

SAN MATEO COUNTY HEALTH DEPARTMENT
BEHAVIORAL HEALTH AND RECOVERY SERVICES DIVISION

DATE: April 14, 2003

BHRS POLICY: 03-11

SUBJECT: Email Use

AUTHORITY: 45 CFR, Part 160 (HIPAA Privacy Rule); County E-Mail Policy; MH Policy 03-01, Confidentiality/Privacy of Protected Health Information;

AMENDED: March 14, 2007; October 8, 2008

ATTACHMENTS:

- A. GroupWise Security Directions
- B. San Mateo County E-mail Policy
- C. Protocol for Email Usage
- D. Instructions for Use of Tumbleweed Encryption Process

PURPOSE

San Mateo County's Email Policy urges departments to establish specific standards, procedures and techniques to ensure proper retention and disposal of email. This policy responds to that direction, with emphasis on the privacy and confidentiality of protected health information.

Nothing in this policy shall be construed to alter individual telecommuting protocols established for individual staff members.

DEFINITION

County Computer Network - Refers to an internal (in-County) electronic network allowing email, Intranet, and other uses that link one County department or area with another.

Email – As used here, email includes all messages and attachments processed by any County email system using the County's computer network (per County Email Policy).

PHI – Protected Health Information. Includes information relating to a person's health, the care received and payment for services. PHI includes demographic information.

POLICY

The primary policy for confidentiality of PHI is BHRS 03-01, Confidentiality/Privacy of Protected Health Information. All requirements of that policy apply to this email policy.

The primary policy for email usage is the County policy, and for easy reference it is included as Attachment B to this Behavioral Health and Recovery Services (BHRS) policy. (The BHRS policy shall comply with any revision of County policy and will be amended, as necessary, in that circumstance.) In addition to the conditions imposed by the County policy, the following conditions shall be observed:

1. All staff with email access shall install and use a GroupWise password to prevent unauthorized access to their messages. (See Attachment A for directions.)
2. Staff may not allow other staff to utilize email by sharing their password.
3. The responsibility to create and maintain BHRS email groups for general (not personal) use lies with the Business Systems Manager or her delegate.
4. Consistent with the requirements of the County Email Policy, BHRS staff may not use the Countywide All Employees Mailing list without specific direction and/or approval by the Behavioral Health and Recovery Services Director.
5. Protected Health Information (Client Identifiable Information)
 - a. Client identifiable information may be included only in email sent to an internal recipient via the County networked system; external email may not include client identifiable data unless the message has been encrypted (using Tumbleweed) by the County staff member.
 - b. The above restriction specifically includes the sending of client identifiable information to any staff member's personal email address. (In some cases, a secure connection may be established by County Information Technology (IT), eliminating the need to encrypt email to and from that staff member's home.)
 - c. In certain situations, an external mental health contractor may be given a County mailbox, to allow secure transmission of PHI. External users with County mailboxes will be identified in writing so that behavioral health staff will know of this secure option to transmit PHI.
 - d. The presence of an external email address in a GroupWise Address Book does not imply that the address is secure.
 - e. The use of Social Security numbers as the sole identifier does not adequately de-identify the client. Any communication using a Social Security number is still PHI.

- f. All email that includes client identifiers must have a warning that the material being sent is confidential and protected. See Attachment A for directions about how to attach a warning (confidentiality) message to email.
- g. Email that reflects treatment (such as information about the results of a client's interview for admission into a treatment situation or new medical or pharmacological information concerning the client) shall be printed and placed in the behavioral health chart in order to permit retention of the information for the required number of years. Once printed and filed, the original email message shall be deleted, and the "trash" emptied.
- h. The sender of email via GroupWise that contains PHI should similarly delete the sent mail once the recipient opens it.
- i. Email containing PHI that is informational but does not reflect treatment (such as notice from one team to another of the date of chart transfer) shall be deleted as soon as is appropriate; email containing informational PHI that has been printed for reference shall be shredded when no longer in use.
- j. Extreme caution shall be observed when responding to "ALL" on a message. The responder must be certain of the entire mail list before assuming that PHI or other confidential material should be addressed to everyone who received the original message.
- k. At times, the recipient names on an email message being sent to a group could reveal certain PHI (example, sending client information to a substance use or HIV/AIDS provider). In this circumstance, respond to sender and include all other names on the "Blind Copy" location.
- l. PHI should not be sent using a large mail group (such as MHLeader, MHAdult, MHYouth, etc.). The sender should use critical judgment about who should receive the information and address it only to those with a clear need to know.

6. Communicating with Consumers Using Email

With growing frequency, consumers/families may request that clinicians communicate with them using email. It is important to emphasize to the consumer/family member that email may not be read immediately and sometimes may not be accessed for several days. Therefore, it should never be used by the consumer for critical communication that has time pressure (such as needing medications immediately) or to communicate high risk situations such as severe side effects, suicidal ideation, etc.

The following precautions must be taken to assure that consumers understand that email may not be a secure means of communication.

- a. Discuss the risks and benefits of communication using email so that the consumer/family member can make an informed decision. Points to emphasize involve:
 - The privacy of the communication, such as the possibility that others in the consumer's household might have access to the email.
 - The possibility that the email will be sent through an unsecured server, which could allow an unauthorized user to intercept and read the email.
- b. Introduce the consumer/family member to the Tumbleweed encryption process and recommend its use.
- c. If the consumer/family member is unwilling to use Tumbleweed, ask for written confirmation (can be email) stating that you have discussed this with the consumer/family member and he/she still wishes to communicate via email.
- d. Document the discussion in the medical record.

Approved: _____
Louise Rogers, Director
Behavioral Health and Recovery Services Division

Reviewed _____
