

Name: -----

Agency: -----

Dear User,

Attached is a **draft** white paper on Electronic Signatures. We welcome your thoughts and comments on how to make this document useful for you.

- Will this document be useful for your agency? -----
- Would you like to share this with your board members? -----
- Would you like to share this with the state? -----
- Would it be helpful to share this with anyone else? -----

Please mark up any questions or suggestions in the document and return it to us.

You can also use the space below to note any thoughts and comments you may have.

Electronic Signature

1.1	DEFINITION.....	3
1.2	CENTER FOR MEDICAID AND MEDICARE SERVICES.....	4
1.3	HOW THERAP HELPS COMPLIANCE.....	4

DRAFT

Electronic Signature

1.1 Definition

According to the definition put forth by the [Uniform Electronic Transactions Act](#) or "UETA" released by NCCUSL in 1999, "an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.". This definition was reinforced by the recent US law, influenced by [ABA](#) committee white papers and the National Conference of Commissioners on Uniform State Laws (NCCUSL). Simply put it is the electronic equivalent of a hand-written signature that can be used to authenticate the identity of the sender of a message or the signer of the document, and possibly to ensure that the original content of the message or document that has been sent is unchanged. Electronic signatures are easily transportable, cannot be imitated by someone else and can be automatically time-stamped. It helps organizations sustain signer authenticity, accountability, data integrity and non-repudiation of electronic forms and documents.

In recent time, electronic systems are being extensively used by the government and privately run agencies world wide for record management, documentation and reporting. As organizations feel less and less inclined to resort to manual, paper-based systems, issues such as legitimacy of electronically submitted and managed records, propriety of documentation reviewing processes and validity of electronic signatures have gained importance. Agencies all over the world have adopted legislations and regulators that recognize the legality of an electronic signature and deem it a binding signature.

1.2 Center for Medicaid and Medicare Services

The Center for Medicaid and Medicare Services (CMS), Department of Health and Human Services, approves the use of electronic signature in field level reviewing of electronic records maintained by providers, provided they meet certain conditions. The agency “has adopted the hospital guidelines for electronic medical records and electronic signatures for providers that do not have specific regulations governing the use of electronic signatures.” (See the attached letter from CMS; Ref: S&C-07-14). In another letter (S&C-04-46) CMS permits nursing homes to electronic signatures in clinical reports including the MDS when they are allowed to do so by state and local law and the long term care facility’s policy. It should be mentioned that The state of Connecticut has recently purchased services from College of Direct Support (CDS) which electronically certifies that staff have completed their training.

1.3 How Therap Helps Compliance

Therap Services provides an integrated suite of secure, online applications for providers supporting people with developmental disabilities. All Therap applications are designed to comply with the Health Insurance Portability & Accountability Act of 1996 (HIPAA) by providing a number of features including electronic signature. Therap’s electronic signature mechanism addresses legal compliance, reduces time and paper costs associated with paper-based processes and ensures document security when moving from paper to electronic documents. Please see the attached document on “Therap support for Compliance with HIPAA”. Therap’s electronic signature, coupled with other features of the system such as the secure, encrypted transmission of data, data archiving and activity

tracking, also complies with Electronic Signature in Global and National Commerce Act (E-Sign).

In addition, Therap complies with other regulations put forth by state and other regulatory agencies. An example of this is Therap's compliance with New York OMR DD electronic signature policy.

Therap has a three-field authentication mechanism. The authentication mechanism consists of the Login Name, Password and Provider Code and their combination is unique; it will not match with that of any other user.

Each time a user of the system including Therap staff logs in and enters information, a name and title stamp of that user is recorded along with the date and time the information was entered. The name, title, date and time stamp acts as the signature for the information the user has entered, updated or deleted in the system.

When a user logs into Therap, he provides his password, which is only known to him, thus making all his actions in the system authenticated. With the caseload and privilege (security roles) system, the user can access only the records he has been assigned to. The actions committed are permitted by his privilege. Whatever action he commits on a record (a document), his identity gets associated with the record along with a time stamp of when the action is taken. Before taking the action, the user views the document and is made aware of what he is doing.

Therap's electronic signature mechanism ensures the following:

1. **Message Integrity:** All communications between end users browser and the Therap application is carried over HTTPS, a cryptographically secured protocol. No third party can modify the data transferred.

No user can modify the data stored in Therap, without going through the application. The data is stored in multiple secured locations, guaranteeing its safety from natural and manmade calamities. Only a handful of employees have access to the data and their access is controlled by Therap.

2. **Non repudiation:** As the data is stored securely no user can access the data without proper privilege and audit trail (activity tracking), no user can deny the association of his/her identity with a document stored in Therap.
3. **User Authentication:** All users, including Therap staff, must authenticate with a unique login name and a secret password to gain access to the system.

It should be noted that Therap Services' electronic signatures are already accepted in a number of states. Therap has a signed contract with the state of Washington DSHS, which covers a state facility providing services for people with developmental disabilities using Therap Services for electronic documentation. Again, the State of Delaware has mandated that all private providers of under contract to DDDS should use Therap for reporting incidents. The State of Delaware is currently considering and piloting the use of additional Therap applications. Finally, the Connecticut Commissioner for The Department of Developmental Services has authorized the use of Therap for incident reporting (See attached letter).