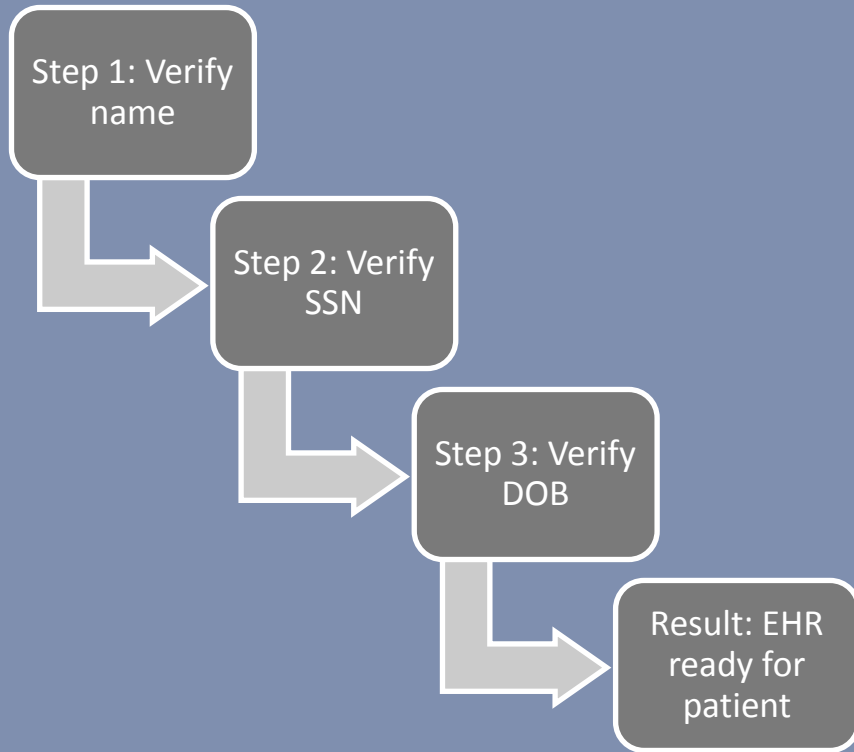
Procedures:

- Step-by-step
- Detailed
- Written
- Illustrated
- Include quality control

Step 1: Verify name

Step 2: Verify SSN

Step 3: Verify DOB

Result: EHR ready for patient

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NAME: JANE SMITH, RN					
PROCEDURE	ATTENDED TRAINING?	DATE	READ PROCEDURES?	DATE	INITIALS
Scanning of Backfiles	Yes	4/15/15	Yes	3/22/15	JCN
EHR Creation	Yes	9/7/15	Yes	9/3/15	JCN
EHR Security	Yes	9/9/15	Yes	9/3/15	JCN

Backups

Confidential information

Access control

Restrictions on physical access

Data

Metadata

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Government Records Section

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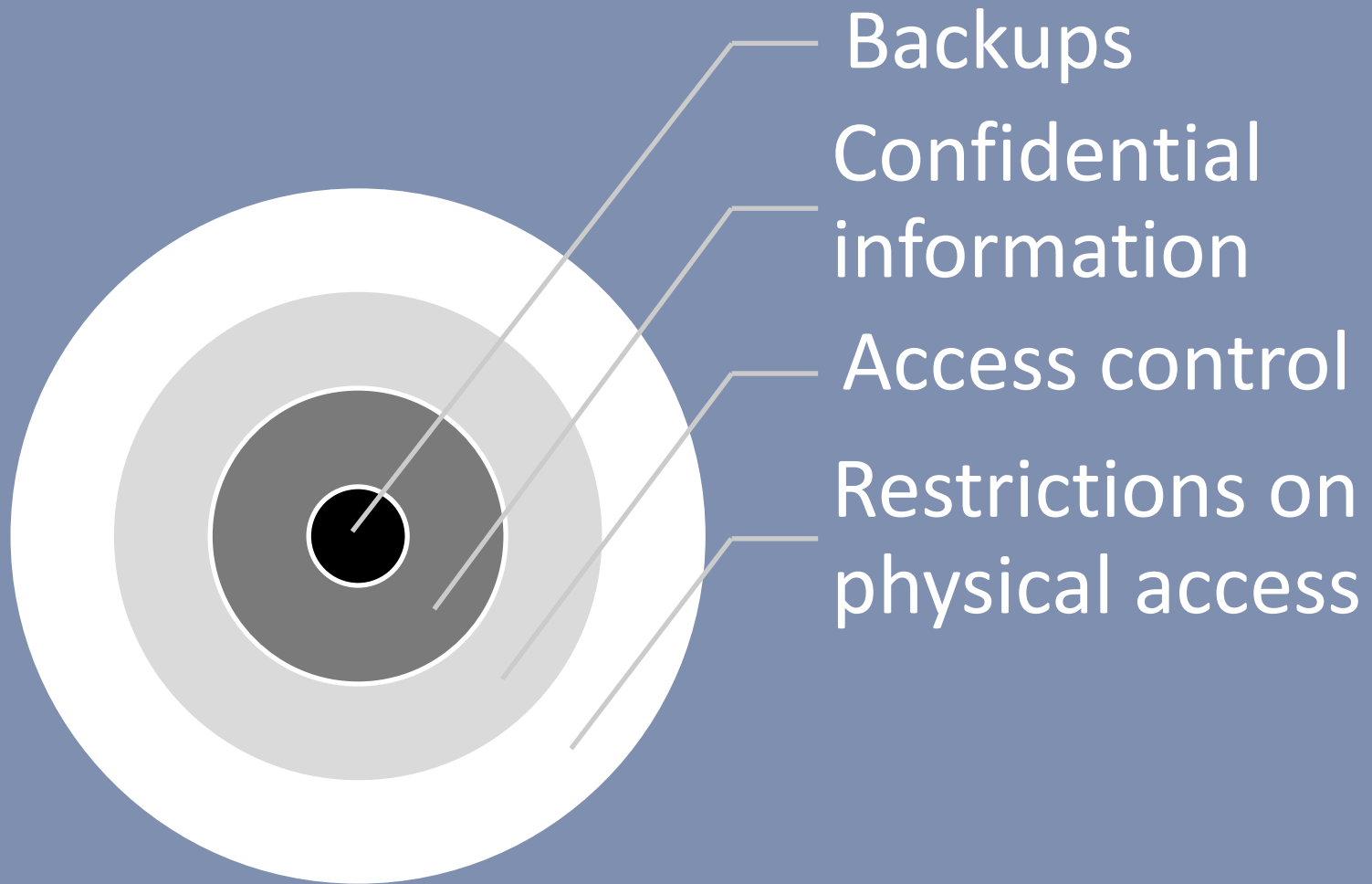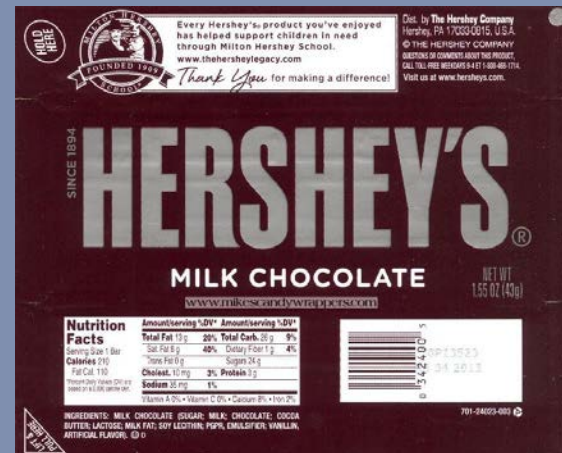
- Maintain essential metadata alongside EHR as part of public record

- At a minimum, save:

  - File creator

  - Date created

  - Title (stored as file name)

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Metadata commonly used by EHR systems

Type of Metadata	Examples
Application metadata	Patient account number Patient last name Patient first name Date of admission
Document metadata	User name When created When printed
File metadata	Document type (lipid profile, CT scan, x-ray, etc.) System of creation (imaging system, etc.) Creating institution (lab, specialist, etc.)
Embedded metadata	Versioning Track changes

Audit Trails

Audit trail = a record that shows who has accessed a computer system, when it was accessed, and what operations were performed (*Fundamentals of Law for Health Informatics and Information Management*)

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Government Records Section

6 Storage Media

Can you open the EHR's?

- Use recommended file formats

Can you find the EHR's?

- Organization and labeling

Have the files been tampered with?

- Hash algorithms

How hot is it?

- Recommended environmental conditions

File Formats

FILE FORMAT GUIDELINES FOR MANAGEMENT AND LONG-TERM RETENTION OF ELECTRONIC RECORDS

9/10/2012   State Archives of North Carolina

REFRESH IN 3-5 YEARS

COUNTY HEALTH DEPARTMENT

2016 ASSESSMENT REPORT

INTERNAL AUDIT OF ELECTRONIC MEDICAL RECORDS SYSTEM

Audit Objectives: Confirm that electronic medical records system and processes produce accurate records; confirm that procedures are being followed

Audit Methodology: Quality control audit

- Agencies may image any record
- Balance cost and benefit
- Costs of imaging
  - Document preparation
  - Imaging (process, quality controls)
  - Maintenance (storage, conversion)
- Non-permanent records may be destroyed after imaging

Tuberculosis Records

Patient Clinical Records

Maternal and Child Health Records

NC
State Archives of North Carolina
NATURAL AND CULTURAL RESOURCES

9 Digital Imaging

Patients	Patient clinical records - adult	Patient clinical records - pediatric	STD/HIV/AIDS (clinical) records	Maternal and child health records
All	No	No	Yes	No
Patients seen in last _____ years	3 years	3 years	n/a	5 years
Patients with chronic conditions	Yes	Yes	n/a	Yes
Patients with appointments in next 6 months	Yes	Yes	n/a	Yes

http://archives.ncdcr.gov/Portals/26/PDF/gov_lists/records.duplicated.electronic.means.pdf

- All procedural manuals
- System documentation
  - Includes hardware and software documentation
  - Review and update annually
- System and procedural documentation for scanning
- Training documentation
- Audit documentation
- Security backup and disaster recovery plan
- System-level agreements for contracted IT services
- Your Electronic Records and Imaging Policy

© Ron Leishman * www.ClipartOf.com/443053
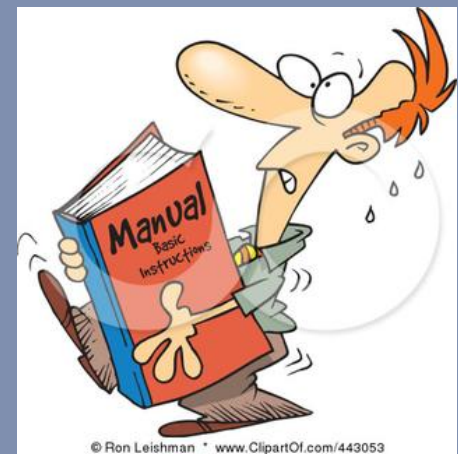
Electronic Records and Imaging Policy

North Carolina Department of Cultural Resources
Division of Archives and Records

STATE ARCHIVES of NORTH CAROLINA

Sample Electronic Records and Imaging Policy
For Use by Local and State Agencies

http://archives.ncdcr.gov/Portals/26/PDF/guidelines/model_erec_policy.pdf

August 2014

Call for help

Resources

FOR GOVERNMENT

- 📄 Digital Records
- 📄 Laws And Guidelines
- 📄 State Records Center
- 📄 Visit Us
- 📄 Forms
- 📄 Retention Schedules
- 📄 Records Management Services and Training
- 📄 Imaging and Microfilming
- 📄 Frequently Asked Questions

http://archives.ncdcr.gov/ForGovernment.aspx

The G.S. 132 Files
State Archives of North Carolina

https://ncrecords.wordpress.com/

Checklist for Scanning Contracts

- File formats
- Plan for converting files to a new format
- File naming practices
- Access rights/security mechanisms
- Backups (specify frequency and location)

State Archives of North Carolina
NATURAL AND CULTURAL RESOURCES

Records Management Analysts

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