

	Disclosure	Informed Consent	Sample wording
Unencrypted email, including ScreeningWare emails		*X	As part of an electronics consent: I have been informed of the risks, including but not limited to my confidentiality concerns, of transmitting my protected health information by unsecured means. I acknowledge that it is my responsibility to secure information once it has been sent to me. I understand that I am not required to sign this agreement in order to receive treatment. I also understand that I may terminate this authorization at any time.
EHR, EMR, Practice Management Software	X		I keep client records in an electronic, HIPAA-compliant, cloud-based system named CarePaths. I have entered into a HIPAA Business Associate Agreement with CarePaths which obligates them and their employees to protect these records according to HIPAA standards. Records are kept indefinitely. My computers are protected by firewalls, antivirus software, complex password and disk encryption. My mobile phone is protected by complex password, remote tracking and remote erasure. These measures cannot fully guarantee security.
ScreeningWare (This has been previously reviewed by legal and approved)	X	Client may choose to follow link or not, complete screening instrument or not	As a routine part of my practice, I administer progress and outcome measures to my clients. I may request information about your history, symptoms, health and emotional well-being through an online service that is encrypted and highly secure. The results give us feedback about your progress and help me provide better treatment. This information becomes part of your medical record and is legally confidential. I may share information from these progress and outcome measures with your other healthcare providers. OK TO ADD FOR THOSE WHO DO: upon a signed release. I am a member of an organization of independent mental health professionals, the American Mental Health Alliance (AMHA) that supports integrating our services with primary care physicians. The progress measures you complete also can be used to demonstrate our effectiveness as an organization.

			When used for this purpose, your name and identifying information are omitted, and your answers are grouped together with those of many other clients. This de-identified data—which contains no information to identify you personally—may be used by AMHA for research, teaching and quality assurance. You do not have to provide information electronically in order to receive my services. You may decline to participate at any time. Please tell me if you do not wish to participate.
Data collection from Supernote 4	Therapist’s choice?	Therapist’s choice? Consent not needed, because HIPAA allows use of dis-identified data for “research”	Data from the screening tools and electronic health record is gathered as permitted by the HIPAA law for research, teaching, demonstrating clinical effectiveness as an organization, meeting insurance contract requirements and quality assurance.
SquareUp receipts		X HIPAA ruled using Square for payments as compliant, but receipts are not HIPAA compliant and must be agreed to via informed consent	(Include on unsecured electronics informed consent form.)

PHI: personally identifying information about health care services (past, present and future) including payment.

BAAs are always needed for cloud-based services- email, online data backup, EMR/EHR/Practice Management systems, ScreeningWare.

*The HIPAA Security Rule covers electronic communication. It allows clients to “opt in” to using unencrypted email and texting after informed consent (therapist cannot state policy and let client “opt out.”)

We clarify that covered entities are permitted to send individuals unencrypted emails if they have advised the individual of the risk, and the individual still prefers the unencrypted email. HIPAA Omnibus Rule, 2013

*We do not expect covered entities to educate individuals about encryption technology and the [sic] information security. Rather, we merely expect the covered entity to **notify the individual that there may be some level of risk** that the information in the email could be read by a third party. HIPAA Omnibus Rule, 2013*

However, professional association codes of ethics have higher requirements:

*AAMFT Code of Ethics, 2015, 6.1: Prior to commencing therapy or supervision services through electronic means (including but not limited to phone and Internet), marriage and family therapists ensure that they are compliant with all relevant laws for the delivery of such services. Additionally, marriage and family therapists must: (b) **inform clients or supervisees** of the potential risks and benefits associated with technologically-assisted services;*

*Ethical Principles of Psychologists and Code of Conduct, 2010, 4.02.c: Psychologists who offer services, products, or information via electronic transmission **inform clients/patients** of the risks to privacy and limits of confidentiality.*

*NASW Code of Ethics, 1996, Revised 2008, 1.03.e Social workers who provide services via electronic media (such as computer, telephone, radio, and television) should **inform recipients** of the limitations and risks associated with such services.*

*ACA Code of Ethics, 2014, H.2.c: Counselors inform clients about the inherent limits of confidentiality when using technology. Counselors **urge clients to be aware** of authorized and/ or unauthorized access to information disclosed using this medium in the counseling process.*