Title: HIPAA – Electronic Messaging Policy	**Effective Date:** December 18, 2013
	Adoption/Revision Date: March 5, 2020
Custodian: County Attorney	**Approving Body:** Executive Committee

1. **Authority**
    a. Wis. Stat. 59.02, 59.03, 59.51, 59.52, and 45 C.F.R. 164.530(c)
2. **References**
    a. Adopting Resolution/Ordinance/Motion: Resolution 52-12-13
    b. Executive Committee meeting minutes from March 5, 2020
    c. Clark County Record Retention Policy and Clark County General Technology Policy
3. **Purpose**
    a. To establish a process and guidelines for the electronic transmission of protected health information by Clark County employees and agents.
    b. To protect the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements.
4. **Scope**
    a. This applies to the electronic transmission of protected health information. In the event any policy violates federal or state law or is held invalid by a court of competent jurisdiction, the affected policy shall be deemed to have been severed from this policy to the extent of its invalidity.
5. **Definitions**
    a. The terms below have the following meanings:
        i. Electronic messaging system means Clark County owned/leased and/or managed electronic devices, software, and/or programs used to transmit data for Clark County business.
        ii. Protected health information (PHI) means any individually identifiable information relating to the past, present, or future health status of an individual that is created, collected, or transmitted, or maintained by a HIPAA-covered entity in relation to the provision of healthcare, payment for healthcare services, or use in healthcare operations.
            1. Examples of PHI identifiers include, but are not limited to, names, addresses, dates, telephone numbers, fax numbers, email addresses, social security numbers, driver's license numbers, medical record numbers, account numbers, health insurance plan numbers, certification/license numbers, vehicle identification numbers, license plate numbers, device serial numbers, names of relatives, internet protocol address numbers, biometric data, and photographs.
6. **General**
    a. Clark County acknowledges the business use of electronic messaging systems for the transmission of PHI provides an increase in productivity and efficiency.
    b. Clark County only permits the transmission of PHI between Clark County and the patient/client using the following types of electronic messaging systems: 1) Clark County's email system; 2) mobile devices using device's primary messaging program (i.e. SMS text messages); and/or 3) software/program supported by Clark County for the transmission of secure messages.
        i. Transmitting PHI using personal devices is prohibited.

ii. Transmitting PHI using third-party applications or programs is prohibited (i.e. Facebook or any other social media site).
iii. Transmitting PHI between providers or to a third-party is prohibited unless provided otherwise in this policy.
iv. Transmitting PHI using facsimile is acceptable.

c. Users shall not transmit third-party PHI using electronic messaging systems regardless if the third-party provides consent.
    i. This restriction does not prohibit the transmission of PHI of a child, ward, or power-of-attorney principal to the legal custodian of such individuals with proper consent.
d. Users are limited to transmitting general patient PHI, such as scheduling, routine follow-up inquiries, reporting of self-monitoring measurements, etc.
    i. Users shall not transmit sensitive patient information, such as information related to diagnoses, mental health, AODA, etc.
e. Electronic messaging systems shall be password protected along with the activation of automatic lockout.
    i. Users shall not share passwords or other information that would jeopardize the security of such systems.
f. Prior to a user transmitting PHI using electronic messaging systems, users must receive and retain a completed consent form from the recipient set forth in Attachment A (HIPAA - Electronic Messaging Consent Form).
    i. Complete forms shall be retained by the user or the user's department.
g. Messages generated by or handled by the electronic messaging system, including back-up copies, are property of Clark County.
h. Messages shall be retained in accordance with Clark County's Record Retention Policy.
i. Users must comply with Clark County's General Technology Policy when transmitting PHI using electronic messaging systems.
j. Clark County may monitor the contents and usage of electronic messaging systems for operational, maintenance, auditing, security, and investigative purposes.
k. When transmitting PHI using electronic messaging systems, users shall comply with the following:
    i. Before transmitting any PHI, verify consent form is complete and valid.
    ii. Verify the contact information for the intended recipient is accurate (i.e. "To" in email).
        1. Avoid reply-all, forwarding messages, and autofill contact information.
    iii. Send messages encrypted if the device, software, or program has such capability.
        1. For use of Clark County's email system, user shall input "Secure" into subject line of email to trigger the system's encryption capabilities.
        2. Contact Clark County IT to verify the encryption capability of device, software, or program prior to transmitting PHI.
    iv. Ensure message subject headers are discrete without the inclusion of any specific identifiers or health information.
    v. For emails, a confidentiality statement as set forth in Clark County's General IT Policy shall be included at the end of the email.

vi. Messages shall contain the minimum information necessary for permitted purpose.
vii. Message should be de-identified if practical. In other word, messages shall not include full names, date of birth, medical record number, social security numbers, condition specific information, etc. that could reasonably identify the subject of the health information.
viii. Messages shall be reviewed for accuracy prior to transmission.
ix. Messages shall be retained and stored securely.
x. Messages shall become a part of the PHI subject's medical record.
xi. User shall not transmit obscene, offensive, harassing, or hostile messages to any recipient. No user shall enter, transmit, or maintain messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes, sexual preference, or health condition. No user shall enter, maintain, or transmit any abusive, profane, or offensive language.
xii. Transmission shall not involve any illegal or unethical activity.
xiii. Transmission shall not involve or disclose any activity that could adversely affect Clark County, its officers, employees, or agents.
xiv. Users may not use Clark County's electronic messaging systems to solicit for outside business ventures, organizational campaigns, or political or religious causes.

l. Users should periodically purge messages from their personal electronic messaging system that are not part of patient records and that Clark County no longer needs to retain pursuant to Clark County's Record Retention Policy. Clark County IT may delete messages after a certain period of time although such messages may be backed up on separate data storage media.
m. Users must immediately report violations of this policy to their department heads or to Clark County's Privacy Officer.

7. **Attachments**
   a. Attachment A – HIPAA - Electronic Messaging Consent Form

Revision History		
Adoption/Revision Date	**Overview of Adoption/Revision**	**Adoption/Revision Reference**
December 18, 2013	New policy to address transmission of PHI using email	Resolution 52-12-13
March 5, 2020	Replace HIPAA Email Policy; defines scope of permissible PHI transmission; and includes consent form	Resolution 52-12-13

Clark County, Wisconsin
Title: HIPAA - Electronic Messaging Consent Form

Subject's Name	
Name of Legal Custodian (if different than subject)	
Name of Clark County Department	

Clark County is committed to protecting the integrity of confidential medical information. Clark County acknowledges the use of electronic messaging for the transmission of such information can provide convenience and efficiency to clients that Clark County serves. Clark County has adopted safeguards to minimize risks associated with electronic messaging through Clark County's HIPAA – Electronic Messaging Policy and General Technology Policy, which are available by request. However, Clark County can only transmit confidential medical information if you know the risks of such transmission and agree to receive confidential medical information through electronic communication.

The following risks exist with the electronic transmission of confidential medical information:

1. Electronic messaging systems (i.e. email, mobile text messages, etc.) are unsecure even with safeguards.
2. Messages may be accessed by other people or devices that are not intended to be recipients of the messages.
3. Once messages are transmitted, the messages or information within the messages may be forwarded and/or used without the sender's or intended recipient's permission or knowledge.
4. Messages may be copied to a backup, database, or file which is accessible to others without the sender's or intended recipient's permission or knowledge.
5. Messages may be sent, received, and accessed by unintended recipients.
6. Messages may be falsified or manipulated prior to receipt without the sender's or intended recipient's permission or knowledge.
7. Messages may be sent by a device or an account that is being controlled by someone other than the known sender.
8. Messages may contain viruses or other data that may be harmful to the recipient's device.

With knowing and understanding the risks stated above, I hereby provide the following consent with respect to electronic transmission of the subject's confidential medical information (check all that apply):

____ I **agree** to communicate with the stated Clark County department using **email**.
Email address: _____

____ I **agree** to communicate with the stated Clark County department using **mobile text messaging**.
Mobile number: _____

____ I **do not agree** to communicate with the stated Clark County department using **email** or **mobile text messaging**.

By signing this form below, I am providing my free, voluntary, and informed consent to transmit the subject's confidential medical information as I stated on this form subject to the terms herein. I have reviewed the risks associated with the electronic communication of confidential medical information and had the opportunity to ask questions. I understand the risks and my rights including my right to revoke this consent at any time for any reason. I certify I have the authority to bind the stated subject.

Subject's Signature	
Legal Custodian's Signature (if different than subject)	
Relationship of Legal Custodian to Subject	
Date	

Department hereby acknowledges receipt of the HIPAA - Electronic Messaging Consent Form.

Supervisor/Department Head Name	
Supervisor/Department Head Signature	
Date	