



PRACTICE ADVICE

USING E-MAIL COMMUNICATIONS WITH PATIENTS: SAFETY VERSUS CONVENIENCE

DATE: 2015

Developing a good working relationship with patients and their families is an integral part of effective and patient-centered intervention. The vehicle of communication that suits many of patients and families is frequently e-mail. But how safe is the collection and disclosure of personal health information via e-mail?

CASLPO's Practice Advice Program has received many inquiries from the membership regarding this topic, so we have laid out some considerations to help you decide when to use this form of communication.

Consider three factors when determining the use of e-mail with your patients and families:

- 1) Ensure that you obtain and document knowledgeable consent from the patient or families to use e-mail
- 2) Consider the risk of harm regarding the content of information being disclosed via e-mail
- 3) Use technologies to help mitigate the risk of harm

1) KNOWLEDGEABLE CONSENT

Before you discuss consent, confirm with your employer if they have any restrictions on the use of e-mail as a means of communication with patients.

There are two forms of consent to consider in this situation. The first is the legal consent for the collection, use and disclosure of personal health information. According to the [*Personal Health Information Protection Act*, 2004 \(PHIPA\)](#), knowledgeable consent is defined as:

(5) A consent to the collection, use or disclosure of personal health information about an individual is knowledgeable if it is reasonable in the circumstances to believe that the individual knows,

(a) the purposes of the collection, use or disclosure, as the case may be; and

(b) that the individual may give or withhold consent. 2004, c. 3, Sched. A, s. 18 (5).

PHIPA also requires you, as health information custodians, to take reasonable steps to ensure that personal health information in your custody or control is:

12. (1) protected against theft, loss and unauthorized use or disclosure and to ensure that the records containing the information are protected against unauthorized copying, modification or disposal. 2004, c. 3, Sched. A, s. 12 (1).

Consequently, the second form of consent concerns the giving of permission for health information to be transferred electronically via e-mail. The patient or substitute decision maker (SDM) must be 'knowledgeable' about all of the risks and factors involved in using this form of communication before they give their permission or consent.

Ensuring that the patient or SDM is fully 'knowledgeable' will require some work on your part. If you are using an employer's or a third party's e-mail system, these parties may have the right to access and/or audit these communications. This information should be disclosed to your patients.

Second, explore all strategies, including liaising with your IT department if you have one, to make your email account as secure as possible. Discuss with the patient or family the steps you will be taking to keep the electronic transfer of personal information confidential and secure, and ask what they are going to do at their end. Talk about the potential risks of a breach such as viruses, hacking, loss of a portable device etc.

When discussing consent, consider who else might be involved in e-mail communications: for example, other family members such as a spouse, supervised support personnel and third parties, for example, doctors, teachers, and relevant professionals. We recommend that you document consent to communicate via e-mail for all of the various individuals

Finally, discuss and document the different types of information to be disclosed via e-mail. *Please see below.*

2) CONTENT OF HEALTH INFORMATION

You should always consider the risk of harm of a privacy breach when e-mailing patients and families. The mere fact that you, as an audiologist (AUD) or speech language pathologist (SLP), are associated with a patient is personal health information. Some health information is generally considered low risk, for example, scheduling an appointment or confirming a cancelation. However, the consequences of a privacy breach for reports containing sensitive medical information can be profound.

Have a conversation with your patient or SDM, outlining the different types of information that can be communicated from arranging appointments, asking and answering questions, giving therapy session updates, homework/carryover assignments, to assessment, progress and/or discharge reports. Establish with the patient or SDM what information can be communicated by e-mail and document the decision in the patient record. Both you as a clinician and the patient or family will have different comfort levels regarding content of e-mails.

3) MITIGATE RISK

Technology offers us great convenience for accessing information and communication. However, as a regulated health professional, you must adopt all reasonable safeguards to protect personal health information under your control.

PASSWORDS

Your work e-mail may be accessed from a variety of devices: smart phones, tablets, laptops and desktop computers. Make sure that all devices are password protected. Many devices allow the creation of a seven digit password which has a higher degree of security. Additionally, ensure that access to your work e-mail account is also password protected - do not share your passwords... ever!

LOST DEVICES

If you have a portable device make sure that it is connected to the 'cloud' and activate "find my phone/i-Pad". If you are in the unfortunate position of having a device stolen, you can access the cloud and 'wipe' all data, including e-mail accounts, from your phone or tablet thus protecting patient personal health information. If you have an android device there are various 'apps' that carry out the same function. With both systems you can still access the e-mail account from another device.

CORRECT E-MAIL ADDRESSES

When a patient or SDM gives consent to the use of email, consider sending an initial email to the address(es) on file reiterating the terms of use to which they consented and asking them to reply to confirm the e-mail receipt. This tests the e-mail addresses provided and eliminates sensitive information being transmitted on the original communication.

Ask the patient or SDM to inform you immediately if they change their e-mail address so that health information is not sent to a site that is no longer accessed by the patient. When you e-mail your patient or family, check the e-mail address very carefully to make sure it is correct. Examine the 'To', 'Cc' and 'Bcc' boxes to ensure that you are not inadvertently sending the e-mail to a third party. If you inadvertently send information to the wrong person recall the e-mail immediately.

ENCRYPTION

Ontario's Information and Privacy Commission has adopted a new slogan for electronic communications, "Encrypt by Default". Meet with your IT department or if you are in private practice consider meeting with an IT consultant to discuss software that encrypts both e-mail messages and attached documents including PDF formats. However, encryption is only truly effective as a security method when it is a two way process. You may send an encrypted report via e-mail, but then the patient or family may respond and send you questions regarding the content of the report in an unencrypted e-mail. To mitigate this risk you could send the encrypted report and ask the parent to call you with any questions, or minimally ensure that the patient is aware of the risks of responding with emails containing personal health information.

FREQUENTLY ASKED QUESTIONS

Question:

I work with a child who has a profound hearing loss, is bilaterally aided and about to enter school. The child's parents are separated, and if one parent brings the child for an appointment

the other parent wants an update via e-mail. Can I send the information to both parents via e-mail, even though the child lives with one parent?

Answer:

There are two questions here; can I use e-mail and can both parents receive information when they are separated? Yes, you can send information via e-mail as long as you discussed and documented knowledgeable consent from both parents. Consent can be obtained in person or over the phone and must be documented in the patient record. The second issue concerns Parents' rights under the *Children's Law Reform Act* (1990) and the *Divorce Act* (1985) to receive information. Even a parent who does not have custody of the child (access parent) has the right to receive information regarding their child's healthcare. However, if there is a court order prohibiting one parent from receiving information, that order must be fully respected. Ask the parents if there are any court orders pertaining to the disclosure of information.

Question:

We work in a busy Rehab Centre and use support personnel to run different rehab groups. Is it alright if support personnel e-mail patients and families? Generally they e-mail information about the particular group and give updates and tips to families.

Answer:

Again, consider the three factors: consent, risk of harm and mitigating risk.

You, as the regulated health professional, are responsible for the clinical care provided to the patient. It is your responsibility to ensure that the patient consented to participate in the group being run by the support personnel and that knowledgeable consent to the use of e-mail as a means of disclosing personal health information has been obtained and documented. You are also responsible for adequate supervision of the care provided by support personnel which includes reviewing information provided to patients and families and e-mail communications.

Question:

I am working in a difficult situation with regard to a child's mother. She is in a 'battle' with the School Board regarding classroom support for her child, and wants to use my assessment report as part of her submission. I was recently contacted by the mother asking me to change the content of my report to show that her child was not managing in the classroom. I explained that this was not possible. She has now asked me to send her a copy of my report via e-mail. I have real concerns that if I e-mail my report it might be changed.

Answer:

You are not required to send the mother the report via e-mail. You can offer to send it to her by mail, fax or arrange to meet her at the child's school. PHIPA outlines the requirements for disclosing personal health information when requested by the patient or substitute decision maker, it does not stipulate the vehicle of communication.

Alternatively you can send the report in a PDF format which cannot be altered. There is now software available which allows you to encrypt PDF documents.

Questions:

How do we document e-mail communications with patients and families? Does CASLPO want us to print out all e-mail exchanges and keep them in the patient record?

I work for an organization which uses electronic charting – how do I document e-mail communications?

Answers:

The CASLPO [Records Regulation \(2015\)](#) requires you to maintain a record that includes:

32. (2) 2. The date and purpose of each professional contact with the patient and whether the contact was made in person, by telephone or electronically.

How this is achieved is up to you, you can document a summary of the email communication in the patient record or you may print and keep an e-mail, especially if it is important to retain a verbatim record. If you work for an organization which uses electronic charting, speak to the Health Records department and discuss what should be done with printed copies of e-mails.

CASLPO HAS RESOURCES FOR YOU

Visit our website www.caslpo.com

[Records Regulation \(2015\)](#)

[Practice Advice](#) Articles including:

[Practicing Securely in an Insecure World](#)

[Subsequent Decision Makers' Rights](#)

Documentation sections in [Practice Standards and Guidelines](#)

PRACTICE ADVICE TEAM

Please contact one of us if you have any further questions.

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