



Policy:	22-07
Subject:	Electronic Communications Policy Communication with Clients
Authority:	42 CFR Part 2, 2.16(a); 45 CFR Part 160; 45 C.F.R. Part 164, Subpart A, C, and E; San Mateo County E-Mail Policy; CA Code of Regulation Title 16 Section 1815.5: Standards of Practice for Telehealth; DHCS BHIN 22-019; DHCS BHIN 23-018.
Original Policy Date:	October 14, 2022
Amended:	Technical Edit September 4, 2024 Attachment E: added January 9, 2023
Supersedes:	Cell Phone Usage: 01-01 Facsimile (FAX) Confidentiality: 01-07 Email Use: 03-11
Attachments:	Attachment A: Electronic Communication Consent Form Attachment B: Standards of Practice for Telehealth (CA Code of Regulation Title 16 Section 1815.5) Attachment C: Accessing Secure Platforms (for Clients) Attachment D: Staff Contact Information Worksheet Attachment E: Remote Services Protocol Checklist

PURPOSE

This policy is intended to establish guidelines for the proper use of electronic communications with clients, with emphasis on the privacy and confidentiality of Protected Health Information (PHI). Electronic communications for the purposes of this policy includes E-mail, SMS (text), computerized voice messaging, fax communications, telehealth (videoconferencing) platforms, and automated messages (e.g., appointment reminders).

This is a companion policy to BHRS Policy 22-06 Electronic Communication (General Guidelines), which provides general guidance regarding electronic communication by staff. Both policies should be reviewed prior to engaging in electronic communication with a client.

SCOPE

This policy applies to all San Mateo County Behavioral Health and Recovery Services staff.

DEFINITIONS

- I. **Asynchronous Communication** – refers to communication between at least two individuals that can take place independent of time. Generally, asynchronous communication requires the storage of the communication so that the recipient of the message can access it at different times, not just when the message was originally



created. Examples of asynchronous electronic communication are voicemail messages, fax, email, text messages.

- II. **Synchronous Communication** – refers to audio calls or video calls that involve a real-time interaction between at least two people using an electronic mobile device or computer. Examples of synchronous communication are phone calls and video calls.
- III. **Facsimile (FAX)** – messages sent through a facsimile (FAX) machine.
- IV. **Mobile Device** – Any portable electronic device used for communication. This includes cell phones, tablets, and laptops.
- V. **Encrypted Communication** – When an electronic device or software is set up in a manner that prevents external parties from accessing the conversation. Example: Communication using the County’s secure email platform or the County’s Authorized Telehealth Platforms (Zoom Health and MS Teams) are encrypted, but emails sent without “#sec#” in the subject line and personal Zoom and MS Teams accounts are not encrypted.
- VI. **Secure Communication** – This is another term for “encrypted” communication.
- VII. **Unencrypted Communication** – This form of communication is the least secure communication and is the easiest for external parties to access. Unencrypted communication do not have protections embedded into the programming to prevent external parties from accessing the communication.

POLICY

Any staff person engaging in electronic communication and/or electronic messaging for San Mateo County (SMC) business is required to review and follow all relevant federal, state, and county policy, as well as the BHRS privacy and confidentiality policies available at the BHRS policy website: <http://www.smchealth.org/behavioral-health-staff-forms-policies>.

In addition, the following County-wide policies must also be adhered to:

- Mobile Technology Use Policy – San Mateo County Manager Administrative Memo B-19
- Information Technology Security Policy (ISD)
- Portable Computing Policy (ISD)

I. Consents for Electronic Communication

Regardless of the type of electronic communication (synchronous or asynchronous, secure/encrypted or unencrypted), staff should obtain and document client’s consent to receive electronic communication from BHRS. The BHRS Electronic Communication Consent Form can be found in Attachment A of this policy.

- A. Discuss the contents of the Electronic Communication Consent form. This includes the risks, benefits, and limitations of electronic communication so that the consumer/family member can make an informed decision. Points to



emphasize involve:

1. The privacy of the communication, such as the possibility that others in the consumer's household might have access to the email, text, voicemail, or video call.
 2. The possibility that the email may be sent through an unsecured server, which could allow an unauthorized user to intercept and read the email, text, voicemail, or access the video call.
 3. Limitations on the availability of staff (e.g., staff will not answer calls or texts outside of work hours).
- B. Secure (a.k.a. encrypted) forms of communication should be the default mode of electronic communication. However, if the client (or their guardian or client representative) prefers to use unencrypted email rather than the County's secure email portal, or would prefer messages to be sent to their phone via text message or voice message, the client should indicate this on the Electronic Consent form after the staff reviews the risks of unencrypted communication with the client.
- C. Document the discussion and client consent in the medical record via a progress note, obtain the client's written consent on a signed Electronic Communication Consent Form. If using a hard copy of the form, scan the signed form into Avatar. If the client is unable to sign the form:
1. For verbal consent, follow BHRM QM guidelines on obtaining and documenting verbal consents for clients.
 2. The client may also send their consent and their understanding of the risks of electronic communications in another written form (e.g., email), which should then be scanned into Avatar.
- D. If a client declines to provide written or verbal consent after reviewing the Electronic Consent Form with staff, the client will not be given the staff cell phone number.
- E. Review with client how to access the secure platforms (e.g., secure email platform or authorized Telehealth platforms). See Attachment C for instructions for clients on how to access these secure platforms.

II. Important Information Regarding Authorized Devices and Telehealth Platforms

A. Staff's Mobile Device:

1. Staff may only use a password protected County-issued mobile device to call or text clients (Authorized uses of texting is limited. See sections below for more information).



2. **Absolutely no personal cell phones may be used to text clients.**
3. **Staff must never give clients their personal cell phone number.** On the rare occasion, staff might need to call their client using their personal cell phone. If using your personal cell phone to call a client, you must use call blocking. Any violation of this rule may result in disciplinary action.

B. Telehealth (videoconferencing) Platform:

1. Staff may only use BHRS authorized telehealth platforms to communicate with and provide services to clients via videoconferencing. This is the case regardless of whether or not the client requests to use an unencrypted format. An exception may be made with BHRS QM approval if there is an accessibility need that requires the use of a telehealth platform not on the list of BHRS-approved telehealth platforms.
2. Staff must follow guidelines regarding telehealth under CA Code of Regulation Title 16 Section 1815.5: Standards of Practice for Telehealth. This includes documenting the client's location in each progress note for appointments conducted remotely. These guidelines can be found in Attachment B of this policy.

SYNCHRONOUS ELECTRONIC COMMUNICATIONS

III. Authorized use of Synchronous Electronic Communication

- A. Providing Specialty Mental Health Services (SMHS), including, but not limited to: Individual Therapy, Case Management, Collateral, as long as the services are clinically appropriate and BHRS authorized devices and platforms are used.
- B. Coordinating logistics (e.g., scheduling appointments).

ASYNCHRONOUS ELECTRONIC COMMUNICATIONS

IV. Authorized use of Asynchronous Electronic Communication: Asynchronous electronic communication should be used only for non-sensitive, non-urgent issues as follows:

- A. **Coordinating logistics**, including, but not limited to: obtaining addresses, check on client availability, confirm appointments.
- B. **General Health and Public Health Promotion**, including, but not limited to: Notifications about community events to promote health outcomes; Reminders about COVID or Flu Vaccinations; Reminders about Safety Protocols at County sites.
- C. **Client Surveys:** BHRS periodically sends surveys regarding services at BHRS or its contracted agencies or to gain their feedback about topics that include, but are



not limited to, engagement, outreach, or improving the quality of services.

- D. **Alerts or Notifications** for upcoming appointments or simple actions that need to be completed including, but not limited to: Appointment reminders; Links to forms for client to read/complete; Reminders to get labs done prior to next appointment.

V. Additional Guidelines for Using Asynchronous Electronic Communications

- A. Follow all guidelines in BHRS Policy 22-06 Electronic Communication (General Guidelines), including the requirement to communicate the minimum necessary information to protect client information.
- B. Texting with clients is discouraged, however, when it does occur, no Protected Health Information (PHI) is to be disclosed. The primary function of texting is limited to appointment confirmation and logistics.
- C. If the client is using an electronic service at a public or commercial location (e.g., fax machine at FedEx), ensure that the client is at the site of the public or commercial location when you send the electronic communication. Document the client's consent and your discussion with the client regarding the risks involved with leaving faxes and other electronic devices unattended or viewable to others.

INAPPROPRIATE USE OF ELECTRONIC COMMUNICATION

VI. When Clients Send Sensitive Information via Written Electronic Communication:

- A. **If a client texts or emails strictly to discuss logistics** (e.g., scheduling next appointment or a link to a county resource), it is permissible to engage in a back and forth exchange as long as no PHI is communicated in the messages and the conversation does not extend beyond logistics.
- B. **If a client texts or emails clinical/protected health information (PHI) or requests help with a specific clinical issue**, the staff person will not reply by text or email but will call the client to discuss the issue raised and ask that the client not text or email clinical information in the future.

VII. Prohibited Use of Electronic Communication:

Electronic Communication with clients may not be used for the following purposes:

- A. Staff may not send non-treatment or non-service related information such as Spam emails, Marketing emails, etc.
- B. Staff may not send group text messages to multiple clients. Text messages should only be sent individually to each client.
- C. Staff may not include multiple clients in a group email. Emails should be sent on



an individual basis. However, if a group email must be sent, you must ensure that the client's email addresses are inputted into the "Blind Carbon Copy" (BCC) section of the recipient information so that each client's email address is not visible to other clients. Additionally, client's PHI should not be included in the body of the email or in any attachments.

- D. Staff may not text clients from staff's personal cell phone.
- E. Staff may not provide clients with a staff's personal cell phone number.
- F. Staff may not call a client from a staff's personal cell phone without blocking the number.
- G. Staff may not communicate with clients via social media or public facing forms of communication (e.g., Facebook, TikTok, etc.)

The list above is not all-inclusive. Staff should use clinical judgment and follow professional and ethical guidelines regarding the appropriate and inappropriate use of electronic communication. Any prohibited use of electronic communication requires the submission of an Incident Report to BHRS QM and may result in disciplinary action.

Approved: Signature on File
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ANNUAL REVIEW OF COMPLIANCE POLICY			
Next Review Due:	June 2025		
Last Reviewed by:	Scott Gruendl, Compliance Officer	Date:	6/18/24