Gallagher Monthly Minute

NEWS FOR THE HEALTHCARE INDUSTRY

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The Joint Commission and Ban on Texting Orders: Talk about Confusing…

As you may recall, in 2011, the Joint Commission banned texting orders, citing unsecure platforms, the inability to verify the identity of the sender, and the lack of capability to retain the original message for the medical record. In May of 2016, it revised its 2011 opinion to allow secure order texting. Then in December 2016, it was clarified by The Joint Commission that secure texting to submit orders is not acceptable and that CPOE (Computerized Physician Order Entry) is the preferred method for orders.

Questions may be directed to textingorders@jointcommission.org

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Checking before Texting-Keep Patient Privacy and Safety Risks at Bay

Have you joined the ranks of physician texters? If so, you may want to examine some precautions for mitigating risk with patient texts.

First and foremost, meet with your staff and clinicians to discuss how texting is or should be used in your practice. This may facilitate all to "come clean" with their current texting patterns so it can lead to useful discussion.

Create a Policy that Specifies Guidelines

- Types of text communication that are acceptable/unacceptable

- Who has authorization to send/receive texts

- Response time expectations for patient

- Process for recording the text content into the medical record

- Instances where a phone call is necessary (i.e.critical situation, uncertainty about content of the text communication)

Benefits of Texting

- Attracts users because it is quick, accessible, concise and low-cost

- Convenient communication tool which shortens response times for clinicians and staff

- Less disruptive than a phone call

- Health organizations/office practices can use texts to send reminders for appointments and health prevention notices

Risks of Texting

- Mobile devices are inclined to loss/theft thereby risking a HIPAA breach *(penalties start at $50,000 per violation)*

- Mixing personal text with physician-patient texts *(opportunity for messages to be sent to the wrong party, no central log of messages transmitted/received, no way to print and get into medical record)*

- Lack of ability to upload text message to patient medical record for retrieval

- Possibility of miscommunicated messages due to abbreviated format and size limitation of text

- Lacks capability to verify recipient

- Casual nature of texting may diminish professionalism in physician/patient relationship

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What about Your Patients?

• Take the time to discuss how they would like you to communicate with them and if texting is an option.

• Obtain written, informed consent from your patient where you clearly explain specific risks, especially if your texting system is not secure. Have your patients evaluate and sign a user agreement and review on a yearly basis.

• Use crystal-clear communication in your messaging to prevent misunderstandings or fear.

• **Consult a qualified attorney who specializes in health care to assist you ensuring you properly follow state regulations and laws regarding patient privacy.

Mobile Devices

Encrypt mobile devices and install auto-lock and remote wiping programs to help reduce risk of unauthorized access. SMS (Short Message Service-standard text messaging) is not HIPAA compliant and was not meant to be encrypted or secure.

Consider third-party, secure messaging solution programs for practice-to-patient texting such as PatientReachMobile or HealthLoop. HIPAA Compliant SMS such as Security software such as TelmedIQ, TigerText, Kaspersky, DrFirst/Backline are worth exploring and some are reasonable priced. For example, Kaspesky software costs.

Additional Suggestions

• Use extreme caution, stop and pause before hitting "Send".

• Make sure your texts do not disclose your patients' identity.

• Include text messages related to patient treatment in the medical record and delete from mobile device.

• Perform a risk analysis of your organization.

• Consider cyber insurance. Gallagher Healthcare Practice can assist you with your questions about a cyber-insurance policy.

REMEMBER: Technology should improve, not replace, in-person contact with your patients.