

State Records Board

August 12, 2015

Executive Conference Room – Kansas Historical Society

Present: Lisa Mendoza, designee of the Attorney General (chair)
Jennie Chinn, Executive Director, Kansas Historical Society (KSHS)
Matt Veatch, State Archivist, KSHS
Bill Sowers, designee of the State Librarian
John Yeary, designee of the Secretary of Administration

Also present: Marcella Wiget, Kansas Historical Society (KSHS)
Joanna Hammerschmidt, KSHS
Mark Cole, KSHS
Michael Smith, Kansas Dept. of Health and Environment (KDHE)
Mary Murphy, KDHE
Sheri Tubach, KDHE
Farah Ahmed, KDHE

Meeting called to order at 8:38 a.m. Ms. Mendoza began the introductions.

Minutes: Previous meeting minutes were presented and reviewed.

Motion: Mr. Sowers moved approval of meeting minutes as presented, Mr. Veatch seconded, unanimous approval of July 16, 2015 minutes.

Kansas Dept. of Health & Environment – Health Division: Ms. Mendoza questioned the access restriction K.S.A. 45-221(a)(3) on series 0246-264 as well as several series under the Bureau of Disease Control and Prevention. Mr. Smith elaborated that the agency is more of a hybrid entity and that certain parts of KDHE are considered a covered entity under HIPAA but other parts are not.

Ms. Chinn questioned why series 0246-264 and 0251-264 are archival but series 0247-264 is not. Mr. Smith explained that the one-off nature of series 0247-264 did not hold much, if any, historical significance unlike 0246-264 and 0251-264, which is valuable to track and prevent future outbreaks of disease. Ms. Mendoza noted that since some of the series involve research and census-taking records, K.S.A. 45-221(a)(24) may apply to those series. The board also asked for clarification on who did the reporting in series 0254-264 and series 0740-264. Ms. Mendoza questioned the restrictions specifically for series 0740-264. Through the discussion, it was determined that some reports are submitted by county health departments and schools and others by medical care providers. It was determined that for series 0740-264 identifying information used to generate the report has been redacted, so K.S.A. 45-221(a)(3) or K.S.A. 445-221(a)(30) would not apply. Mr. Smith asked if K.S.A. 45-221(a)(24) might apply. Ms. Mendoza responded that if K.S.A. 445-221(a)(3) or K.S.A. 445-221(a)(30) did not apply, then

K.S.A. 45-221(a)(24) wouldn't as well. It was suggested that all restrictions be removed for series 0740-264, Immunization Coverage Reports.

The board recommended that the restrictions discussed in the earlier schedule entries should also be added to the later entries regarding sexually transmitted diseases (STDs). Ms. Mendoza questioned if series 0738-264, Ryan White Title II Case Files, had its own restrictions other than just K.S.A 45-221 (a)(3) due to the uniqueness of the series. Mr. Smith was unsure if it did or not. Ms. Mendoza recommended that the same restrictions regarding STDs should be added as well. Discussion turned to the communicable disease entries involving patient records. Mr. Veatch was concerned with the proposed disposition since the State Archives, in general, avoids taking individual patient records from state hospitals or other entities. These are generally destroyed and Mr. Smith said the agency would not have a problem changing the disposition to destroy. Ms. Wiget noted that in some instances, there seemed to be little to no documentation regarding some of these old diseases, such as tuberculosis, which has gone into abeyance but is reemerging. Discussion led to the consensus that series 0260-264 could be destroyed but that series 0264-264 should keep the "Contact the State Archives for appraisal – if not accepted, then destroy" language. The board also requested that for series 0260-264, Sexually Transmitted Disease (STD) Patient Records, the word "suspects" be removed from the description and rephrased to "Documents used to maintain surveillance and monitoring treatment on sexually transmitted disease patients."

Discussion moved to final two entries. Ms. Wiget questioned whether 0741-264 was an electronic record or not. Ms. Tubach noted that it can be both paper and electronic and that the information is submitted to a national, federally-run database. The board queried Mr. Smith if the same HIPAA restrictions should apply and Mr. Smith confirmed that they would.

Motion: Ms. Chinn moved approval of revised entries as amended and discussed. Mr. Veatch seconded the motion, unanimous approval of entries as amended.

Bureau of Epidemiology and Public Health Informatics: Ms. Mendoza asked if K.S.A 45-221(a)(30) should be added to the restrictions field. Discussion determined that the records do include patient information and the bureau is a covered entity under HIPAA. Board suggested that all restrictions discussed previously under the Bureau of Disease Control and Prevention be added. Ms. Ahmed also requested that the word "elevated" be removed from the description for series id 0766-264 since the agency receives all blood lead level results that are submitted to the bureau. Any elevated blood lead levels result would become part of the records for series 0750-264.

Motion: Mr. Veatch moved approval as amended, Mr. Sowers seconded, unanimous approval of revised schedule entries as amended.

Bureau of Family Health: Ms. Mendoza asked for clarification on where the applications in series 0313-264, Administrative Files - Special Supplemental Nutrition Program for Women, Infants, and Children, originate. It was determined that these are individuals' application to the state's

Women, Infants, and Children program. Mr. Veatch queried if the plans would have any value and Ms. Chinn asked if any of it was kept at the federal level. Mr. Sowers also asked if any parts were published. Mr. Smith responded that some parts are kept at federal level, published, and would have some value. Ms. Wiget and Mr. Veatch suggested that since it sounds like there is some high-level policy planning documents in this series that the disposition language should state, "Contact the State Archives for appraisal - if not accepted then destroy." Discussion moved to series 0768-264, Blood Lead Levels--Children. It was determined that the retention period could be quite long and dependent on when blood lead levels drop to normal. Discussion regarding EPA involvement was raised, and the board wondered if 0768-264 may need to be two separate series. Board recommended to table series 0768-264 until more information could be gathered from the Bureau of Environmental Remediation.

Motion: Mr. Veatch moved tabling series 0768-264. Ms. Chinn seconded, unanimous decision to table 0768-264 until more information could be gathered from the Bureau of Environmental Remediation.

Discussion moved to series 0749-264, Blood Lead Levels Test Results - Children. Ms. Ahmed requested that the language describing series 0749-264 be revised and the word "elevated" be removed. She explained that the bureau does not regularly create this series and if there are elevated blood levels, those records are bumped into series 0750-264, Case Management Files – Children – Elevated Blood Lead Levels. Ms. Wiget asked if 1 calendar year retention for both series 0749-264 and 0750-264 was adequate and if electronic records were being kept. Ms. Ahmed stated that there are electronic records being kept. Mr. Veatch felt that series 0750-264 should be tabled in order to better separate the two series and address the electronic records and retention period.

Motion: Mr. Veatch moved to table series 0750-264, Mr. Yeary seconded, unanimous approval to table series 0750-264.

Discussion continued after the motion carried and further information prompted the board to reconsider the tabling of series 0750-264.

Motion: Mr. Veatch moved to reconsider, Mr. Yeary seconded, unanimous approval to reconsider decision to table series 0750-264.

Ms. Hammerschmidt clarified retention period and Ms. Ahmed noted that now children that are monitored are age 17 and under. The retention period listed was based on the Healthy Homes program, which focused only on children that were under the age of six. Mr. Smith agreed that the change in the program didn't account for the age change and further discussion would be needed in order to determine appropriate retention period.

Motion: Ms. Chin moved to table 0750-264, Mr. Sowers seconded, unanimous approval to table series 0750-264 in order to revise the language and complete an Electronic Recordkeeping Plan for this series.

Board discussion moved to series 0746-264. Ms. Mendoza questioned the 70 year retention language. Ms. Murphy explained that these investigations involve very young children and child care providers may move in and out of the profession. Ms. Murphy also stated that in 2010, the law changed allowing for the permanent prohibition of licensees, including from working at all with children in other roles. In order to cover the potential working lifetime of an individual, for legal considerations, the agency wanted to base the retention as if that individual was licensed at the age of 18. Ms. Mendoza questioned the usage

of K.S.A. 65-507(b) in series 0744-264, Child Care Licensing Files. The discussion led to the realization that these files include renewals, which may include facility surveys that could provide information about individual children. The board recommended rewording the description to include facility surveys and adding the other restrictions that were previously discussed regarding individually identifiable children. The board also suggested removing the K.S.A. 45-221(a)(24) restriction on series 0782-264, Environmental Lead Levels. Ms. Ahmed requested more clarification about the Housing and Urban Development protocols. Ms. Murphy explained that the Bureau of Environmental Remediation has their own Environmental Protection Agency protocols that they follow and are scheduled separately.

Motion: Ms. Chinn moved to table series 0345-264, Newborn Screening Identified Health Condition Client Files, until an Electronic Recordkeeping Plan could be completed, Mr. Veatch seconded, unanimous approval.

The board also clarified that the electronic records maintained in series 0342-264, Newborn Screening Notification records, are for 9 years or less. Ms. Mendoza suggested adding K.S.A. 45-221(a)(14) in addition to the other restrictions, since parents might be corresponding with the bureau and making the patients individually identifiable. Ms. Ahmed requested that the descriptive language for series 0747-264 be revised and noted that the bureau does not regularly create these kinds of reports. While K.S.A. 45-221(a)(24) does not appear to apply, other restrictions regarding individually identifiable children will need to be added.

Motion: Mr. Veatch moved, Ms. Chinn seconded, unanimous motion to make obsolete series 0759-264, Quarterly Progress Reports – Children, since they apparently are no longer created.

Motion: Mr. Veatch moved to approve the Bureau of Family Health’s schedule entries as amended, Mr. Sowers seconded, unanimous approval as amended.

Division of Health & Environmental Laboratories: Ms. Hammerschmidt explained that there used to be separate laboratory facilities for the Health and Environment Divisions, but these have since been combined into a single laboratory. In order to streamline the division’s schedule entries, the division is wanting to combine as many schedule entries as possible. Ms. Mendoza questioned the restriction of K.S.A. 45-221(a)(3) for series 0402-264, Clinical Laboratory Certification Records. Ms. Hammerschmidt explained that there is no medical information contained in these records. Ms. Mendoza recommended that the restriction be removed.

Motion: Mr. Veatch moved approval, Mr. Sowers seconded, unanimous approval of entries as amended.

Division of Health Care Finance: On behalf of the agency, Mr. Smith requested that the three new entries be tabled.

Motion: Mr. Veatch moved, Ms. Chinn seconded, unanimous decision to table the new entries from the Division of Health Care Finance at the request of the agency.

Mr. Smith also requested that series 0999-173 be tabled.

Motion: Mr. Veatch moved, Mr. Sowers seconded, unanimous decision to table series 0999-173 at the request of the agency.

Discussion continued on remaining series. Ms. Hammerschmidt informed the board that many of the revised entries have a longer retention period due to federal Medicare requirements. She also noted that the audits do not fall under the general schedule since they are not audits of state agencies. Ms. Mendoza inquired if any medical records were included in the Cost Report Data, series 0350-629. Mr. Smith did not think there was any medical information included. Mr. Veatch requested clarification on what costs reports entailed. The board also wanted clarification on whether the records are de-identified or not, since that would effect if K.S.A. 39-709(b) would apply.

Motion: Mr. Veatch moved, Ms. Chinn seconded, unanimous decision to table series 0350-629, Cost Report Data.

The board questioned the restriction for series 0709-629 and suggested that K.S.A. 45-221(a)(3) be removed but include K.S.A. 45-221(a)(1)(14)(30) and K.S.A. 39-709(b). The board also suggested that K.S.A. 45-221(a)(3) be added to the restrictions for series 0422-629. Mr. Veatch noted that series 0422-629 would be covered by the new KEES system. Mr. Smith indicated that the system generating the series has gone live and may need an Electronic Recordkeeping Plan. The board then discussed retention period language for series 0709-629. Mr. Smith suggested that it should state “determination” instead of ineligibility due to Medicaid requirements.

Motion: Ms. Chinn moved, Mr. Veatch seconded, unanimous decision to table series 0399-629, Periodic Review – Medicaid Survey Reports until clarification could be made regarding these surveys.

Mr. Smith explained the review process described for series 0687-264, noting that the review covers providers over a period of time and the agency does receive personal health information about individual patients. The board revised the description to state “Forms completed by Medicaid provider demonstrating the medical necessity for an individual patient’s hospitalization and reviewed for Medicaid reimbursements to the hospital.”

Motion: Mr. Veatch moved, Ms. Chinn seconded, unanimous approval of amended entries as discussed.

Housekeeping Changes:

The board reviewed and accepted the housekeeping report.

Summary of accomplishments for FY2015:

The board discussed the shutting down of the State Records Center. Mr. Veatch noted that while some other states are opening records centers, others, like Massachusetts, are

shutting theirs down as well. The board noted that with the closure of the State Records Center, business practices have changed. With this change, new procedures and guidance will have to be drafted for state agencies who have transferred their records to privately-owned commercial records centers in order to help those agencies continue to manage their records appropriately and ensure records that should be transferred to the State Archives continue to make that transfer.

Re-chartering the Electronic Records Committee:

Mr. Veatch provided a brief historical background regarding the beginnings of the Electronic Records Committee. Mr. Veatch noted that the Information Technology Advisory Board (ITAB) function for the committee has largely fallen away, due to changes in information governance policies in Kansas. Mr. Veatch elaborated that although the Electronic Records Committee sub-committee function has ceased for ITAB, it continues to be an essential sub-committee to review Electronic Recordkeeping Plans going before the State Records Board. Mr. Veatch requested that the board re-charter the committee so that it has clear foundations and guidance regarding its tasks and responsibilities.

Discussion turned to the Electronic Records Committee's tasks to endorse Electronic Recordkeeping Plans and to provide language for policies and guidelines for electronic records management. Mr. Yeary and Ms. Mendoza determined that the Electronic Records Committee's authority is granted through the State Records Board. Ms. Mendoza asked that Mr. Veatch provide a proposal for re-charting and composition of board members. Ms. Mendoza suggested a committee size of 5 to 7 people with 5 members being the ideal. She also suggested the member composition should be different from the State Records Board. Ms. Chinn would like to see a member come from state IT and Ms. Hammerschmidt would like someone with a legal background. After further discussion, a tentative committee makeup would include someone from State Archives, Legal Department, IT, Local Government, and Municipal/County Government, even though the State Records Board has no jurisdiction for Municipalities. Mr. Veatch queried about procedural suggestions. Ms. Mendoza covered the Kansas Open Meetings Act and noted that although keeping minutes is not required, it is highly suggested. Electronic Recordkeeping Plans are not public information due to security concerns and Ms. Mendoza suggested the form should be revised or covered in executive session.

The board adjourned at 11:16 a.m.