

E-MAIL USAGE POLICY FOR HEALTH CARE ORGANIZATIONS

Please note that this document is intended for educational purposes only and is not intended as a comprehensive checklist of issues to address in e-mail usage policies. It is vital that an organization's e-mail usage policy be reviewed for compliance with applicable state laws and regulations and developing caselaw before being used by a health care provider.

I. GENERAL E-MAIL USAGE GUIDELINES

Scope of Policy. This policy shall apply to all Users of XYZ Organization's e-mail system and other communications systems and networks. For the purposes of this policy, the term, Users, shall be defined to include employees, members of the medical staff, independent contractors, consultants, temporary workers, students and other individuals or entities who use or have access to the organization's e-mail system. XYZ Organization reserves the right to modify this policy from time to time.

User's Duty of Care. User shall use the same care in the tone and content of e-mail and other electronic documents as s/he would for any other written communication. User recognizes that sending e-mail over the Internet is instantaneous and generally unretrievable. User further recognizes that his or her e-mail address identifies XYZ Organization and understands that any statements, even those containing a personal communications disclaimer, may be attributed to the organization. User shall endeavor to make all electronic communications truthful and accurate and acknowledges that anything created or stored on the computer system may, and likely will, be reviewed by individuals other than the original addressee. User shall strive to use good grammar and correct punctuation and understands that the quality of his or her writing reflects upon XYZ Organization. In the absence of explanation, User recognizes that e-mail messages may be ambiguous and convey an incorrect impression. To minimize the risk of misdirected messages, User shall be responsible for verifying the address of an e-mail account and confirming that the message has been received by the intended recipient. User shall not knowingly violate the acceptable use policies of any entity through which electronic communications are transmitted or received, and agrees that all messages shall be in accordance with accepted professional and business practices.

Ownership of Systems and Data. User understands that XYZ Organization owns the e-mail system and other communications systems and networks and all messages stored on them or transmitted using them, and such communications systems may only be used for approved purposes as further defined herein.

Permitted Use. User shall be permitted access to XYZ Organization's e-mail system and other communications systems and networks to assist in the performance of User's job functions. Occasional, limited, appropriate personal use of the e-mail system is permitted if the use does not (i) interfere with the User's work performance; (ii) interfere with any other User's work performance; (iii) have undue impact on the operation of the organization's computer system; or (iv) violate any other provision of this policy or any other policy, guideline, or standard of XYZ Organization

including without limitation XYZ Organization's Code of Conduct. At all times, User is responsible for using the e-mail system in a professional, ethical, and lawful manner. User understands that incidental personal use of the e-mail system is a privilege that may be revoked at any time. User further understands that no right exists to obtain the contents of e-mail communications once his or her employment is terminated.

Prohibited Activities. Material that is indecent, obscene, offensive, profane, defamatory or derogatory, including without limitation, sexual comments or images, racial or ethnic slurs, off-color or discriminatory jokes or cartoons, or otherwise unlawful or inappropriate may not be sent by e-mail or other form of electronic communication (e.g., bulletin board systems, newsgroups, and chat groups) or displayed on or stored in XYZ Organization's computer system. If User encounters or receives this kind of material, s/he immediately shall report the incident to his or her supervisor. Similarly, links to sites containing sexually explicit or other prohibited content as described in this Section may not be transmitted by e-mail or other form of electronic communication. User understands that use of the e-mail system for harassment, stalking, to violate the privacy of another, to commit fraud, or to otherwise disrupt the ability of another to communicate electronically is prohibited. User shall not gain or attempt to gain unauthorized access to e-mail belonging to any other user to pry into the affairs of other users. User further understands that use of the e-mail system to conduct an outside business or to shop for personal items is prohibited. Without prior written permission from his or her supervisor, XYZ Organization's e-mail system also may not be used for dissemination or storage of commercial or personal advertisements, solicitations, promotions, religious or political debate, or any other unauthorized use as may be specified by the organization from time to time.

Communication of Proprietary Information. Unless expressly authorized by his or her supervisor, sending, transmitting, or otherwise disseminating proprietary data, trade secrets, or other confidential information of XYZ Organization, or infringing on the proprietary rights (including copyrights) of others is strictly prohibited. User shall label proprietary data, trade secrets, or other confidential information appropriately in e-mail communications to ensure that such information is not treated in the same manner as ordinary business records. Prior to transmitting proprietary data, trade secrets, or other confidential information, User first shall consult with his or her supervisor to determine whether another mode of transmission is warranted. User understands that unauthorized dissemination of this information may result in substantial civil liability as well as severe criminal penalties under the Economic Espionage Act of 1996.

Communication of Information Subject to the Physician-Patient, Psychotherapist-Patient or Other Privilege, or Otherwise Protected from Discovery. User understands that information necessary to perform his or her job functions may include information subject to the physician-patient, psychotherapist-patient, and/or other privilege or statutory protection from discovery, and that such information must be maintained in accordance with applicable statutory mandates for the privileged or statutorily protected status of such communications to be preserved. User further understands that privileged or statutorily protected communications must be treated with appropriate confidentiality and security, and that such communications must not be distributed to individuals outside the scope

of the privilege or statutory protection. Whenever there is any question whether certain information is privileged or statutorily protected, User shall verify the nature of such communications with his or her supervisor (or the Vice President for Medical Affairs if User is a member of XYZ Organization's medical staff or provider panel) prior to transmitting the information. When the information being transmitted is highly sensitive, User first shall consult with his or her supervisor (or the Vice President for Medical Affairs if User is a member of XYZ Organization's medical staff or provider panel) to determine whether another, more secure, mode of transmission is warranted.

User shall exercise due care when transmitting information subject to a privilege or statutory protection via e-mail including observance of the following steps: (i) include the following caption at the top of each message: "PRIVILEGED AND CONFIDENTIAL; DO NOT FORWARD WITHOUT SENDER'S EXPRESS PERMISSION"; (ii) if using group mailing or other distribution lists, ensure that all addressees are appropriate recipients of the privileged or statutorily protected information; (iii) verify all header fields prior to sending messages to ensure that the information contained therein is correct; (iv) confirm receipt of messages by an appropriate means; (v) do not forward privileged or statutorily protected communications or their contents to others inside or outside the organization without the prior approval of his or her supervisor (or the Vice President for Medical Affairs if User is a member of XYZ Organization's medical staff or provider panel); and (vi) store printed incoming and outgoing messages in a manner consistent with their privileged or statutorily protected nature and segregated from non-privileged or non-statutorily protected material.

a. Information Subject to the Physician-Patient, Psychotherapist-Patient, Chemical Dependency or Other Privilege. In addition to observing the transmission steps described in this Section, User shall handle all communications containing information subject to the physician-patient, psychotherapist-patient or other privilege in accordance with the following. In transmitting sensitive health care information including HIV test results and AIDS records, mental health and developmental disability records, alcohol and drug abuse diagnosis and treatment records and genetic information, User shall disclose the minimum information necessary consistent with the request for disclosure. User shall ensure that patient information and records are disclosed only in accordance with applicable state and federal laws and regulations.

b. Attorney-Client Communications. In addition to observing the transmission steps described in this Section, User shall handle all attorney-client communications in accordance with the following. Prior to transmitting any e-mail communications to in-house counsel or an attorney representing XYZ Organization, User shall obtain the prior approval of his or her supervisor (or the Vice President for Medical Affairs if User is a member of XYZ Organization's medical staff or provider panel).

Peer Review Information and Documents. In addition to observing the transmission steps described in this Section, User shall handle all communications relating to credentialing, quality assurance and peer review matters in accordance with the following. Prior to transmitting any e-mail communications containing credentialing, quality assurance and peer review information, User shall obtain the prior approval of his or her supervisor (or the Vice President for Medical Affairs if User is

a member of XYZ Organization's medical staff or provider panel) to ensure that such information and documents are not distributed to individuals or entities other than those specifically identified in XYZ Organization's Medical Staff Bylaws and/or Rules and Regulations, organizational policies or as otherwise directed by the Vice President for Medical Affairs.

Use of Encrypted Software or Data. The federal government has imposed restrictions on export of programs or files containing encryption technology (such as e-mail programs that permit encryption of messages and electronic commerce software that encodes transactions). User shall not place software containing encryption technology on the Internet or transmit such software in any form outside the United States without prior written authorization from the system administrator. User shall not install or use encryption software on any of XYZ Organization's computers without first obtaining written permission from the system administrator.

Virus Detection. User shall be responsible for ensuring that all incoming e-mail and attached files (including without limitation messages from newsgroups or other online services) are scanned for viruses, self-replicating code or other destructive programs with virus checking software approved by XYZ Organization. If User suspects that a virus has been introduced into the organization's computer network, s/he shall notify the system administrator immediately.

10. Right to Monitor. User acknowledges that the e-mail account provided by XYZ Organization is to assist User in the performance of his or her job functions. User understands that log-on passwords are intended to control access to individual workstations rather than to restrict access to the content of any communications originated by User, and User recognizes that personal e-mail communications should not be considered to be either private or secure, and may be discoverable in compliance audits, litigation, external investigations by law enforcement personnel and internal security investigations. User understands that the XYZ Organization has the right, but not the duty, to use human or automated means to monitor, without prior notice, both individual usage and the content of all material created, stored, sent, or received on its e-mail system and other communications systems and networks to ensure that the e-mail system is being used for legitimate business purposes and that any incidental personal use is in accordance with this policy. XYZ Organization further reserves the right to disclose facts about system usage and the content of messages to law enforcement officials and any other third parties as appropriate. User expressly waives any right of privacy in anything s/he creates, stores, sends, or receives on XYZ Organization's computer system or through the Internet or any other computer network, and consents to XYZ Organization's access to and review of all materials created, stored, sent, or received by User.

11. Document Retention and Recordkeeping. Unless directed to the contrary by his or her supervisor, User shall discard inactive e-mail after sixty (60) days. User agrees that incoming and outgoing e-mail communications shall be printed out or saved electronically for specified periods as necessary to meet applicable business, regulatory and legal recordkeeping requirements as required by his or her supervisor. XYZ Organization shall suspend automatic deletion of e-mail and User shall take immediate steps to preserve such communications, both on the organization's e-mail

system and individual computer hard disk drive, if such communications are identified as relevant to a threatened or pending litigation or other formal investigation upon notification from his or her supervisor.

12. Forwarding E-mail. User recognizes that electronic communications may contain sensitive matter and shall not forward e-mail, either electronically or on paper, to any other person or entity without the prior permission of the sender to ensure that subsequent distribution is authorized.

13. Illegal Copying. User shall not illegally copy material protected under copyright law from the Internet, online services or other sources and include it in e-mail communications to make it available to others for copying. User further shall be responsible for complying with copyright law and applicable licenses that apply to software, files, documents, messages, and other material s/he wishes to download or copy and transmit via e-mail. If User becomes aware of any misuse of software or violation of copyright law, User immediately shall report the incident to his or her supervisor.

14. Chain E-mail. User shall not initiate or forward chain e-mail (i.e., a message sent to a number of people asking each recipient to send copies with the same request to a specified number of others).

15. Sending Unsolicited E-mail ("Spamming"). Without the express permission of his or her supervisor, User shall not send unsolicited e-mail to third parties with whom they do not have a prior relationship or for other than legitimate business purposes associated with XYZ Organization.

16. Altering Attribution Information ("Spoofing"). User shall not alter the "From" line or other attribution-of-origin information in e-mail messages or postings. User understands that anonymous or pseudonymous electronic communications are prohibited. User further understands that the use of anonymous remailers (i.e., a mail server that receives incoming messages, removes the header information that identifies the original sender, and then sends the message to the intended recipient) is prohibited.

17. Standard Footers. To ensure misdirected communications are handled appropriately, User agrees to append the following footer to all e-mail sent outside XYZ Organization:

"This e-mail and any files transmitted with @ are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient or the individual responsible for delivering the e-mail to the intended recipient, please be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify _____ by telephone at _____. You will be reimbursed for reasonable costs incurred in notifying us."

18. Computer Security. User shall be responsible for ensuring that his or her use of XYZ Organization's e-mail system and other communications systems and networks (including accessing

e-mail remotely) does not compromise the security of XYZ Organization's computer network. User further shall be responsible for taking reasonable precautions to prevent intruders from accessing the organization's computer network without authorization and to prevent the introduction and spread of viruses. User shall not attempt to circumvent XYZ Organization's data protection measures or uncover security loopholes or bugs. User shall avoid leaving open e-mail on his or her computer workstation, and shall employ password-activated screen savers for his or her computer workstations located in both XYZ Organization and in other approved remote access locations.

19. Duty Not to Waste Computer Resources. User shall not deliberately perform acts that waste computer resources or unfairly monopolize such resources to the exclusion of others. These acts include, but are not limited to, sending mass e-mailings or chain letters, subscribing to nonbusiness-related listservers and mailing lists, engaging in online "chat groups," or otherwise creating unnecessary network traffic. Audio, video, picture or other attached e-mail files that require significant storage space may not be downloaded to XYZ Organization's computer system unless such files are business-related.

20. Compliance with Other Policies and Agreements. User agrees to abide by all other policies of XYZ Organization that apply to electronic communications, including without limitation, the organization's (i) computer security policy; (ii) Internet/World-Wide-Web communications policy; (iii) organizational and/or departmental recordkeeping/record retention policies; and (iv) employee, medical staff, or other required confidentiality agreements.

21. Compliance with Applicable Laws. User agrees to comply with all applicable federal and state laws and regulations in the use of XYZ Organization's e-mail system and other communications systems and networks.

22. Sanctions for Violating Policy. User understands that sanctions for violating XYZ Organization's e-mail policy may include revocation of User's e-mail privileges and disciplinary action up to and including termination of employment (or disciplinary action up to and including termination of a physician's medical staff appointment or panel participation in accordance with XYZ Organization's medical staff bylaws and rules and regulations), and civil and/or criminal penalties.

II. ADDITIONAL GUIDELINES FOR CLINICAL USE OF E-MAIL

23. Permitted Patient E-mail Messages. The designated User shall not utilize e-mail to correspond directly with patients without first obtaining the patient's written consent to communicate via this medium and verifying the patient's e-mail address, unless such correspondence is in response to a direct e-mail communication initiated by the patient. E-mail communications shall be permitted only for patients with whom there is an existing relationship with XYZ Organization's physicians or other practitioners for the following purposes: (i) annual visit or other appointment reminders; (ii) scheduling of appointments; (iii) scheduling of laboratory and other diagnostic tests or procedures; (iv) prescription refills and questions about medication dosage or side effects; (v) patient instructions; (vi) notice of educational events and new patient services;

and (vii) billing questions. Upon completion of the patient's request, the designated User shall send a new message to inform the patient of completion of the request. All responses to patient e-mail messages shall include the text of the original message to maintain the context of the communication. E-mail communications shall not be used by XYZ Organization's physicians and other practitioners or designees to respond to requests for medical advice, to inform patients of laboratory or other diagnostic test results, for urgent or time-sensitive patient communications (e.g., sudden or substantive changes in the patient's health) or for individuals who are not established patients of XYZ Organization or its physicians and other practitioners. Disclosure of patient-identifiable health information and, in particular sensitive health information including HIV test results and AIDS records, mental health and developmental disability records, alcohol and drug abuse diagnosis and treatment records, and genetic information through the e-mail system is prohibited, except as otherwise expressly permitted by XYZ Organization's policy concerning release of patient information and Section 7 of this e-mail usage policy.

24. Content of Patient E-mail Communications. The designated User shall verify the accuracy of the information contained in all patient e-mail communications and use the same care in the tone and content of e-mail and other electronic documents as s/he would for any other written patient communication. Patient e-mail communications shall not be used as a vehicle to make disparaging remarks about other members of the health care team.

Response Time. In response to all incoming e-mail messages from patients, the designated User shall send a reply confirming that the message has been received by the identified physician, practitioner or designee, the length of time within which the patient can expect to receive a response, and a telephone number to call if the patient is in need of immediate medical attention.

Escalation of Communications. The designated User agrees to append the following footer to all patient e-mail communications:

"Patients are invited to escalate communication to a telephone call or an office visit at any time should they feel that e-mail is insufficient to address their clinical concerns or if computer network problems occur. Such communications shall be addressed to: John Smith, XYZ Organization, 111 Any Street, Anywhere, USA 11111 (xxx) xxx-xxxx, Ext. xxx."

Patient Instructions for Clinical Use of E-mail. The designated User shall provide patients with the following instructions for communicating with XYZ Organization's physicians and other practitioners or designees: (i) the subject line of message should be labeled "appointment," "prescription," "instructions," "tests," or "billing question" as appropriate; (ii) request that patients include their full name and patient identification number in the body of the message to avoid confusion with other patients who may have the same name; (iii) request that patients acknowledge receipt of e-mail messages and confirm that patients have read and understand any instructions conveyed via e-mail by sending a brief reply; (iv) inform patients of the individuals in addition to the addressee who will process messages during the addressee's usual business hours and during the addressee's vacation or illness; and (v) inform patients that all e-mail messages shall be included as

part of the medical record. The acknowledgement shall be filed in the patient's paper chart [or linked to an electronic medical record if one is being utilized]. If such confirmation is not received within forty-eight (48) hours, the designated User shall telephone the patient to confirm receipt of the e-mail communication and document this information in the patient's paper chart [or link this information to an electronic medical record if one is being utilized].

Confidentiality Warning. The designated User shall include the following caption at the top of each patient e-mail message:

"E-MAIL CAN BE MISDIRECTED TO OR INCEPTED AND DISCLOSED BY UNINTENDED THIRD PARTIES AND THUS MAY NOT A CONFIDENTIAL MEDIUM OF COMMUNICATION. PATIENTS WHO HAVE CONFIDENTIALITY CONCERNS SHOULD NOT TRANSMIT HEALTH INFORMATION VIA E-MAIL AND SHOULD CONSIDER USING ANOTHER MODE OF COMMUNICATION. PATIENTS UNDERSTAND AND AGREE THAT E-MAIL TRANSMISSION IS BEING USED FOR THE CONVENIENCE OF PATIENTS AND XYZ ORGANIZATION DOES NOT WARRANT THE CONFIDENTIALITY AND SECURITY OF THIS TRANSMISSION. PATIENTS, AND IN PARTICULAR THOSE PATIENTS WHO HAVE MULTI-USER E-MAIL ACCOUNTS, ARE RESPONSIBLE FOR MAINTAINING THE CONFIDENTIALITY AND SECURITY OF THEIR OWN E-MAIL ACCOUNTS. "

Patient Mailing Lists. If it becomes necessary to notify the patient population with whom XYZ Organization's physicians and other practitioners or designees communicate electronically, or a particular group of patients, of an impending shutdown of XYZ's Organization's computer network for maintenance, notice of educational events and new patient services, a change of address, or other information that is appropriate for a group mailing, the designated User shall use the "blind courtesy copy" software feature on such mailings to keep recipients invisible to each other.

Retention of Patient E-mail Messages. The designated User shall print all patient e-mail messages in full, including replies and confirmation of receipt, and immediately place them in the patient's paper chart [or link them to an electronic medical record if one is being utilized] to ensure that members of the health care team have access to all current information relating to a patient's diagnosis and treatment. Immediately following transmission or receipt of all patient e-mail communications, the designated User also shall archive such messages in XYZ Organization's electronic messaging system for a period of at least ninety (90) days.

31. Practitioner E-mail Consult Requests. E-mail shall not be used among XYZ Organization's physicians and other practitioners or designees to request patient management advice in situations where a clinical evaluation of the patient and a review of existing clinical data are indicated in accordance with the applicable standard of care. Requests for patient consults transmitted via e-mail shall not include patient identifiable information within the text of the message or attached medical records unless all parties to the communication employ a highly secure encryption modality, and message authentication and identification procedures to verify that the message was transmitted by the stated individual and that the text of the message was not falsified by a third party or fraudulently altered by the recipient. If a response is not received within a reasonable amount of time, then the party requesting the patient consult shall escalate the communication to a telephone call or facsimile

or other written communication as appropriate.

User acknowledges that s/he has read and understands this policy governing use of XYZ Organization's e-mail system and other communications systems and networks and agrees to abide by the terms of such policy.

Date _____

Signature

Printed name

SAMPLE