

Electronic Communications from Patients and Electronic Signatures

Policy:

1. Acceptance of e-mail from Patients

It is the policy of the Practice to accept e-mail communications from patients provided that the patient has agreed in writing (using an original ink signature) to abide by the Practice's *Agreement on the Use of Electronic Mail for Patient Communications (the "Agreement")*, a copy of which is attached, and the e-mail received is in compliance with such Agreement. A form Agreement on the Use of Electronic Mail for Patient Communications is behind Tab 48.

2. Electronic Signatures

The Practice is required by law to obtain the consent and/or authorization of patients to perform certain medical procedures, make disclosures of PHI and perform numerous other activities for the benefit of patients and the operations of the Practice. At the present time, however, and as a result of the limitations of technology used by the majority of the Practice's patients, the Practice **WILL NOT ACCEPT** e-mail communications in lieu of an ink signature in connection with any form, consent or authorization that requires a signature. Similarly, the Practice **WILL NOT ACCEPT** digital signatures evidencing a patient's authorization.

The Practice anticipates modifying this policy at a future date following the issuance of final Federal Electronic Signature Standards (and applicable State requirements). At that time, it is expected that the Practice will accept digital signatures from patients in limited circumstances but only if the patient's form of digital signature provides assurances to the Practice that: (i) the transmission has been unaltered; (ii) there is substantial evidence that the author of the message is the patient or his/her legally authorized representative, and there is no risk that the patient can deny the digital signature as his/her own; and (iii) there is assurance that the signatory is indeed that of the patient.

Procedures:

1. Receipt of e-mail communications from Patients who have not signed the Agreement

If an employee of the Practice or member of the Practice's professional staff receives via Practice computers an e-mail from a patient relating to that patient's health care, payment or other matters involving private health information, it shall be that employee or professional staff member's responsibility to first confirm that the sender has on file with the Practice's Office Manager a signed *Agreement on the Use of Electronic Mail for Patient Communications*. If such *Agreement* is not on file, it shall be the Practice's policy to kindly reply to the sender with the following message:

For the protection of your own privacy, the Practice has a policy of not communicating with patients about potentially confidential health or financial matters until the Practice has received a signed Agreement on the Use of Electronic Mail for Patient Communications. We have attached a form of this Agreement that we would ask you to review and sign and return to us by U.S. mail at the address listed on the form. By signing the Agreement, in the future, we will accept certain communications from you via e-mail about certain matters.

We regret this inconvenience to you. Should you have any questions about our policy or the Agreement, please call our Office Manager at 212-727-3717.

2. Receipt of e-mail communications from Patient with a signed Agreement.

- a. If an employee or member of the professional staff receives an e-mail communication from a patient that conforms to the requirements of the patient's signed *Agreement*, the employee or member of the professional staff must:
 - i place a copy of the communication in the patient's medical record;
 - ii. act reasonably and responsibly to obtain and prepare an appropriate response to the patient's communication; and
 - iii. to the extent necessary, deliver the e-mail communication to the appropriate person within the Practice and then indicate to the patient the process and timing for when the Practice will provide a more complete response.
- b. Every response from an employee or member of the professional staff shall contain:
 - i. the full name of the employee or professional staff member;
 - ii. the employee's or professional staff member's telephone number and fax number; and
 - iii. the following statements:
- c. Neither an employee or member of the professional staff shall provide any form of medical advice through an e-mail communication, except to the extent the employee or member of the professional staff is a licensed nurse practitioner, physician or other licensed health care professional who is familiar with the patient's medical condition and the patient has been previously examined by a health care professional within the Practice.

- d. If an employee or member of the professional staff who receives an e-mail communication from a patient determines in his or her reasonable professional judgment that a response by e-mail is inappropriate or impractical, the employee or the member of the professional staff may request that the patient either speak with the practice by telephone or make an appointment for an in-office visit. Such a decision should be documented
- e. Failure to Comply with the Agreement.

If a patient fails to comply with the Agreement, the Office Manager shall inform the patient of such a failure to comply, and remind the patient of his or her obligations to comply with the Agreement. If a patient has repeatedly failed to comply with the terms of the Agreement, the Office Manager may inform the patient that, as a result of the patient's failure to comply with the terms of the Agreement, the Practice will no longer respond to e-mail communications from the patient.