


Policy & Procedure			
Title:	AltaMed Texting Policy		
Policy #:	HS-PRV-005		
Issuing Dept.:	Office of Compliance and Risk Management	Effective Date:	08/20/2021
Approved by:	Board of Directors	Revision Date:	11/12/2024
Distribution:	<input checked="" type="checkbox"/> AHS Health Services <input type="checkbox"/> AHS Primary Care Services <input type="checkbox"/> AHS PACE/Senior BuenaCare <input type="checkbox"/> Other: (Internal Policy)	Review Date:	11/1/2022; 12/19/2023; 10/8/2024; 11/12/2024

Contact information


1. For further information about this policy or related policies applicable to communications with patients through the use of telecommunications technologies, contact the Privacy Office within the Office of Compliance and Risk Management.

Purpose


1. The United States Congress has enacted laws and regulations, including the Telephone Consumer Protection Act (“TCPA”), enforced by federal agencies, including the Federal Communications Commission (“FCC”) and the Federal Trade Commission (“FTC”), that govern how companies may communicate with consumers through outbound telephone communications, including text messages and telephone calls. This AHS Texting Policy (“Policy”) governs how AltaMed Health Services, and contracted service providers acting on its behalf (collectively “AHS”), may contact patients or prospective patients via outbound text messages.
2. This Policy sets forth guidelines that AHS will follow when sending text messages to AHS patients or prospective patients. The text messages will only be sent to mobile telephone numbers provided to AHS directly by the patient, or indirectly by AHS’s health plan and network partners, for healthcare purposes. Where reasonably practicable, AHS should confirm that patient will not be charged for the text message by their wireless phone carrier or that the text message will not be counted against the limits of a patient’s wireless telephone plan.

Policy

1. **Scope of Consent.** Except in certain circumstances outlined in 1.2 below, AHS must obtain a patient’s prior express consent to receive messages from AHS. A single consent cannot be bundled to apply to multiple companies, unless the consent specifically lists the entities to whom the consent may apply. Thus, for most text messages sent by AHS, it is generally not advisable to rely upon consent provided by a patient or prospective patient to a non-AHS entity or person.

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- 1.1. **Texting with Prior Express Consent.** As early in the patient relationship as reasonably practicable, AHS will endeavor to obtain or confirm prior express consent from the patient before sending informational (non-telemarketing) SMS text messages or outbound telephone calls to the patient’s mobile phone number. AHS will develop standardized, clear, and conspicuous language to notify patients that the mobile phone number(s) they provide may be used to send them text messages that are related to their healthcare, or otherwise permissibly, logically, and topically within the scope of the patient’s consent. Such consent will be documented and kept on file, in accordance with internal recordkeeping and documentation policies. A recipient may revoke consent by any reasonable means at any time. Such revocation shall be implemented immediately or as soon as reasonably practicable following receipt.
- 1.1.1. Where AHS has obtained or confirmed a patient’s prior express consent, AHS may communicate with the patient by text for purposes other than the “exigent treatment purposes” listed below. Further, AHS is not subject to the “Frequency” or “Content” restrictions listed below. Instead, AHS may communicate by text to deliver any health care message or other message that is reasonably within the scope of the patient’s prior express consent.
- 1.2. **Texting Without Prior Express Consent.** Where AHS has received a patient or prospective patient’s mobile phone number from a health plan or health network partner, but AHS has not yet obtained or confirmed a patient or prospective patient’s prior express consent to receive messages specifically from AHS, AHS may only communicate with the patient or prospective patient by outbound text messages subject to the strict constraints outlined below, which allow AHS to send text messages without individualized, prior express consent when the communications are related to exigent healthcare treatment purposes.

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2. Healthcare Treatment Purposes for Text Messages


2.1. Outbound text messages to patients or prospective patients from whom AHS has not yet obtained or confirmed prior express consent may be sent only for the following purposes:

- 2.1.1. Appointment/Exam Confirmations and Reminders
- 2.1.2. Prescription Notifications
- 2.1.3. Hospital Pre-Registration Instructions
- 2.1.4. Availability of Lab Results (NOT including the actual lab results)
- 2.1.5. Vaccination Reminders
- 2.1.6. Home Healthcare Instructions
- 2.1.7. Wellness Checkups
- 2.1.8. Pre/Post-Operative Instructions
- 2.1.9. Post-Discharge Follow-Up Intended to Prevent Readmission

2.2. Text messages that address any other topics (including billing, account communications, payment notifications, eligibility for governmental programs, or any financial content) or that may be sent for telemarketing, solicitation, or advertising purposes may be subject to additional requirements, including but not limited to different levels of consent (*i.e.*, prior express consent or prior express written consent on a one-to-one basis). As such, they require advance review and approval by the Legal and Privacy Departments.

3. Frequency of Text Messages Sent for Healthcare Treatment Purposes

3.1. Text messages will not be sent to any mobile number more than one time per day, up to a maximum of three text messages combined per week.

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4. **Content of Text Messages Sent for Healthcare Treatment Purposes**

4.1. Text messages shall be concise, not exceeding 160 characters in length, and be limited to communications with the patient regarding the healthcare treatment purposes referenced in Section 2.1 above.

4.2. Text messages will include reference to AHS as the sender (or state the specific name of the AHS provider) as well as contact information for AHS or the AHS provider.


4.3. All unencrypted text messages must comply with applicable requirements in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH”), and AHS policies.¹

4.4. The text message cannot include telemarketing, solicitation, advertising, accounting/billing, debt collection, or other financial content, as referenced in Section 2.2 above.

4.5. Transmitting Protected Health Information via unsecured methods could be viewed as impermissible under HIPAA unless the patients are advised of the security risks and they consent regardless of such risks. Accordingly, AHS or its contracted third party should avoid transmitting Protected Health Information via text message, and should provide patients with a clear and conspicuous notice regarding the security risks associated with transmitting Protected Health Information via text messages.

5 **Method of Transmission**

5.1. AHS may not use an Automatic Telephone Dialing System (“ATDS”) as that term is defined by the TCPA. Per the United States Supreme Court, ATDS is narrowly defined as software that has the capacity to utilize random or sequential number generators to store or dial telephone numbers.² Accordingly, a software system that only stores lists of telephone numbers and dials or text messages numbers on a non-random basis from those lists is unlikely to be interpreted as an ATDS.

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6. Opt-Out of Further Correspondence

6.1. All text messages will offer the recipient the ability to opt-out of receiving any further text messages from AHS, including an option to respond with “STOP” or another easy means to opt-out. All opt-out requests will be effective and honored immediately.

7. Do-Not-Call Lists

7.1 Federal and State Do-Not-Call Lists

Patients and prospective patients may register their phone numbers on Do-Not-Call Lists maintained by the federal and/or state governments. AHS must not text or call a patient or prospective patient whose number appears on one or more of these lists, unless AHS has obtained or confirmed prior express consent from the patient or prospective patient to text or call that number.

7.2 AHS’s Internal Do-Not-Call Lists


When a patient or prospective patient “opts out” or revokes consent to receive texts or calls from AHS, AHS must immediately place that patient’s number on AHS’s Internal Do-Not-Call List and cease further text messages or calls to that number. If a patient or prospective patient later provides new prior express consent to receive text messages or calls from AHS, then AHS may resume text messages or calls to that patient reasonably within the scope of the new consent.

Education & Training Plan

1. All AHS workforce who may send text messages to patients will be trained on this policy.

Implementation Monitoring Plan

1. Compliance with this policy will be monitored and audited by AHS’ Privacy Office.

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References & Citations

1. AHS Policy: HR-CDD-006.18 Confidentiality and Privacy of Protected Information (§6)
2. AHS Policy: HS-HIP-002 Use and Disclosure of Protected Health Information
3. Telephone Consumer Protection Act (“TCPA”) (47 U.S.C. § 227)
4. Telephone Robo-call Abuse Criminal Enforcement and Deterrence (“TRACED”) Act (Public Law No: 116-105)
5. Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH”)
6. AHS Texting Policy Checklist

Acknowledgment of Receipt and Review

I, the undersigned, hereby acknowledge that I have received, read, understand, and agree to comply with AltaMed’s Texting Policy. I understand that AltaMed has discretion to interpret, administer, change, or modify this and other Policy documents at any time. I also understand that any delay by AltaMed to take action to enforce its Policies will not constitute a waiver of AltaMed’s right to take such action in the future.

Date: _____

Signature

Print Name