Communicating with Patients Electronically
(Via Telephone, Email, & Web Sites)

August 2008

Introduction....................................................................................................................... 2
Telephone Care ................................................................................................................. 2
Patient Demand for Online Care is Strong.................................................................... 3
Benefits of Caring for Patients Electronically................................................................. 3
Potential for Patients to Overuse Electronic Communications .................................... 4
Reimbursement for Electronic Communications............................................................ 5
Medical Liability Risk Exposure ..................................................................................... 6
Secure Messaging and the HIPAA Security Rule............................................................. 7
Medical Practice Web Sites............................................................................................. 8
Conclusion ....................................................................................................................... 9
APPENDIX A.................................................................................................................... 10
**Introduction**

Face-to-face communication has been and will continue to be the foundation of the physician-patient relationship. However, electronic communications with patients through telephone, e-mail, and websites are forcing physicians to rethink the way they spend their day and provide care to patients. The availability of online health and wellness information, online medical advice, home monitoring systems, personal health records, and online support groups, is making it possible for patients to take more responsibility for their health care.

This guide discusses the issues that surround providing non-face-to-face care to patients and how electronic communication can be used to improve your practice. Also included are guidelines that should be followed closely to avoid problems that could arise from communicating with patients electronically outside of the traditional office visit.

**Telephone Care**

For almost a century physician practices have depended on the telephone to communicate with their patients. Administratively, the telephone is used to schedule appointments, remind patients about upcoming appointments, relay lab results, and handle prescription renewal requests. In addition, there are a host of other types of administrative phone calls made by the practice to insurance companies, pharmacies, hospitals, and others.

The telephone can also be a useful clinical tool. With established patients, especially patients with chronic diseases, a telephone call can often save both time and money for the patient, and can reduce over-burdened office schedules. Physicians use the phone to provide clinical advice, to monitor the effects of treatment, help patients self-monitor, discuss test results and need for follow-up, and to determine if emergency care or further office visits are necessary. Deciding how much clinical care can be provided over the telephone without the usual visual and tactile information that would be available from an in-person visit is a difficult and potentially risky decision. That decision deserves careful study of clinical and legal factors that lie well beyond the scope and competence of this basic guide. Whatever individual decision you may make on this issue, it is absolutely essential when using the telephone for clinical purposes that you document the content of your calls and include this documentation in the patient’s record. Detailed information about using the telephone as a clinical tool can be found in *Telephone Medicine: A Guide For The Practicing Physician*, edited by Anna B. Reisman, MD and David L. Stevens, MD, and available from ACP by calling Customer Service at 800-523-1546.

As the role and volume of telephone calls has increased, many practices have embraced new technology to enhance the efficiency and convenience of phone calls, for office staff, physicians, and patients. Some practices have purchased automated telephone systems that provide patients with a list of options for directing their calls to the correct staff member. There are even automated outgoing call systems for reminding patients of upcoming appointments or notifying them of normal lab results. Also, in today’s mobile society, many physicians rely on wireless phones to keep in touch with their staff and
patients while not in the office. This type of instantaneous communication can be very beneficial to patients but requires extra effort from physicians both to properly document calls and to perform any needed follow-up work from the call. It also exposes the physician to potential overuse by callers if the physician does not establish certain boundaries as parameters for patients and families.

While the telephone is indispensable in the practice environment especially for time sensitive and urgent matters, it is not essential for other communications; and it is not without its limitations. Speaking with patients about potential problems or lab results over the phone can be time consuming and disruptive to the daily patient workload. While patients are much happier with physicians who take the time to call personally, doing so may not be the most efficient way for the practice to operate. Telephone conversations (like office visits) are synchronous, meaning that the parties communicating need to do so simultaneously. When this is not possible, users leave messages for one another, often leading to extensive “telephone tag.” While synchronous communication may be appropriate for time sensitive or urgent issues, it is not always needed. Telephone conversations require documentation in the patient’s medical record, which is additional work, but unfortunately physicians often skip this step in practice, to the benefit of their patients’ malpractice attorneys. In addition, phone calls that take place in real time can be time-pressured and, as has been shown for office visits, patients remember only half of what we tell them, leading to frustration and reduced quality of care. Wouldn’t it be nice if you could decrease the number of phone calls made to your office, correspond with patients when it is most convenient for you, document these communications with little effort, and only see the patients who really need appointments? The Internet may be one answer to these problems.

**Patient Demand for Online Care is Strong**

As increasing numbers of physicians and patients acquire the means to communicate electronically, the desire and willingness to apply it to the provision of ambulatory care has gathered substantial momentum. Surveys have repeatedly shown that online medical communications are very popular with patients. For example, a 2006 Harris poll found that 81% of US online adults have gone online to get medical information. A 2002 poll found that 90% of adults who are online were interested in some kind of online communication with their physicians.

**Benefits of Caring for Patients Electronically**

Non-urgent medical care delivered electronically has a number of benefits for both patients and physicians. These benefits include the following:

- Increased Practice Efficiency, Productivity, and Lowered Operating Costs

  Online communications can increase practice efficiency and productivity through fewer telephone calls, decreased administrative costs, and growth through attraction of new patients. E-mail exchanges are far less disruptive than phone calls, are performed at the physician’s convenience, are relatively inexpensive, and are self-documenting.
Also, many communications previously handled by telephone or face-to-face encounters can now be accomplished through Internet communications: patient scheduling, prescribing of medications, quick medical questions, and monitoring of patients with chronic conditions. Internet technology now offers tools for disease management, including transmission of data from electronic home monitoring equipment, that are cheaper and more accessible than both paper-based systems and traditional information technology.

- **Reduction of Unnecessary Office Visits**
  It has been estimated that 20 percent of the 830 million annual office visits per year could be eliminated by online communications between clinicians and patients. Online care gives physicians the ability to monitor patients and provide follow-up care without additional office visits, thus allowing physicians to spend more time with sicker patients and helping patients to avoid loss of time at work or with family that is required when visiting the physician’s office.

- **Making Necessary Office Visits More Productive and Less Time Consuming**
  Obtaining important clinical information and negotiating an agenda before an office visit can save time and make the face-to-face encounter more productive. This also translates into less cluttered waiting rooms, shorter waiting times, and more satisfied patients.

- **Online communication can allow patients to reach their physicians more conveniently than telephone messages and appointments, which contributes to patient satisfaction.**

- **E-mail can be more efficient for physicians (and patients) because it is asynchronous. Physicians can take their time crafting responses to patient questions and communicate when it is most convenient for them. Patients can read and re-read information at their own convenience, even sharing it with loved ones. This increases satisfaction and retention of information.**

- **It is easy to provide supplementary information in e-communication. Physicians can include links to reliable web-based information on particular medical conditions or attach documents explaining a condition in more detail. Some systems include customizable template responses to common patient questions. The patient has an opportunity to learn about the condition, but the physician only has to invest a few seconds in providing that information.**

- **Being available to your patients online makes communication more convenient for them, and makes patients feel a special connection with their physician, thus increasing patient satisfaction and retention.**

**Potential for Patients to Misuse or Overuse Electronic Communications**

It is vital that use of electronic patient communications in a physician’s office be limited to non-emergent conditions. In addition, offices must avoid being overwhelmed with
electronic patient inquiries that could divert precious time from those patients most in need. Therefore physicians need to set up guidelines for office staff, physicians, and patients that clearly define appropriate uses of electronic communications.

These guidelines should indicate:

- That email should NOT be used for urgent matters
- The types of messages that are accepted (prescription refills, appointment scheduling, etc.)
- A specific turn around time for messages
- Who besides the physician will read and respond to messages, and with whom they may be shared
- Specific privacy and security measures that will be used to protect patient information, such as encryption or a secure web site.
- Specific information the patient is required to include in the subject line of e-mail messages, i.e. Patient name, ID number, or subject heading such as “Prescription” or “Appointment” so the message can be filtered and routed to the correct staff member. (This may not be needed when using certain web-based communication systems.)
- That an office visit should be scheduled if the issue is too complex or sensitive to discuss electronically.
- Whether there will be automatic reply will be sent to acknowledge receipt of e-mail messages
- That all communications will be included in the patient record

Individual physicians may differ in the ways they prefer to handle electronic communications with patients. Often practice size will dictate the approach. For example, larger practices may filter e-mail messages so that the practice’s scheduler receives scheduling requests, while the nurse receives all prescription refills. Some large practices also have nurses or other trained office staff triage incoming clinical questions to reduce physician time spent responding to patients electronically. If you are practicing in a smaller office, you may have little choice but to respond to messages yourself. Doing so could become a problem if you have patients who continually send you messages. It is helpful to anticipate this problem by setting clear e-communication rules, asking your patients to use discretion, and warning patients that abusing the use of e-communication may cost them the use of that privilege.

Employing structured clinical e-mail--available from companies offering online secure messaging--may help ensure that medical information received from patients is thorough and complete. Such systems, already used by a number of health insurers, allow physicians to determine quickly which patients are most in need of care and minimize the need for follow-up e-mails or phone calls.

**Reimbursement for Electronic Communications**

Despite strong patient demand for care provided electronically and high levels of patient satisfaction, physicians tend to limit their use of email and the telephone for patient care
due to reimbursement problems with such non face-to-face care. CPT codes 99371-99373 cover a "telephone call by a physician to patient or for consultation or medical management or for coordinating medical management with other health care professionals." However, Medicare considers telephone care to be part of the Evaluation and Management service covered by the office visit codes and does not therefore provide separate reimbursement for it. Many private health plans have similar policies in place; however, some are beginning to pay physicians for “e-visits.” There is now a CPT code for e-care, CPT 0074T, although like telephone care most plans do not yet pay for e-care. The hope is that all insurance plans and Medicare eventually will see the benefits of electronic communications and will cover these services. You should contact representatives of the health plans with which you contract to discuss their current or planned reimbursement policies for electronic physician-patient communications.

Another important economic consideration is the start-up and ongoing operating expenses associated with electronic patient communications. In particular, larger practices that develop their own websites must sometimes purchase additional hardware, software and/or Internet services, must establish new internal operating procedures and train staff and must install new record keeping procedures to ensure that electronic communications with patients are saved and filed appropriately in the paper or electronic chart. Some commercial e-communication systems are add-on modules to electronic medical records that you may already be using.

While many more patients could be effectively served through phone and e-mail consults, until such care is appropriately reimbursed, physicians will continue to consult with most of their patients in the office. The College is advocating changes in Medicare and private payer policies to assure that physicians do receive proper reimbursement for their time and expertise.

Reimbursement is not of course an issue in capitated settings, where electronic communications can be a highly effective tool in controlling costs associated with over utilization of patient visits. Finally, some practices in fee-for-service settings are charging patients annual fees, as low as $300, to help cover e-care services not reimbursed by payers.

**Medical Liability Risk Exposure**

Physicians must keep in mind that providing medical consultation to a patient electronically constitutes a patient-physician relationship, thus it is prudent to limit such communications to established patients. Although there is no case law resulting from the use of e-communication in clinical setting, because physicians are legally liable for medical advice dispensed by telephone and e-mail, physicians must also be certain they are in compliance with state licensure requirements when the communicating with patients in other states. Some states require that physicians be licensed in the state where the patient is located, even if the physician is already licensed in the state from which they are dispensing the advice (although this is usually waived in situations of providing continuity of care).
Malpractice concerns have been greatly eased by the introduction of “eRisk” guidelines for minimizing risk exposure. (See “Guidelines for Online Consultations.”) Many experts believe that using e-mail instead of the telephone actually helps reduce physician risk exposure because email can be self-documenting. In case of litigation, email potentially provides a better legal defense than a poorly documented telephone call. However, this advantage is only valid if the practice has established a convenient system for retaining, sorting, and retrieving email messages, in the patients’ medical records.

The other aspect of e-communication that may reduce liability is that it offers an alternative communications channel. Since some studies show that communication problems contribute to patient decisions to file malpractice suits, e-communication may lessen that tendency by enhancing patients’ perception of their ability to communicate with their physicians. If you have additional concerns about communicating electronically with patients, you should consult with qualified legal counsel.

Secure Messaging and the HIPAA Security Rule

The safest way to communicate online is to use a secure messaging system. HIPAA regulations will require health organizations to protect any health information that is transmitted electronically over open networks, so that such communications cannot easily be intercepted and read by parties other than the intended recipient. Medical practices will also be required to protect their information systems from intruders trying to access them from external communication points. This requirement does not necessarily apply to patient-physician e-communications, however, as long as patients understand the risks. Nevertheless, it is prudent to use some sort of secure communication tool to avoid the risk of inappropriate disclosure of personal health information.

There are tools available to encrypt regular e-mail. One option is a technology called Pretty Good Privacy (www.pgp.com). Although this software is free, both parties communicating must download and install it in order to send and receive secure messages from their current email accounts. This may be frustrating for both patients and physicians, and may lead to. Other technologies, such as ZixMail (www.zixcorp.com), offer solutions that do not require both parties to install special software.

An increasingly popular solution to secure messaging is to use a secure messaging web-portal. In this case physicians and patients both sign-in to a secure website in order to send messages back and forth within the website. These Internet systems allow easy flow of secure encrypted messages with little or no added effort on the part of physician practices or their patients. Examples of this include Medem (www.medem.com), RelayHealth (www.relayhealth.com), as well as portals that are integrated with practice electronic medical record.
Medical Practice Web Sites

One of the fastest growing marketing mechanisms in health care is the World Wide Web. Establishing a web presence is a relatively low-cost activity, whether you chose to set up and maintain your own site or hire someone to do it for you. Development costs can be as little as nothing to hundreds of dollars (but thousands for highly sophisticated sites), with monthly site maintenance and Internet e-mail account fees ranging from $10 to $50.

Today, physician practices can create a web site completely free of charge (using services like www.medem.com) or hire a high school or college student to design a site fairly inexpensively. Alternatively, they can outsource the project to a professional company specializing in web design (such as http://www.medfusion.net/), which will cost considerably more. A practice web site can be as simple as providing the practice name and address or as complex as providing online scheduling software and secure email messaging for patients. Regardless of the method of development, it is important that the style of the practice be properly communicated through the web site.

Once you have attracted patients to your site, it is also important to make sure the site is well organized. Some of the most popular topic headings for web sites are:

- Services
- Staff
- Insurance Plans
- Directions
- Frequently Asked Questions
- News / Newsletter

Another wonderful thing about a practice web site is the ability to put the information you feel is important into your patient’s hands. Direct links to patient information sites, like ACP’s www.doctorsforadults.com, can enhance the content of your site and improve patient relations. However, it is equally important to update your site every month or two after it is created so you are sure that the most accurate and up-to-date information is available for patients. If the information available is not reliable or current, your patients may get a poor impression of your practice.

Your practice web site also can be set up to serve as a tool for accomplishing administrative tasks. For example, it is possible for new patients to input their patient demographic and insurance information as well as begin completing their medical histories before arriving in your office. Established patients may be able to perform such tasks as requesting prescription refills or referrals at any hour of the day. Today there is even software that permits established patients to directly schedule themselves physician appointments, much the way they make airline reservations or purchase theater tickets via the web.

While use of the practice web site to perform administrative functions holds great future promise for reducing practice expenses and enhancing patient convenience, each function must be programmed into the web site and appropriately managed by practice staff.
Since some of the more sophisticated web functions are still experimental, we suggest taking an evolutionary approach. As your web site develops along with your practice, consider gradually adding appropriate services online to increase patient satisfaction levels. Many practices are adding secure email messaging to their website to increase office efficiency and provide better service to patients. Having e-mail and patient education materials on the same website allows patients to research their medical problem and could therefore decrease the number of messages the practice receives.

Developing a number of website functionalities on your own from scratch can be challenging. However, many of the companies that offer free practice websites already have designed these systems for you, so with little effort you can improve the appeal of your practice. With some planning, the possibilities of practice web sites are endless and can dramatically change the way your practice operates.

Finally, once your web site is live, you can let your patients and let the world know it exists by registering it with all major search engines (Yahoo, Excite, Alta Vista, Google, Lycos, etc.), notifying all insurance plans that you have a web site so links can be created from their online provider directories, and putting your web address on all your practice printed material.

**Conclusion**

No one can predict exactly how practices will use electronic communications in the future—probably in many ways totally unforeseen today. But, we can be confident that the role of such communications will grow significantly. Not only are patients demanding that their physicians communicate with them electronically, but physicians are already discovering that this media can be an important tool in managing the mounting demands and time pressures facing their practices. Thus it makes sense for physician practices to begin getting experience in expanding their use of electronic communications. Doing so will help their practices evolve with this new technology and start the process of exploring the unique mix of telephone, email, internet, and web site uses that will best meet their practice needs.
Guidelines for Online Communications

Developed by the eRisk Working Group for Healthcare, as of January 2007

The eRisk Guidelines have been developed by the eRisk Working Group for Healthcare, a consortium of professional liability carriers, medical societies and state licensure board representatives. These Guidelines are meant to provide information to healthcare providers related to the use of online communication and services with patients. They are reviewed and updated regularly. These Guidelines are not meant as legal advice and clinicians are encouraged to bring any specific questions or issues related to online communication to their legal counsel.

General Principles

The legal rules, ethical guidelines and professional etiquette that govern and guide traditional communications between the healthcare provider and patient are equally applicable to email, Web sites, list serves and other electronic services and communications, including the use of Personal Health Records (PHRs) with patients. A Personal Health Record (PHR) is established, owned and controlled by the patient or their caregiver. An Electronic Medical Record (EMR) is a practice-based clinical record that is established, owned and controlled by the practice. However, the technology of online communications introduces special concerns and risks as follows:

1. **Confidentiality.** The healthcare clinician is responsible for taking reasonable steps to protect patient privacy and to guard against unauthorized access to and/or use of patient healthcare information. This responsibility extends to the use of network services that have an appropriate level of privacy and security as required under HIPAA. Following are key considerations:
   
   a. **Privacy and Security.** Online communications between healthcare clinicians and patients should be conducted over a secure network, with provisions for privacy and security, including encryption, in accordance with HIPAA. Standard email services do not meet the requirements under HIPAA. Healthcare clinicians need to be aware of the full range of potential privacy and security risks and the requirements under HIPAA designed to mitigate those risks, and develop policies and procedures accordingly.
Note: With respect to email specifically, clinicians are encouraged to add a disclosure to the bottom of their standard, non-secure email service stating that “this email is not secure, and is not for use by patients or for healthcare purposes in general”.

b. **Authentication.** Healthcare clinicians have responsibility for taking reasonable steps to authenticate the identity of correspondent(s) in electronic communication and to ensure that recipients of information are authorized to receive it. Patient authentication, or authentication of an authorized patient proxy (i.e., parent of a minor, authorized family member, etc.) for patient-provider online communication including the delivery of patient data is important in order to ensure patient privacy and confidentiality. Clinicians are encouraged to follow the following guidelines for patient authentication:

   i. Have a written patient authentication protocol for all practice personnel and require all members of the staff to understand and adhere to the protocol.

   ii. Establish minimum standards for patient authentication when a patient is new to a practice or not well known.

   iii. Keep a written record, electronic or on paper, of each patient authenticated for online communication or data exchange. The record should include the following:

       1. Name of the patient
       2. Date of authentication
       3. Name of practice staff authenticating the patient
       4. Means used to authenticate the patient

   iv. Providers should take care not to offer, promote or encourage patients to participate in online healthcare services where patient authentication is not addressed to at least the level offered by the provider in his/her own practice.

2. **Unauthorized Access to Computers.** Unauthorized physical access to computers can immediately compromise patient information or put that information at risk through compromise of the security of the computers. Practices should establish and follow procedures to guard against unauthorized access to computers with technologies such as automatic log-out and password protection.

3. **Informed Consent.** Prior to the initiation of online communication between healthcare clinician and patient, informed consent should be obtained from the patient regarding the appropriate use and limitations of this form of communication. Clinicians should develop and adhere to specific written guidelines and protocols for online communications with patients, such as avoiding emergency use, heightened consideration of use for highly sensitive medical topics, and setting expectations for response times. These guidelines should be documented in the clinician's practice policy manuals, in patient terms of service or disclosures, or in the medical record when appropriate.
Clinicians should exercise discretion when selecting patients for the use of online services to ensure that they are capable of electronic communication and will be compliant. Practices should consider developing patient use guidelines to help clinicians decide who uses these services on a patient-specific basis.

4. **Pre-Existing Clinician-Patient Relationship.** Healthcare clinicians may increase their liability exposure by initiating a clinician-patient relationship online. Payment for online services may further increase that exposure. Online communications of any kind are best suited for patients previously seen and evaluated in an office setting.

5. **Licensing Jurisdiction.** Online interactions between a healthcare clinician and a patient are subject to requirements of state licensure. Communications online with a patient, outside of the state in which the clinician holds a license, may subject the clinician to increased risk. For example, pathologists, radiologists and other clinicians interpreting specimens, slides or images sent through interstate commerce for a primary diagnosis that becomes part of the patient’s medical record, should have a license to practice medicine in the state in which the patient presents for diagnosis or where the specimen is taken or image is made. Intra-specialty consultation does not require in-state licensure, provided the consultation is requested by a physician licensed within the state and is referenced in a report they issue.

6. **Sensitive Subject Matter.** Clinicians should advise patients of the risks that information the patient may consider sensitive inadvertently may be accessed by someone not authorized to see it. Physicians may wish to specifically list examples of sensitive information such as mental health, substance abuse, reproductive history, sexually transmitted diseases, drug and alcohol problems, genetic disorders and HIV status to their patients for their consideration.

Some states have laws about special classes of health information, such as HIV or mental health. Clinicians should follow state law in obtaining approval from the patient to exchange those classes of information with patients. Some states may prohibit electronic transfer of specific classes of information regardless of patient consent.

7. **Patient Education and Care Management.** Healthcare clinicians are responsible for the information that they make available to their patients online. Information that is provided to patients through a PHR, automated patient education programs, care management and other online services should come either directly from the healthcare clinician or from a recognized, credible and authoritative source.

8. **Emergency Subject Matter.** Healthcare clinicians should advise patients of the risks associated with online communication related to emergency medical subjects such as chest pain, shortness of breath, high fever, physical trauma or bleeding during pregnancy. Clinicians should discourage the use of online communication to address medical emergencies and instead instruct patients to call the office or go to an emergency department. In addition, patients should be referred to the Online Consultation Terms of Service where they have accepted the condition that the Online Consultation service is not to be used for emergency issues. Physicians should consider using a disclaimer on
web pages and emails reminding patients that emergency subject matter is not appropriate for electronic communication.

9. **Medical Records.** A permanent record of online communications relevant to the ongoing medical care of the patient should be maintained as part of the patient’s medical record, whether that record is paper or electronic. All clinically-relevant online clinician-patient and clinician-clinician communications (including email) should be a permanent part of the medical record. Accurate and thorough documentation is effective risk management.

Providers and patients should be aware that email and online information, including PHRs and consultations, are not erased from the hard drive when deleted and are potentially discoverable in litigation. Therefore all communicated information should be accurate and professional.

As interoperability between technology-based services (such as an EMR and PHR) become more common, if a patient is allowed to electronically transmit information to a clinician, that information should be quarantined until the clinician has reviewed and commented on the data, to avoid introducing inappropriate or incorrect information into the clinicians' medical record.

10. **Practice Web Site Considerations.**

   a. **Authoritative Information.** Healthcare clinicians are responsible for the information they make available to their patients online. Information that is provided on a medical practice Web site or provided to a specific patient via secure email or other online services should come either directly from the healthcare clinician or from a recognized and credible source.

   b. **Commercial Information.** Web sites and online communications of an advertising, promotional or marketing nature may unrealistically raise patient expectations and subject clinicians to increased liability, including implicit guarantees or implied warranty and potential violation of consumer protection laws designed to protect against deceptive business practices. This is particularly true when cosmetic procedures, off-label drug use, and non-FDA approved procedures are promoted.

   c. **Links to Third Party Web Sites and Other Sources of Information.** Clinicians are encouraged to post a disclaimer page between their Web site and a link to any third party Web site/information that advises patients and other viewers that they are leaving the clinician practice Web site and that the clinician and the practice does not assume any responsibility for the content or the privacy of other Web sites to which the practice Web site links.

**Online Clinical Consultations**

An Online Clinical Consultation is a clinical consultation between a clinician and a patient, similar to an office visit or a call that would be documented in the patient’s chart, but conducted online via a secure messaging service. In an online clinical consultation, the clinician has the same obligations for patient care and follow-up as in face-to-face, written and telephone consultations. An online consultation should be substantive and specific to the patient’s personal health status.
In addition to the 10 guidelines stated above, the following are additional considerations for fee-based online consultations:

1. **Informed Consent.** Prior to initiating an online consultation, the healthcare clinician should obtain the patient's informed consent to participate in the consultation, including discussing appropriate expectations, disclaimers and service terms, and any fees that may be imposed. This consent can be presented as part of a Terms of Service the patient must accept either online or in writing before engaging in online consultations.

2. **Fee Disclosure.** Prior to an online consultation, patients should be clearly informed about any charges that might be incurred, and be made aware that the charges may not be reimbursed by the patient's health insurance.

3. **Identity Disclosure.** Clinical information that is provided to the patient during the course of an online consultation should come from, or be reviewed in detail by, the consulting clinician whose identity should be made clear to the patient.

4. **Available Information.** Healthcare clinicians should state and document, within the context of the consultation or clearly within the patient terms of service agreed to in advance of requesting an online consultation, that the consultation is based only upon information made available by the patient to the clinician during, or prior to, the online consultation, including referral to the patient's chart when appropriate, and therefore may not be an adequate substitute for an office visit.

5. **Online Consultation vs. Online Diagnosis and Treatment.** Clinicians should distinguish between an online consultation related to a known pre-existing condition (such as those concerning ongoing treatment and follow-up questions) - - and the diagnosis and treatment of new conditions addressed for the first time online. The diagnosis and treatment of new conditions online may compromise patient safety and increase liability exposure. When clinicians decline to diagnose a new condition online, they should communicate the importance of immediate office follow-up to the patient and document this in their office medical record. When the patient presents at the office, clinicians should document the time lapse between their deferral of the online consultation and the patient’s arrival in the office.

6. **Follow-Up Plans.** An online consultation should include an explicit follow-up plan, as clinically indicated, that is clearly communicated to the patient.

7. **Internet Pharmacies.** There are potential risks when patients are referred to on-line pharmacies, since some employ "cyberdocs" who dispense drugs and medical devices without a valid doctor’s order and others may be involved in the illegal importation of prescription drugs. The National Association of Boards of Pharmacy has a Verified Internet Pharmacy Practice Sites (VIPPS) program (http://www.nabp.net/vipps/intro.asp). Pharmacies in compliance with their standards show the VIPPS seal of approval on their home page.

**Personal Health Records**

Personal Health Records (PHRs) -- the electronic storage and exchange of patient information, which may include electronic patient education, FDA and medical device
warnings, disease management, and other programs -- have the potential to improve care quality and efficiency. PHR and related information technology services are now being promoted by the government, health plans, employers, patient advocacy groups and others.

The technology of PHR and other patient-specific information technology services introduce special concerns and potential risks. When clinicians offer a PHR service to their patients, the patients/caregivers should be required to accept a PHR Terms of Service, either online through the PHR service provided or in writing from the practice, which at a minimum should include the following:

1. The PHR service is provided to patients for their convenience only, and is distinct from the medical record maintained by the physician or healthcare provider. Entries in the PHR do not become part of the medical record unless and until they are formally accepted for inclusion by the clinician. When information is imported from a PHR into the clinician's record, its origin should be documented.

2. It should be made clear to patients that physicians are not responsible for knowing the information contained within a PHR except when they have consulted it in association with a formal office visit or Online Consultation.

3. It is the patient's responsibility to notify their healthcare clinician(s) if they have a PHR.

4. The PHR is not a substitute for directly communicating the patient's medical information to his or her physician in a traditional format (in-person, by telephone, etc.). Patients should not assume that their Personal Health Record has ever been seen or reviewed by their clinician(s).

5. It is the patient's responsibility to notify their healthcare provider(s) when new information appears in their PHR - whether they personally update it or it is automatically updated by third parties (health plans and other insurers, pharmacies, laboratories, etc.). Entering information into this record does not guarantee that their clinician will see it.

6. The provider should make it clear that the responsibility for the accuracy of the information in the PHR remains with the patient or caregiver as the owner of the record.

7. Developing and maintaining a PHR on a clinician practice Web site requires that patients have a pre-existing relationship with that clinician.

8. Materials and information available through the PHR are for informational purposes only and are not a substitute for professional medical advice.

9. Patients/caregivers should agree that they will contact their clinician if they have any questions about their medical condition, or if they need medical help.

10. Patients/caregivers should agree that if they need emergency medical help, they should immediately call 911, their local emergency number, their physician, or go to an emergency department.
11. Patients/caregivers should agree that their User ID and Password are their responsibility to protect from unauthorized access and use by third parties.

12. All clinicians are advised to have Terms of Service and other legal documents, including Informed Consent, etc. reviewed by their legal counsel.
APPENDIX B

AMIA has a white paper called “Guidelines for the Clinical Use of Electronic Mail with Patients.” It is available at http://www.amia.org/mbrcenter/pubs/email_guidelines.asp