

WEBER HUMAN SERVICES	<h1>Policy &amp; Procedure</h1>	NUMBER 20
	HIPAA / PRIVACY <b>COMMUNICATING PHI VIA ELECTRONIC MEANS</b>	APPROVED 2/21/2014
		REVIEWED 5/11/2017
		REVISED 1/29/2016

**POLICY:**

Weber Human Services (WHS) does not permit the sending of unencrypted Protected Health Information (PHI). Only under limited circumstances where the appropriate safeguards described herein are applied, is unencrypted sending of PHI permitted.

***Note: For the purpose of this policy, the term “WHS electronic mail systems” does not refer to the physical location of the email system but its use by WHS workforce to transmit PHI.***

**PURPOSE:**

This Policy describes procedures that govern an individual’s use of the WHS email system. It also defines the steps that must be taken by WHS clients who wish to engage in email with a WHS workforce member. This policy applies to the informational uses of email and does not cover the ethical, legal and regulatory issues associated with email.

This Policy applies to WHS workforce and other persons affiliated with or authorized by WHS to read, create, store, respond, or transmit information via the WHS email system (Users). This Policy also applies to the use of ALL email for both internal and external communications, and is not solely limited to the sending or receiving of PHI.

**PROCEDURES:**

1. **Communicating PHI via Text Messaging.** Under no circumstances will PHI be sent via text messaging or outside instant messaging.
2. **Communicating PHI via Email.** Email of unencrypted PHI is not permitted, except under the provisions spelled out in the subsequent procedures.
3. **Communicating PHI via Email Internally.** The unencrypted email of the client EHR Identification Number (no other PHI) will be permitted at WHS if the following safeguards are implemented. No other forms of PHI shall be sent via unencrypted email internally.
  - a. WHS shall use the following safeguards when communicating PHI in or attached to an email message:
    - (1) Email communications containing PHI about WHS clients will be transmitted only on a WHS email system and **cannot be forwarded to an email account outside WHS.**
    - (2) The email message will include the following confidentiality notice:

**“This electronic message is intended to be for the use only of the named recipient, and may contain information that is confidential**

**or privileged. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the contents of this message is strictly prohibited. If you have received this message in error or are not the named recipient, please notify us immediately by contacting the sender at the electronic mail address noted above, and delete and destroy all copies of this message. Thank you."**

Note: This confidentiality notice can be added to the signature block of your email signature if you currently use an automated signature.

- (3) If a document that contains PHI is attached to the message, the user should verify before transmitting the email message that he/she has attached the proper attachment.
  - (4) Before transmitting the email message, users should double-check the message, the message's intended recipients and any attachments to verify that no unintended information is included or being sent to an unintended recipient.
  - (5) Users who communicate PHI via email will comply with all other WHS policies and procedures including, but not limited to, the Uses and Disclosures of PHI Policy and the Minimum Necessary Policy.
- b. Any user who is unsure whether an email message or attachment contains PHI should contact his/her supervisor or the Privacy Officer before initiating the email communication.

#### **4. Communicating PHI via Email Externally**

- a. Unencrypted PHI shall not be sent to email systems located outside of WHS hereby defined as 'external destinations.'
- b. All email that contains PHI sent to external destinations shall be encrypted prior to delivery, in a manner approved by the WHS IT Department.
- c. All automatic forwarding, redirection or other automated delivery or pickup of WHS email with PHI, to external destinations is explicitly prohibited.

#### **5. Communicating PHI with Clients**

- a. Clients have the right to request that WHS communicate with them via email.
- b. If a client requests email communications containing their PHI, the individual receiving the request must obtain a completed **Client Consent form for Email** form from the client (see attached form).
- c. WHS workforce members reserve the right to deny a client's request to communicate with him/her via email. For example, a client's request for email communications may be denied by WHS if a provider with an existing clinical relationship with the client believes email communications with the client should not occur.
- d. All completed Request for Email Communications forms will be maintained by the office processing the client's request for a minimum of six (6) years. Approved requests are valid regardless of the time period as long as a hard copy of the form is maintained or the signed form is scanned into the client's electronic medical record.

- e. An approved Request will be effective for only the health care provider identified on the Request. The client must complete a separate Request for each health care provider with whom he/she wants to communicate via email, and must revoke each Request to discontinue email communications.

**6. Ownership of Electronic Mail**

- a. The email system of WHS belongs to Weber Human Services.
- b. WHS workforce will adhere to this policy when sending PHI and WHS email policy when sending email that doesn't contain PHI.
- c. WHS reserves the right to override individual passwords and access the email system at any time for valid business purposes such as system maintenance, repair and/or security investigations.

**7. Other Electronic Communication with Clients**

- a. If a client requests that any WHS employee, volunteer or agent communicate with them via **Text Messages**, we are not required to comply with that request.
- b. If WHS staff determine that the request is prudent, the following conditions must be met before text messages can be exchanged with a client:
  - a. **NO** PHI can be transmitted by WHS staff or agents. PHI includes first name, last name, client initials, client id number, client birthdate, etc.;
  - b. Text Messages can **ONLY** be sent to clients from a WHS owned device not a personal device even if WHS is providing some reimbursement for work use of the device.
  - c. The client must complete the **Client Consent form for Text Messages** form (see attached form) and the form must be stored in the client's medical record.

## CLIENT CONSENT FORM FOR EMAIL

PLEASE READ THE FOLLOWING INFORMATION CAREFULLY. YOUR SIGNATURE BELOW INDICATES YOUR UNDERSTANDING OF THIS INFORMATION AND YOUR ACCEPTANCE OF THE RISKS AND TERMS OUTLINED BELOW.

### CLIENT INFORMATION

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

You have requested that Weber Human Services communicate with you via unencrypted emails. You must be aware that there is no guarantee of privacy when sending information via unencrypted email. If you decide to not sign this form, you cannot communicate via email with your provider, but your care, ability to pay, enrollment, eligibility for benefits or other healthcare operations will not be affected. If you decide that you'd like to communicate with your provider via email, you should consider the following risks before signing this consent form.

### Risks of Email

- Email can be copied, circulated, forwarded, and stored in electronic files;
- Email, whether accidentally or intentionally, can be broadcast worldwide immediately and received by many unintended recipients;
- Email is easier to falsify than handwritten or signed documents;
- Backup copies of email may exist even after the provider or client has deleted his or her own copy;
- Employers and online services may have a right to archive and inspect emails transmitted through their systems;
- Passwords providing access to email can be stolen and misused, or host systems can be compromised, leading to unauthorized disclosure of personal information;
- Email can be intercepted, altered, forwarded, or used without written authorization or detection;
- Email may not be answered in the time frame expected by the sender.

### Conditions for the Use of Email:

Weber Human Services will use and disclose protected health information ("PHI") as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Weber Human Services will use reasonable means to protect the confidentiality of PHI sent and received through email. However, because of the risks outlined above, Weber Human Services cannot guarantee the security and confidentiality of email-based communications, and will not be liable for improper disclosure of confidential information that is not caused by Weber Human Services' intentional misconduct.

It is also important to understand that email-based communications with your provider is to facilitate communication with your provider. It is not intended to substitute for face-to-face meetings and/or personal conversations with your provider or provider.

Thus, you must agree to and acknowledge the following:

- I agree that I am an established client of Weber Human Services
- I acknowledge that I have read and understand Weber Human Services' HIPAA Notice of Privacy Practices.
- I understand that Weber Human Services will read and respond to email communications as promptly as possible; however, a specific turnaround time is not guaranteed. Thus, I will not use email for medical emergencies or other time-sensitive matters.
- I acknowledge that some or all information sent or received via email may concern my diagnosis and/or treatment. It may be made part of my medical record or forwarded internally to other Weber Human Services staff as necessary for diagnosis, treatment, payment, and other business purposes. Electronic information will not, however, be forwarded to independent third parties without my prior written consent, except as authorized or required by law.
- I understand that communication via email is not secure and, therefore, Weber Human Services cannot guarantee the confidentiality of electronic PHI. I understand that it is my responsibility to protect passwords to email accounts. I also understand that Weber Human Services and its representatives are not liable for breaches of confidentiality caused by any third party or myself.
- I understand that I may, at any time, revoke my consent for email communications.

**Client Acknowledgement and Agreement**

I hereby acknowledge that I have read and fully understand the information provided in this Client Consent Form for Email. I understand the risks associated with using email to communicate with my Weber Human Services provider:

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Date

**RIGHT TO REVOKE**

I request that my provider no longer use the above email address to communicate with me.

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Date

WHS Witness Signature: \_\_\_\_\_

## CLIENT CONSENT FORM FOR TEXT MESSAGES

PLEASE READ THE FOLLOWING INFORMATION CAREFULLY. YOUR SIGNATURE BELOW INDICATES YOUR UNDERSTANDING OF THIS INFORMATION AND YOUR ACCEPTANCE OF THE RISKS AND TERMS OUTLINED BELOW.

### CLIENT INFORMATION

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

CELL PHONE NUMBER: \_\_\_\_\_

You have requested that Weber Human Services communicate with you via text messages. You must be aware that there is no guarantee of privacy when sending information via text messages. If you decide to not sign this form, you cannot communicate via text message with your provider, but your care, ability to pay, enrollment, eligibility for benefits or other healthcare operations will not be affected. If you decide that you'd like to communicate with your provider via text message, you should consider the following risks before signing this consent form.

### Risks of Text Messages

- Text Messages can be copied, circulated, forwarded, and stored in electronic files;
- Text Messages, whether accidentally or intentionally, can be widely broadcast immediately and received by many unintended recipients;
- Backup copies of Text Messages may exist even after the provider or client has deleted his or her own copy;
- Employers and online services may have a right to archive and inspect Text Messages transmitted through their systems;
- Passwords providing access to Text Messages can be stolen and misused, or host systems can be compromised, leading to unauthorized disclosure of personal information;
- Text Messages can be intercepted, altered, forwarded, or used without written authorization or detection;
- Text Messages may not be answered in the time frame expected by the sender.

### Conditions for the Use of Text Messages:

Weber Human Services will use and disclose protected health information ("PHI") as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Weber Human Services will use reasonable means to protect the confidentiality of PHI sent and received through Text Messages. However, because of the risks outlined above, Weber Human Services cannot guarantee the security and confidentiality of Text Messages, and will not be liable for improper disclosure of confidential information that is not caused by Weber Human Services' intentional misconduct.

It is also important to understand that Text Messages with your provider is to facilitate communication with your provider. It is not intended to substitute for face-to-face meetings and/or personal conversations with your provider or provider.

Thus, you must agree to and acknowledge the following:

- I agree that I am an established client of Weber Human Services
- I acknowledge that I have read and understand Weber Human Services' HIPAA Notice of Privacy Practices.
- I understand that Weber Human Services will read and respond to Text Messages as promptly as possible; however, a specific turnaround time is not guaranteed. Thus, I will not use email for medical emergencies or other time-sensitive matters.
- I acknowledge that some or all information sent or received via Text Messages may concern my diagnosis and/or treatment. It may be made part of my medical record or forwarded internally to other Weber Human Services staff as necessary for diagnosis, treatment, payment, and other business purposes. Electronic information will not, however, be forwarded to independent third parties without my prior written consent, except as authorized or required by law.
- I understand that communication via Text Messages is not secure and, therefore, Weber Human Services cannot guarantee the confidentiality of electronic PHI. I also understand that Weber Human Services and its representatives are not liable for breaches of confidentiality caused by any third party or myself.
- I understand that I may, at any time, revoke my consent for Text Messages.

**Client Acknowledgement and Agreement**

I hereby acknowledge that I have read and fully understand the information provided in this Client Consent Form for Text Messages. I understand the risks associated with using Text Messages to communicate with my Weber Human Services provider:

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Date

**RIGHT TO REVOKE**

I request that my provider no longer use the above cell phone number to communicate with me via Text Messages.

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Date

WHS Witness Signature: \_\_\_\_\_