

State Board of Nursing Policy on Electronic Records, Electronic Signatures and Electronic Contracts

Applicable Law:

10 M.R.S. §9407. Legal recognition of electronic records, electronic signatures and electronic contracts

1. Form. An electronic record or electronic signature may not be denied legal effect or enforceability solely because it is in electronic form.

2. Formation. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

3. Writing. If a law requires a record to be in writing, an electronic record satisfies the law.

4. Signature. If a law requires a signature, an electronic signature satisfies the law.

Motion:

Pursuant to the Uniform Electronic Transaction Act, the Board makes the following determinations:

1. Creation of electronic records (10 M.R.S. § 9417): The Board, its staff, and its agents will endeavor to create primarily electronic (rather than paper) records whenever practicable.
2. Retention of electronic records (10 M.R.S. § 9417): Board staff will maintain electronic records as the primary and sole format of records whenever practicable. To the extent necessary, Board staff will work with other State agencies to ensure appropriate electronic back-ups are maintained.
3. Conversion of written (paper) records to electronic records (10 M.R.S. § 9417): The Board has a preference to maintain electronic records, rather than paper, whenever practicable. Board staff shall continue to take reasonable steps to convert paper records to electronic records, and report back to the Board on its progress by December 31, 2023. Board staff shall not destroy original paper records that include professional or corporate seals, notary markings, or original paper contracts or other similar documents from or executed by third parties that might reasonably be expected to have legal effect and/or require proof of an original. Board staff shall consult with counsel to assist with determining if particular original paper documents should be preserved in paper form. Board staff's forthcoming report on conversion of documents shall include a description of the number or types of original documents that staff is continuing to preserve in paper form.
4. Acceptance and distribution of electronic records (10 M.R.S. § 9418(1)): The Board has a preference to maintain electronic records, rather than paper, whenever practicable. Any official Board document may be signed and retained in an exclusively electronic format, to the greatest extent legally permissible. By way of example and not limitation, both scanned images of signed papers and electronic documents with electronic signatures creating a similar appearance are both acceptable "electronic records and electronic

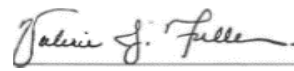
signatures” that the Board will expect to create, generate, communicate, store, process, and use, and upon which the Board will rely.

5. Nothing in these determinations alters in any way the Board’s obligations under the Maine Freedom of Access Act (1 M.R.S. §§ 400-414).

Adoption:

Adopted by the Board on May 13, 2022, by a vote of 5 in favor , 0 opposed, 0 abstained.

Dated: May 13, 2022



Valerie Fuller, APRN
Board Chair