

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 18 EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)
PART 980 ERRDS, NM OFFICE OF THE MEDICAL INVESTIGATOR

1.18.980.1 ISSUING AGENCY: Commission of Public Records - State Records Center and Archives
[1.18.980.1 NMAC - N, 2/18/2003]

1.18.980.2 SCOPE: New Mexico office of the medical investigator
[1.18.980.2 NMAC - N, 2/18/2003]

1.18.980.3 STATUTORY AUTHORITY: Section 14-3-1 NMSA 1978. The administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.
[1.18.980.3 NMAC - N, 2/18/2003]

1.18.980.4 DURATION: permanent
[1.18.980.4 NMAC - N, 2/18/2003]

1.18.980.5 EFFECTIVE DATE: February 18, 2003, unless a later date is cited at the end of a section
[1.18.980.5 NMAC - N, 2/18/2003]

1.18.980.6 OBJECTIVE: To establish a records disposal schedules for the orderly retirement of records necessary for carrying out the Public Records Act per 14-3-6 NMSA 1978.
[1.18.980.6 NMAC - N, 2/18/2003]

1.18.980.7 DEFINITIONS:

- A.** "Administrator" means the state records administrator (Section 14-3-2 NMSA 1978).
- B.** "Agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).
- C.** "Audit" means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.
- D.** "Commission" means the state commission of public records (Section 14-3-2 NMSA 1978).
- E.** "Pending litigation" means a proceeding in a court of law whose activity is in progress but not yet completed.
- F.** "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.
- G.** "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.
- H.** "Records retention period" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.
- I.** "Records retention schedule" means a document prepared as part of a records retention program that lists the period of time for retaining records.
- J.** "Public record" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).
- K.** "Non-record" means all library or museum material of the state library, state institutions and state museums, extra copies of documents reserved only for convenience of reference and stocks of publications and processed documents are non-records (Subsection C of Section 14-3-2 NMSA 1978). The following specific types of materials are non-records: extra copies of correspondence; documents preserved only for convenience of reference; blank forms and books which are outdated; materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; preliminary and non-final drafts of letters; reports and memoranda which may contain or reflect the working or deliberative process by which a

final decision or position of the agency, board, department, or subdivision thereof is reached; shorthand notes, steno tapes, mechanical recordings which have been transcribed, except where noted on agency retention schedules; routing and other interdepartmental forms which are not significant evidence of the activity concerned and do not otherwise have value as described above; stocks of publications already sent to archives and processed documents preserved for supply purposes only; form and guide letters, sample letters, form paragraphs; subject files, including copies of correspondence, memoranda, publications, reports and other information received by agency and filed by subject (General Administrative Records Retention and Disposition Schedule, 1.15.2.101 *non-records* and 1.15.2.102 NMAC *subject files*).

[1.18.980.7 NMAC - N, 2/18/2003]

1.18.980.8 ABBREVIATIONS AND ACRONYMS:

- A. "FBI" stands for federal bureau of investigation.
- B. "EMS" stands for emergency medical service.
- C. "ER" stands for emergency room.
- D. "ERRDS" stands for executive records retention and disposition schedule.
- E. "GRRDS" stands for general records retention and disposition schedule.
- F. "OMI" stands for office of the medical investigator.
- G. "ROD" stands for *report of death*.
- H. "UNM" stands for university of New Mexico.
- I. "VHS" stands video home system.

[1.18.980.8 NMAC - N, 2/18/2003]

1.18.980.9 INSTRUCTIONS:

- A. For records of a general administrative nature, refer to the General Administrative Records Retention and Disposition Schedule, 1.15.2 NMAC.
- B. For records of a financial nature, refer to the GRRDS, General Financial Records Retention and Disposition Schedule (Interpretive), 1.15.5 NMAC. The OMI does not voucher through the New Mexico department of finance and administration but rather through the business office of the university of New Mexico. The retentions for financial documents held by the UNM business office are identified as "finance department copy." The retentions for financial documents held by the OMI business office are identified as "other department copy".
- C. For records of a personnel nature, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule (Interpretive), 1.15.7 NMAC. Employment at OMI does not go through the New Mexico state personnel office through the human resources office of the university of New Mexico. The retentions for personnel documents held by the UNM human resource office are identified as "personnel department copy." The retentions for personnel documents held by the OMI human resource are identified as "other department copy".
- D. For records of a medical nature, refer to the GRRDS, General Medical Records Retention and Disposition Schedule, 1.15.8 NMAC.
- E. Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.
- F. The descriptions of file are intended to be evocative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.
- G. Confidentiality is denoted for files likely to contain confidential materials, but files without a confidentiality note nonetheless may contain confidential or privileged materials, and failure to include an express confidentiality note in the description of a file does not waive the confidential or privileged nature of those materials. Some or all materials in a file may be confidential. Refer questions concerning the confidentiality of a file or portions of a file to legal counsel for the agency.
- H. Access to confidential documents and confidential files shall be only by authorization of agency, attorney general or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.
- I. All records, papers or documents may be photographed, microfilmed, micro-photographed or reproduced on film. Such photographs, microfilm, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. (Sections 14-1-5 and 14-1-6 NMSA 1978)

J. Data processing and other machine readable records. Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention and disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said records shall be electronically over-written on machine readable media on which it is stored (or media destroyed). See also 1.13.70 NMAC: Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems. [1.18.980.9 NMAC - N, 2/18/2003]

1.18.980.10 FORENSIC PATHOLOGY TRAINING FELLOWSHIP FILE:

- A. Program:** forensic pathology training
 - B. Maintenance system:** chronological by training year then alphabetical by participant surname
 - C. Description:** training site file concerning the application to and participation in the OMI forensic pathology-training program. File may contain correspondence indicating interest in the OMI training program, program application, letters of reference, official medical school transcripts, applicants curriculum vitae (resume), copy of OMI fellowship award decision, fellow or resident contract, interim performance evaluations, final evaluation, disciplinary actions, correspondence, memoranda, etc.
 - D. Retention:**
 - (1) **fellowship awarded.** 10 years after end of training year [corresponding files located at UNM school of medicine, UNM human resources office]
 - (2) **fellowship denied.** three years after close of calendar year in which fellowship denied
 - E. Confidentiality:** portions of file may be confidential (i.e., letters of reference, contemplated disciplinary actions, Section 14-2-1 NMSA 1978; grades, transcripts, Section 20 USCA 1232g)
- [1.18.980.10 NMAC - N, 2/18/2003]

1.18.980.11 AUTOPSY PROCEEDINGS RECORD:

- A. Program:** forensic pathology investigation
 - B. Maintenance system:** chronological by calendar year then numerical by case number (sequential)
 - C. Description:** verbatim record of autopsy proceedings. This includes audiotape used to record pathologist's comments during the autopsy, pathologist's notes, and transcript of audio recording.
 - D. Retention:**
 - (1) **audio tapes.** until tape has been transcribed
 - (2) **all other records (notes, transcripts).** until *autopsy report* is finalized and released [*autopsy report* is filed in the *OMI case file*.]
- [1.18.980.11 NMAC - N, 2/18/2003]

1.18.980.12 OMI CASE FILE:

- A. Program:** forensic pathology investigation
- B. Maintenance system:** chronological by calendar year then numerical by case number (sequential)
- C. Description:** records concerning the forensic pathology investigations of unexpected, unattended, or untoward deaths in New Mexico. This includes consultation cases requested by entities outside of OMI investigative jurisdiction [i.e., FBI, New Mexico tribal entities, military, etc.]. File may include *preliminary report of death* (handwritten or typed report submitted by central or field investigators), *report of death* (computer generated), *autopsy authorization*, *autopsy waiver request*, police reports (copies), medical reports (copies), fire department reports (copies), EMS run sheets (copies), ER reports (copies), *external examination*, *OMI evidence log*, evidence receipt, *certification of identification*, accident reconstruction reports, *subpoena to produce evidence and/or testify* (OMI issued), depositions, subpoenas, police interrogations reports, *cultures results report*, images (x-rays, slides, photographs, vhs tapes), *toxicology request*, *request for histology*, *neuropathology gross findings worksheet*, *autopsy procedure checklist*, *autopsy worksheet*, *infant autopsy worksheet*, *autopsy neuropathology gross findings worksheet*, *autopsy report*, *investigation log*, investigators log, *medication log*, body diagrams, *death certificate worksheet*, *certificate of death* (copy issued by OMI on OMI investigated cases), correspondence, memoranda, etc.
- D. Retention:**
 - (1) **paper document file.**

(a) if complete paper record is in *OMI case management system*. 10 years after close of calendar year in which death certificate issued or until corresponding criminal investigation closed whichever is longer. [Not all *OMI case files* have a corresponding criminal investigation.]

(b) if complete paper record is not in *OMI case management system*. permanent

(2) **corresponding tissue samples.**

(a) **micrographic slides and tissue blocks.** permanent or until deterioration renders them invalid.

(b) **fixed tissues.** five years after close of calendar year in which death certificate issued.

(c) **toxicology samples.** two years after close of calendar year in which death certificate issued.

E. Confidentiality: portions of file may be confidential (i.e., medical reports, police reports, Section 14-2-1 NMSA 1978; *death certificate*, Section 24-14-27 NMSA 1978, etc.)

F. Note bene: Field investigators shall retain a copy of the *preliminary report of death* for three years after close of calendar year in which it is created.

[1.18.980.12 NMAC - N, 2/18/2003]

1.18.980.13 OMI CASE MANAGEMENT SYSTEM [ELECTRONIC RECORD]:

A. Program: forensic pathology investigation

B. Maintenance system: numerical by primary key

C. Description: System maintains, monitors, and tracks the forensic pathology investigations conducted by OMI on all unexpected, unattended, or untoward deaths that occur in New Mexico. This includes consultation cases requested by entities outside of OMI investigative jurisdiction [i.e., FBI, New Mexico tribal entities, military, etc.]. Datum includes OMI sequence case number, date subject pronounced dead, county where death pronounced, date of birth, name of deceased, address of deceased, age of death in years, sex, race, county of residence, social security number, postal zip code, drivers license number, pronounced dead by, approximate date of injury, place pronounced, mortuary preference, mortuary preference by, pathologist's number, supervising staff pathologist's number, status of autopsy report, circumstances of death, photo identification number, photo information (on scene, external, internal, x-ray), next of kin, kin relationship, next of kin address, circumstances (private physician, physician's telephone number), circumstances (hospital post mortem exam by, exam consent by), number of district medical investigator, date death certified, ROD tracking date, past medical history, immediate cause of death, past medical history, due to or as a consequence of, date of injury, time of injury, hospital number, year medical records returned, injury at work, place of injury, location of injury, cause of death code, underlying cause of death code, other conditions of death code, manner of death code, type of death code, other significant conditions of death code, reports to law enforcement, reports to attending physician, reports to hospital, reports to other individuals, comments or special procedures, drug caused death codes, pathologist name, location of autopsy, time of autopsy (military), accounts receivable information, accounts payable information, body receipt and disposition detail, body receipt identification (seal, storage, transport), release authorization detail, body release detail, valuables (found on body), clothing particulars (hat, coat, shirt, pants, etc.), tests requested, test names, test results, physical evidence, death certificate information, death certificate tracking information, autopsy report tracking history, toxicology report tracking history, requested outside consultation history, toxicology results, specimen storage information, case notes, etc.

D. Retention: permanent. [Retention is on data only. For retention of system see 1.15.2.301 NMAC *documentation tape file* and 1.15.2.302 NMAC *operation system backup*. Retention of the data is contingent on the agency's plan for data migration and its subsequent testing and verification.]

E. Confidentiality: portions of file may be confidential (i.e., medical reports, police reports, Section 14-2-1 NMSA 1978; *death certificate*, Section 24-14-27 NMSA 1978; etc.)

F. Hardcopy input documents. All documents used as input for the *OMI case management system* are filed in the corresponding *OMI case file*. Those documents include but are not limited to the following: *preliminary report of death*; *request for toxicology*; *inventory of items found on body or received with body*; *death certificate worksheet*; *culture results report*; etc.

G. Hardcopy output documents. All documents generated by the OMI case management system are produced (printed) because they require a signature that tracks either custody or transfer of the body, the valuables, the specimens, or the tests conducted. Because the OMI case management system is a data based system, required and ad hoc reports may be generated upon request or on demand. When produced, these reports are either forwarded to the requesting entity or filed in the OMI case file. Some of the reports include but are not limited to

the following: *report of findings; toxicology report; report of death; body releasing record; body receiving record; body inventory record; death certificate; etc.*
[1.18.980.13 NMAC - N, 2/18/2003]

HISTORY OF 1.18.980 NMAC: [RESERVED]

RESERVED