



Health Care Agency Behavioral Health Services Policies and Procedures	Section Name:	Administration
	Section Number:	04.01.02
	Sub Section:	Contracts
	Policy Status:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised

	SIGNATURE	DATE APPROVED
Chief of Operations Behavioral Health Services	_____	_____

SUBJECT: Approval for use of Electronic Signatures by BHS Contracted Providers

PURPOSE:

To establish a process between the Health Care Agency (HCA) Behavioral Health Services (BHS) and Legal Entities providing services under contract with BHS for the use of electronic signatures in their Electronic Health Records (EHR) and files maintained by contract providers.

POLICY:

It is the policy of HCA BHS that any Legal Entity using electronic signatures in the EHR used by that Legal Entity to document services provided under contract with HCA BHS shall comply with and meet all federal and state requirements for such electronic signatures.

It is the policy of HCA BHS that before electronic signatures in the EHR used by a Legal Entity contracting with HCA BHS will be acceptable for use in documenting services and/or auditing, licensing, or certification reviews, that agency must attest to being in compliance with all federal and state requirements for such electronic signatures.

It is the policy of HCA BHS that after a contracting Legal Entity receives approval to use electronic signatures, that the Legal Entity will continue to insure that all federal and state requirements, including any changes or other updates to those requirements, are met.

SCOPE:

This policy applies to all BHS contract providers using an EHR for services provided pursuant to the contract with HCA BHS.

REFERENCES:

The Department of Health Care Services (DHCS), DMH – DMH LETTER NO.: 08-10
Electronic Signature and Electronically Signed Records
<http://www.dhcs.ca.gov/formsandpubs/Pages/MH-Letters-Archive2008.aspx>

California Department of Alcohol and Drug Programs (ADP) – ADP LETTER NO.: 10-01
Electronic Signatures in Electronic Health Record Systems Used by Counties and Providers
http://cojac.ca.gov/ADPLTRS/PDF/ADP_Bulletin_10-01.pdf

Enclosure 1: County Behavioral Health Director's Electronic Signature Certification

Enclosure 2: BHS Electronic Signature Agreement (ESA)

DEFINITIONS:

Electronic Signature – Federal law (15 USC ss 7006) defines an electronic signature as “as electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.” Under California law (California Civil Code ss 1633, subsection f), “an electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.” As specified in California Civil Code ss 1633, subsection h, “the use of an electronic signature or digital signature shall have the same force and effect as the use of a manual signature.”

Electronically Signed Record – For the purposes of these standards, an electronically signed record is a financial, program, or medical record that (1) is required to be signed under California or Federal law, California or Federal regulation, or organizational policy or procedure, and (2) may be requested during an audit by State auditor, federal audit contractor, or local audit organization or public accountant.

PROCEDURES:

- I. The Legal Entity must obtain an Electronic Signature Agreement (ESA) for each of their staff who will electronically sign in their EHR before applying for e-signature use approval. New employees will sign an ESA prior to using the Legal Entity EHR.
- II. The Legal Entity must keep the agreement on file and available for audit upon request.
- III. The Legal Entity must produce the relevant agreements for any state, federal, or HCA review or audit.
- IV. The Legal Entity will submit an Electronic Signature Application, signed by the Executive Director or designee, for the entire Legal Entity. The application must be sent to **BHS Authority and Quality Improvement Services (AQIS) at 405 W. 5th St., Ste. 410, Santa Ana, CA 92701**, (see attached application). The application includes a verification that an Electronic Signature Agreement, signed by every staff member who will use the electronic signatures, has been obtained and that the Legal Entity’s computer systems that utilize electronic signatures will comply with the Certification Commission for the Healthcare Information Technology (CCHIT) certification criteria or its equivalent: *Security: Access Control*, *Security: Audit*, and *Security: Authentication*.
- V. AQIS will send a letter to the Legal Entity and Program Monitor if approval is given for the use of e-signatures.
- VI. The Electronic Signature Application and response will be kept on file at AQIS.