

Title 30: Professions and Occupations

Part 2645 Rules of Procedure

Part 2645 Chapter 2: Preservation and Certification of Electronic Records

Rule 2.1 Scope. This regulation applies to all records that come into the Board's possession. The purpose of this regulation is to designate policies and practices for records management in the transition from paper-based to electronic record-keeping in order to facilitate use and admissibility of such records in Board proceedings.

This regulation shall not excuse compliance with any other lawful requirement for the preservation of records for periods longer than those prescribed in this regulation.

While this regulation does not serve to supersede any pre-existing rules concerning the use and admissibility of records, adherence may enhance validity and admissibility of such records into evidence.

Rule 2.2 Definitions. The following terms have the meanings indicated:

- A. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium.
- B. "Board" means the Mississippi State Board of Medical Licensure.
- C. "Custodian" means the person who creates, receives or maintains the records for use. Each custodian has the primary responsibility for ensuring the safety of the records, providing access to the records, and ensuring their authenticity.
- D. "Data" means any material upon which written, drawn, spoken, visual, or electromagnetic information or images are recorded or preserved, regardless of physical form or characteristics.
- E. "Database" means an electronically stored set of data, consisting of at least one file.
- F. "Document" means a form of information. A document may be put into an electronic form and stored in a computer as one or more files. A document may be part of a database. Each document is saved as a uniquely named file.
- G. "Electronic" means relating to technology as having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- H. "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.
- I. "Floppy disk" means a random access, removable magnetic data storage medium that can be used with computers.
- J. "Source Document" means the original paper form of an document.

Rule 2.3 Electronic storage permitted. In addition to, or instead of, Source Documents in paper, records may be maintained and preserved for the required time by, among other formats:

- A. Micrographic media, including microfilm, microfiche, or any similar medium; or

- B. Electronic storage media, including any digital storage.

Rule 2.4 Designation of supervisory official. For the purposes of this regulation, the Executive Director of the Board shall be the Custodian of Board records. Notwithstanding, the Executive Director of the Board shall have the authority to designate separate Custodians for each division of the Board. Each custodian shall supervise the preservation or authorized destruction of records.

Rule 2.5 General requirements. The following procedures must be followed by the person who maintains records on behalf of the Board:

- A. *Classification of records.* The custodian shall classify all documents that are electronically stored. Hash values, or unique numerical identifiers, shall be used as a distinguishing trait. Hash values shall be assigned consistently to a file or a group of files based on a standard algorithm.
- B. *When Source Documents are placed in Electronic Storage.* The Source Document, if any, for electronically stored information may be placed in electronic storage at any time when deemed necessary by the Board's executive director. Notwithstanding, no records which have been introduced into evidence before the Board in a licensure or other administrative hearing shall be placed in electronic format if the actions of the Board are still pending, subject to an appeal or other court action.
- C. *Time for destruction of Source Documents.* The Source Document, if any, for electronically stored information may be destroyed after a period of six months, but until such time, must be separately stored. Prior to destruction of any records, the Board Executive Director shall determine that the records have no legal or administrative value.
- D. *Access.* Access to electronic storage media shall be limited to properly authorized personnel.
- E. *Protection from information loss.* The electronically stored information shall be protected against information loss by backup and recovery. The use of floppy disks or other forms of magnetic media not specifically designed for the purpose of long term storage shall be avoided.
- F. *Protection from damage.* Provide reasonable protection from damage by fire, flood, and other hazards for records. Safeguard records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.
- G. *Index of records.* The electronically stored copies shall be indexed and maintained for ready reference and inspection.
- H. *Maintenance of Records.* Regular copying, reformatting, and other necessary maintenance shall be performed to ensure the retention of electronic records.
- I. *Retrieval.* Utilize a formal and timely retrieval process to permit standardized retrieval.
- J. *Reproduction.* Any reproduction of a non-electronic original record on electronic storage media shall be complete, true, and legible.

Rule 2.6 Authenticating Electronic Evidence in Board Proceedings.

- A. *Self-Authentication.* Evidence of authenticity is not required for admissibility in any hearing or other matter before the Board, provided the evidence is either (i) an original or (ii) an electronic reproduction of the original as maintained by the Board.
- B. *Method to self-authenticate.* To be self-authenticating, the record must be accompanied by a written declaration of the designated custodian as provided herein, certifying that the electronic record (i) was made in the normal course and scope of Board business and (ii) by a person with knowledge of those matters. The proponent must show that the custodian of the records is not only familiar with the maintenance of the records, but also with how they are created.