USE OF ELECTRONIC MAIL (EMAIL) IN COMMUNICATION OF RESTRICTED INFORMATION

PURPOSE

To establish a policy for utilization of email for communicating Restricted Information that safeguards confidentiality and meets applicable state and federal laws and regulatory standards.

This policy applies to the UCLA Health System and David Geffen School of Medicine at UCLA (hereafter referred to as “UCLA Health”).

DEFINITIONS

“Protected Health Information” or “PHI” is any individually identifiable health information, in any format, including verbal communications, regarding a patient created as a consequence of the provision of health care. “Individually identifiable” means that the health or medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual’s identity. PHI includes patient billing and health insurance information and applies to a patient’s past, current or future physical or mental health or treatment.

“Electronic Protected Health Information” or “ePHI” is PHI that is transmitted by electronic media or is maintained in electronic media. For example, ePHI includes all data that may be transmitted over the Internet, or stored on a computer, a CD, a disk, magnetic tape or other media.

“Personal Information (PI)” as used in this policy is an individual’s first name or first initial and last name combined with any one of the following:

1. social security number,
2. driver’s license number or California identification card number,
3. account number, credit, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account,
4. medical information, or
5. health insurance information.
“Medical information” means any information, in either electronic or physical form, regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional, and which may be in the possession of or derived from a health care provider, health care service plan, pharmaceutical company or contractor. “Health insurance information” means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records. Medical information and health insurance information for patients are also considered to be PHI.

“Restricted Information” (as defined by UC Policy IS-3, Electronic Information Security) describes any confidential or Personal Information that is protected by law or policy and that requires the highest level of access control and security protection, whether in storage or in transit. This includes Personal Information, PHI and ePHI as defined in this section but could also include other types of information such as research data.

“Workforce” means employees, volunteers, and other persons whose conduct, in the performance of their work for UCLA Health System, is under the direct control of UCLA Health System or the Regents of the University of California, whether or not UCLA Health System pays them. The Workforce includes employees, medical staff, and other health care professionals, agency, temporary and registry personnel, and trainees, house staff, students and interns, regardless of whether they are UCLA trainees or rotating through UCLA Health System facilities from another institution.

POLICY
It is the policy of UCLA Health System to protect the privacy and confidentiality of information when transmitted electronically consistent with federal and state laws and regulations and University policies.

The professional, ethical and legal guidelines and requirements applicable to traditional communications between health care providers and/or their patients also apply to electronic communications.

I. Email Systems
When emailing restricted information among UCLA Health workforce members, such email communications should only be transmitted using the UCLA Health MedNet email system (e.g. with the @mednet.ucla.edu address) or other UCLA email addresses approved by the Privacy and Information Security Offices. Addresses such as, but not limited to, Bruin Online, Gmail, Yahoo, Hotmail and other non-MedNet email accounts must not be used. Do not forward your MedNet email account to a non-MedNet email account. For email communications with individuals outside the MedNet system or other approved UCLA email addresses see Section II under GUIDELINES.
II. **Minimum Necessary Use of ePHI**
UCLA Health Workforce members are responsible for taking reasonable steps to protect patient privacy and to guard against unauthorized use of PHI. Only the information necessary to accomplish the purpose should be transmitted and should be distributed to only those with a legitimate “need to know”. Disclosures of PHI in email should be in accordance with Privacy Policy No. 9401 “Protection of Patient Information (Protected Health Information).

III. **Patient Consent**
Prior to beginning an online communication relationship between a clinician and a patient, the patient’s prior written consent must be obtained regarding the appropriate use and limitations of this form of communication. The patient’s consent shall be maintained in the patient’s medical record.

IV. **Emergency Subject Matter**
Email communication should never be used for urgent or emergency problems and cases. UCLA Health clinicians, staff, and patients should be made aware of the risks associated with online communication related to emergency medical situations by making it clear that email should not be utilized to report or seek advice or treatment for an emergency condition. Patients should be instructed to call their physician directly or 911 for emergency assistance, as appropriate.

V. **Authentication**
UCLA Health Workforce members have a responsibility to take reasonable steps to authenticate the identity of correspondent(s) in an electronic communication and to ensure that recipients of information are authorized to receive the communication.

Note: A best practice for verifying the identity of the patient and confirming the accuracy of the email address prior to sending an email is for the clinician to request that the patient send a test email and the clinician reply back.

VI. **Unauthorized Access**
The use of email communications may increase the risk of unauthorized disclosure of and/or access to Restricted Information (but should also create a clear record of the disclosure). UCLA Health email users should follow procedures that help to mitigate this risk. When inappropriate access has occurred, UCLA Health may have an obligation to inform the patient of a breach in privacy. The Privacy Office should be contacted immediately when incidents occur for appropriate follow up cases.

**GUIDELINES**

I. **Email Within the MedNet System**
The general guidelines below shall be followed when transmitting Restricted Information through electronic mail within the MedNet email system. Additional
guidelines, as specified by UCLA Policy 455: UCLA Email Policy and Guidelines, also apply when using email to conduct University business.

A. Use precautions when emailing. Sensitive health information such as that dealing with mental health, chemical dependency, sexually transmitted diseases, HIV or other highly personal information should not be transmitted via email. Only include the minimum amount of information in the body of the email for the intended purposes. In addition, if follow up is necessary use an alternative means of communication to discuss the subject of the email - such as telephone.

B. No Restricted Information should be typed in the “subject field” caption of an email message. Do not use “patient-specific information” such as the patient’s name or medical record number in the subject line of the e-mail. However, patient initials, medical record numbers, or patient encounter numbers may be used for billing and clinical areas when sending e-mail within the MedNet e-mail system.

C. If attaching a document that contains Restricted Information verify that the correct document is attached. Check that all address fields (e.g. “to”, “cc”, and “bcc”) reflect the correct individuals who will receive the message.

D. If an email containing unencrypted Restricted Information is sent by accident to an external address, (not containing @mednet.ucla.edu email address) notify the Privacy Office immediately.

E. If an email containing Restricted Information is received in error, send a “reply” e-mail to only the sender noting that it was received in error and that the sender should check that he/she has the correct e-mail address for the individual who should have received the message.

F. Each recipient on the distribution list should have an individual email address. Be careful when sending electronic mail containing Restricted Information to a mailing list or to shared email accounts because Restricted Information may be sent to external addresses or individuals who have no need to view the Restricted Information.

G. No person shall make a change to another person’s email message and pass it on without making it clear where the person has made the changes. Any changes should be reflected in bold text or through other means to make the changes readily identifiable.

H. Copies of all messages, which are pertinent to a patient’s care and treatment, should be placed in the patient’s medical record and are subject to electronic discovery. The policies and procedures related to
privacy and confidentiality of the traditional paper medical record also apply to all email communications.

II. E-Mail Outside the MedNet System
In addition to the guidelines stated in Section I above, the below guidelines shall also be followed when emailing Restricted Information outside the MedNet Email System.

A. Email Communication with Non-Patients
i. Emails sent outside the UCLA Health network are not always protected from interception during transmission and may be read at their destination by individuals other than the intended recipient. A secured email solution (i.e. encryption) must be utilized for all email messages containing PHI.

ii. The email subject line should not contain any PHI.

iii. The following footer, which is automatically appended to all outbound MedNet emails, should be included in all emails containing Restricted Information:

"IMPORTANT WARNING: This email (and any attachments) is only intended for the use of the person or entity to which it is addressed and contains information that is privileged and confidential. You, the recipient, are obligated to maintain it in a safe, secure and confidential manner. Unauthorized re-disclosure or failure to maintain confidentiality could subject you to federal and state penalties. If you are not the intended recipient, please immediately notify us by telephone or return email and delete this message from your computer."

iv. For assistance with secure email solutions, contact the Information Security Office (InfoSecAll@mednet.ucla.edu), MITS Help Desk or your Computer Services Coordinator (CSC).

B. E-Mail Communications Between Patients and Clinicians
i. Clinician Opt In
A clinician will decide if he or she wants to include email as a method for communicating with patients. Even if a patient signs the email consent, the clinician is not obligated to use email to communicate with that patient.
ii. Patient Consent.

Patients must affirm their consent to allow UCLA Health System clinicians to send email containing PHI to the patient’s email address. An “email relationship” must not begin until the patient provides consent. When obtaining patient consent whether by paper, secure portal or other means, the following items should be included:

a. Turnaround time for email messages;

b. Instructions on how to escalate to phone calls and office visits;

c. Statement indemnifying UCLA Health System for information loss due to technical failures; and

d. Notice to the patient that standard emails are not secure and pose some risk that the data can be intercepted.

When using a consent form, providers must use the UCLA Health System approved form titled – (Email Consent Form – Form #12005 – see Appendix 1).

Patients should complete separate consent forms with each clinician he/she wishes to communicate via email. However; if the patient sees multiple clinicians in a group practice he/she may sign one consent form covering the entire group.

The signed consent form must be stored in the patient’s medical record. When an online secure solution is used, proof of the patient’s electronic authorization shall be logged in the solution and enabled to be verified at UCLA Health request.

C. Email Communication Content.

The email transmission of PHI should be limited to scheduling and other administrative communications (including prescription refill information that does not reference the drug). The emailing of test results, diagnostic or treatment information should not occur. If a patient initiates an email conversation or other secure electronic communication involving clinical areas, a phone or face-to-face discussion should be conducted.

None of the following clinical laboratory test results and any other related results shall be conveyed to a patient by email or other electronic means:

i. HIV antibody test.

ii. Presence of antigens indicating a hepatitis infection.

iii. Abusing the use of drugs.
iv. Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation, if they reveal a malignancy.

D. Additional Guidelines

i. Clinicians should only use their MedNet e-mail address to send email to patients. Do not send email containing PHI from a Bruin Online, Hotmail, Yahoo, or other personal e-mail account.

ii. The email must be addressed to the patient. Do not send emails to distribution lists.

iii. The email subject line should not contain any PHI.

iv. In the body of the email, clinicians should use the patient’s initials or medical record number, but not the patients’ full name.

v. If clinicians need to send clinical information to the patient (i.e. lab results, prescription, clinic notes),
   a. The information should be saved into files which are then encrypted, password-protected and attached to the email. Files which are too large to email can be encrypted, copied to CD and then sent by regular mail. The patient should be provided the password over the phone (do not e-mail the password).

   b. Other options would be to print a hard copy of the information and mail it to the patient; or fax the materials per the UCLA Health System faxing policy (See HS 9453-B Facsimile Transmission of PHI).

vi.Clinicians may communicate via e-mail with a patient who is also a UCLA Health System employee and wishes to communicate using his/her UCLA MedNet e-mail address as long as the Patient-Clinician consent form is signed and the guidelines are followed.

vii. Clinicians may refuse to communicate with patients via e-mail if the provider believes e-mail communication with the patient should not occur (e.g. is not in the patient’s best interest). The decision not to communicate via email should be documented in the patient’s medical record.

viii. When clinicians are out of the office (e.g. vacation, business travel, sickness) for any period of time and have an email relationship with patients, they should create an automatic ‘out of office” reply
message saying that they will be out of the office until a specific date and state whether they will be checking e-mail during their absence. Clinicians should also note that if the sender is a patient, that he/she should contact an alternate number for immediate assistance or that the provider will reply to his/her message upon returning to the office.

E. Doctor-Patient Relationship: Licensing Considerations.

Online interactions between a health care provider and his or her patient are part of the doctor-patient relationship. Communications with a patient who resides outside of the State of California may create a risk for those physicians not licensed in that state. Clinicians communicating with patients via email who reside outside the State of California must follow the guidelines stated in Section III above.

III. Privacy Incident Reporting

All instances in which a patient’s right to privacy has or may have been compromised via outgoing or incoming emails, should be reported immediately to the UCLA Health System’s Chief Privacy Officer. (See: HS Policy 9459, “Privacy and Security Incident Reporting.”)

IV. Questions

Any questions on emailing Restricted Information should be referred the Privacy and Information Security Offices (PrivacyInfoSec@mednet.ucla.edu).

V. Enforcement

Failure to follow any provisions of this policy may result in disciplinary action, up to and including termination.

FORMS

Email Consent and Use Agreement (Patient-Clinician) – Forms Portal form #12005

REFERENCES

Health Insurance Portability and Accountability Act, 45 CFR 160-164
California Medical Information Act, California Civil Code Section 56 et seq.
Information Practices Act of 1977, California Civil Code Sections 1798.29 and 1798.82
California Health and Safety Code Sections 1280.15 and 130203
California Lanterman-Petris Short Act (“LPS Act”),
UCLA Policy 455: UCLA Email Policy and Guidelines
Use of Electronic Mail (E-Mail) in Communication of Restricted Information Policy

CONTACT
Chief Privacy Officer, Compliance Office
Chief Information Security Officer, Compliance Office

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Formerly Policy No.9450 Use of Electronic Mail (email) in Communication of Patient Identifiable Information (PHI)

APPROVAL
Health Sciences Enterprise Compliance Oversight Board
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REFERENCES
Health Insurance Portability and Accountability Act, 45 CFR 160-164
California Medical Information Act, California Civil Code, Section 56 et seq.
California Health and Safety Code, Section 123148
Use of Electronic Mail (E-Mail) in Communication of Restricted Information Policy

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APPROVAL

HIPAA Committee
Chief Compliance Officer
APPENDIX 1

EMAIL CONSENT FORM

- UCLA Healthcare
- Santa Monica UCLA Medical Center and Orthopedic Hospital
- Stewart and Lynda Resnick Neuropsychiatric Hospital

You and your healthcare provider have agreed to correspond using electronic mail (e-mail). This form provides guidelines for the intended use of this type of communication, and documents your consent.

**IN A MEDICAL EMERGENCY, DO NOT USE E-MAIL. CALL 911.**

**E-mail Use:** Generally, e-mail correspondence should be between the provider and an adult patient 18 years or older, or parent or legal guardian of a minor.

**Privacy and Confidentiality:** Unless your provider tells you specifically that the e-mail will be conducted via a secure server, consider e-mail like a postcard that can be viewed by unintended persons. In addition, the content of the email may be monitored by the hospital to ensure appropriate use.

Discuss with your provider who will process your e-mail messages during business hours, vacations or illness. All e-mails regarding your care will be included in your medical record.

**Creating a Message:** On the “Subject” line, include the general topic of the message, for example, Prescription or Appointment or Advice. In the body of the message, include your name and your identification number (Medical Record Number) or your date of birth.

**Content of The Message:** E-mail should be used only for non-sensitive and non-urgent issues. Types of information appropriate for e-mail include:

- Questions about prescriptions
- Routine follow-up inquiries
- Appointment scheduling
- Reporting of self-monitoring measurements, such as blood pressure and glucose determinations

According to the California law, your provider may not communicate any lab results unless your e-mail correspondence is conducted through a secure server. Additionally, e-mail must never be used for results of testing related to HIV, sexually transmitted disease, hepatitis, drug abuse or presence of malignancy, or for alcohol abuse or mental health issues.

**Response Time:** Discuss with your provider the expected time in which to receive a response. If the expected time is exceeded, call your provider at the phone number below.

**Ending E-mail Relationship:** Either you or your provider may request via e-mail or letter to discontinue using e-mail as a means of communication.
EMAIL CONSENT FORM

Disclaimer: UCLA Healthcare, Santa Monica UCLA Medical Center and Orthopedic Hospital and Stewart and Lynda Resnick Neuropsychiatric Hospital are not responsible for e-mail messages that are lost due to technical failure during composition, transmission and/or storage.

I have read and understand the information above, and had any questions answered to my satisfaction. I agree to the guidelines for e-mail communication.

Date ___________________________ Signature of patient, parent or personal representative ___________________________ Relationship (if other than patient) ___________________________

Patient E-mail address (please print): ___________________________

Provider Name: ___________________________ Phone Number: ___________________________

Provider E-mail address (please print): ___________________________