



Policy Number:	22-07
Policy Name:	Electronic Communications Policy (for 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 23-018, BHIN 23-068
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Attachments:	<ul style="list-style-type: none"> A. Electronic Communication Consent Form B. Standards of Practice for Telehealth (CA Code of Regulation Title 16 Section 1815.5) C. Accessing Secure Platforms (for Clients) D. Staff Contact Information Worksheet 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.

Definitions

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, or text messages.



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.

Facsimile (FAX): messages sent through a facsimile (FAX) machine.

Mobile Device: Any portable electronic device used for communication. This includes cell phones, tablets, and laptops.

Encrypted Communication: 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.

Secure Communication: This is another term for "encrypted" communication.

Telehealth: The mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth as used in this policy includes both synchronous audio-only and synchronous video interactions but does not include asynchronous store and forward communications or remote patient monitoring.

Unencrypted Communication: This form of communication is the least secure communication and is the easiest for external parties to access. Unencrypted communication does not have protections embedded into the programming to prevent external parties from accessing the communication.

Policy

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. Provider Requirements

- A. Providers that offer telehealth services to Medi-Cal beneficiaries must meet all applicable Medi-Cal licensure and program enrollment requirements, as well as San Mateo County telework and other related policies. If the provider is not located in California, they must be licensed in California, enrolled as a Medi-Cal rendering provider, and affiliated with a Medi-Cal enrolled provider group in California or a border community, as outlined in DHCS' Telehealth Policy Paper and the Medi-Cal Provider Manual.
- B. As a general rule, every provider offering covered services to a beneficiary via telehealth must



also meet the requirements of Business and Professions Code Section 2290.5(a)(3), or otherwise be designated by DHCS as able to render Medi-Cal services via telehealth. All providers that are listed in the California Medicaid State Plan as qualified providers of SMHS, DMC, or DMC-ODS services are designated by DHCS as able to render covered services, within their scopes of practice, via telehealth.

- C. All providers furnishing applicable covered services via synchronous audio-only interaction must also offer those same services via synchronous video interaction to preserve beneficiary choice. To preserve a beneficiary's right to access covered services in person, a provider furnishing services through telehealth must do one of the following:
 - 1. Offer those same services via in-person, face-to-face contact; or
 - 2. Arrange for a referral to, and a facilitation of, in-person care that does not require a beneficiary to independently contact a different provider to arrange for that care.
 - a. Providers are not required to schedule an appointment with a different provider on behalf of a patient (WIC §14132.725(c). However, the referring provider must ensure that the client is connected to the new provider before terminating services.

II. Consents for Electronic Communication

- A. Prior to initial use of electronic communication and/or delivery of covered services via telehealth, providers are required to obtain verbal or written consent for the use of electronic communication, such as telehealth, as an acceptable mode of delivering services using the BHRS Electronic Communication Consent Form (Attachment A). Providers must explain the following to beneficiaries:
 - 1. The beneficiary has a right to access covered services in person.
 - 2. Use of telehealth is voluntary and consent for the use of telehealth can be withdrawn at any time without affecting the beneficiary's ability to access Medi-Cal covered services in the future.
 - 3. Non-medical transportation benefits are available for in-person, medically necessary visits.
- B. Any potential limitations or risks related to communicating via electronic means and/or receiving covered services through telehealth as compared to an in-person visit, if applicable. Points to emphasize include, but are not limited to:
 - 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).

4. Not all providers are available for in-person care. If the beneficiary requests in-person service, they will be referred to an in-person provider if necessary.
- C. Providers must also document the beneficiary's verbal or written consent to receive covered services via telehealth prior to the initial delivery of the services. The beneficiary's consent must be documented in their medical record and made available to DHCS upon request.
- The discussion and client consent should be documented 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 BHRS 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. A provider may utilize a general consent agreement to meet this documentation requirement if that general consent agreement:
1. specifically mentions the use of telehealth delivery of covered services;
 2. includes the information described above;
 3. is completed prior to initial delivery of services; and
 4. is included in the beneficiary record.
- E. 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.
- F. Staff or provider must 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.
- G. 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.

III. Establishing New Patient Relationships

- A. SMHS and DMC-ODS providers shall comply with all applicable federal and state laws, regulations, bulletins/information notices, and guidance when establishing a new patient relationship via telehealth.



As a general rule, State law prohibits the use of asynchronous store and forward, synchronous audio-only interaction, or remote patient monitoring when providers establish new patient relationships with Medi-Cal beneficiaries. For the SMHS and DMC-ODS delivery systems, DHCS defines the establishment of new patient relationships as follows:

1. For SMHS, the establishment of care for a new patient refers to the mental health assessment done by a licensed clinician.
2. For substance use treatment in DMC and DMC-ODS, the establishment of care for a new patient refers to the American Society of Addiction Medicine Criteria assessment.
3. However, SMHS and DMC-ODS providers may establish a relationship with new patients via synchronous audio-only interaction in the following instances:
 - a. When the visit is related to sensitive services as defined in subsection (n) of Section 56.06 of the Civil Code.
 - i. “Sensitive services” means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in Sections 6924, 6925, 6926, 6927, 6928, 6929, and 6930 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section.
 - b. This includes all covered SMHS and DMC-ODS services.
 - c. When the patient requests that the provider utilizes synchronous audio-only interactions or attests they do not have access to video.
 - d. When the visit is designated by DHCS to meet another exception developed in consultation with stakeholders.

IV. Program Specific Requirements

Services provided by telehealth may be provided and reimbursed by each of the following programs as described below.

A. Drug Medi-Cal Organized Delivery System

1. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis, medical necessity, and/or level of care may be delivered through synchronous video interaction.
2. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis, medical necessity, and/or level of care shall only be delivered through synchronous audio-only interaction in the situations identified above in this BHIN.
3. Licensed providers and non-licensed staff may deliver services through telehealth, as



long as the service is within their scope of practice.

4. Covered DMC-ODS services may be delivered through telehealth when those services meet the standard of care. The group size limit still applies for group counseling provided via telehealth.
5. Certain services, such as residential services, require a clearly established site for services and in-person contact with a beneficiary in order to be claimed. However, California's State Plan does not require that all components of these services be provided in-person. (For example, services can be provided via telehealth for a patient quarantined in their room in a residential facility due to illness.)

B. Specialty Mental Health Services:

1. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis and/or medical necessity, may be delivered through synchronous video interaction.
2. The initial clinical assessment and establishment of a new patient relationship, including any determination of diagnosis and/or medical necessity, shall only be delivered through synchronous audio-only interaction only in the situations identified above in this BHIN.
3. Covered SMHS may be delivered through telehealth when those services meet the standard of care.
4. Licensed providers and non-licensed staff may provide services via telehealth, as long as the service is within their scope of practice.
5. Certain services, such as crisis stabilization, day rehabilitation, day treatment intensive, psychiatric health facility services, inpatient psychiatric hospital services, crisis residential treatment services, and adult residential treatment services, require a clearly established site for services and require some in- person contact between facility staff and a beneficiary to be claimed. However, California's State Plan does not require that all components of these services be provided in-person (For example, services can be provided via telehealth for a patient quarantined in their room due to illness).

C. 5150 Evaluations and 5151 Assessments

1. W&I 5150 evaluations and 5151 assessments may be performed by authorized providers face-to-face via synchronous video interaction as per W&I 5008(a) and W&I 5151(b). This may include releases from involuntary holds for evaluation and treatment, as appropriate.
 - a. These services are Medi-Cal reimbursable regardless of whether they are provided in person or through synchronous video interaction as long as the individual is Medi-Cal eligible, the service is Medi-Cal covered, and all Medi-Cal requirements are met.
 - b. This assessment shall be made face-to-face either in person or by synchronous interaction through a mode of telehealth that utilizes both audio and visual



components.

V. 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

VI. 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

VII. 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.

VIII. 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

IX. 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. Staff will ensure client has that information for local and national behavioral health crisis services so they can text back and forth with a qualified person in an emergency.

X. Prohibited Use of Electronic Communication:

- A. Electronic Communication with clients may not be used for the following purposes:
 - 1. Staff may not send non-treatment or non-service related information such as Spam emails, Marketing emails, etc.
 - 2. Staff may not send group text messages to multiple clients. Text messages should only be sent individually to each client.
 - 3. 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.

4. Staff may not text clients from staff’s personal cell phone.
5. Staff may not provide clients with a staff’s personal cell phone number.
6. Staff may not call a client from a staff’s personal cell phone without blocking the number.
7. 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.

SIGNATURES

Approved: Signature on File
 Dr. Jei Africa, PsyD, FACHE
 BHRS Director

Approved: Signature on File
 Scott Gruendl, MPA, CPCO
 BHRS Assistant Director
 Compliance Officer



Revision History

Date of Revision	Type of Revision	Revision Description
10/03/25	Amend	Policy: Added language to telehealth section to reflect BHIN 23-018.
10/03/25	Amend	Attachment A: Added language to telehealth section to reflect BHIN 23-018.

Compliance Review History

Date of Review	Reviewer Name and Job Title
10/03/25	Scott Gruendl, Compliance Officer
06/18/24	Scott Gruendl, Compliance Officer