KRL Foot & Ankle PC

DBA: Lawler Foot and Ankle

Policy Name: Text Messaging for Public Health Messages and Appointment Reminders

Effective Date: 01/01/2023

1. Purpose

It is the policy of KRL Foot & Ankle PC (KRL) to permit the limited use of text messaging to communicate with the public or clients in a manner that is consistent with the HIPAA Security Rule (45 CFR Part 164, Subpart C).

This policy provides for the use of two categories of text messages:

* Public health messages sent to members of the public who sign up to receive the messages.
* Appointment reminders sent to clients.
* Requests for communication with clients.
* Billing updates and balances due.

2. Applicability

This policy is applicable to all employees of KRL.

3. Definitions

3.1. SMS or text message: A 160-character message sent over a cell phone or through a web-based

interface to one or more cellphone recipients.

3.2. Short codes: Five or six digit special telephone numbers used for sending SMS messages.

3.3. Protected health information (PHI): Individually identifiable health information in any form

whether oral, written or electronic. Individually identifiable health information is information

that:

* Relates to the individual’s past, present or future physical or mental health or condition;

the provision of health care to the individual; or the past, present, or future payment for

the provision of health care to the individual; and

* Identifies the individual or for which there is a reasonable basis to believe it can be used

to identify the individual.

3.4. Electronic protected health information (ePHI): Protected health information that is transmitted

or maintained in electronic media.

3.5. Subscriber: A person who opts-in to a program to receive text messages with general public

health content, such as educational messages.

3.6 Client: A person who receives medical, dental, or other health care services from KRL.

4. Policies

4.1 General Policies Applicable to Both Types of Text Messaging Programs Covered by This Policy (Public

Health Messages/Appointment Reminders)

4.1.1. Internal Notice of Text Messaging Program: Consult and inform Dr. Kelly Lawler prior to

launching a texting program.

4.1.2. Public Records:

a. Public records requests related to the text messaging program should be forwarded to

Dr. Kelly Lawler for a decision about whether the requested records may be released.

b. On request, the agency will provide access to or copies of text messaging program

records that are subject to public access under applicable law.

c. KRL will not provide access to or copies of records created by a text messaging

program for sending appointment reminders to clients in response to a public records

request, as those records contain PHI and are excepted from public access.

4.1.4. Message Retention: Text messages should be deleted from mobile devices but must be

retained elsewhere if required by applicable records retention requirements.

4.1.5. Training: KRL will train employees in this policy. The training will include at least

the following:

a. Review of all elements of this policy.

b. Review of KRL’s procedures for implementing the policy, including procedures

for sending text messages, retaining text messages, and responding to subscribers or

clients who send text messages to the agency.

c. Identification of the person(s) within the agency who are responsible for the policy and

to whom questions about the policy should be addressed.

d. Current information about text messaging best practices, including but not limited to:

i. Cost: Agency staff should be aware that some people may be charged for text

messages by their phone service providers and that messages exceeding 160

characters will be sent as two or more texts. Be judicious in the length of text

messages and in the number of text messages you send.

ii. Client Expectations: Set up clear communications with clients and members of

the public about two-way communication, including whether you will return

messages.

iii. Tone: Agency staff who send text messages should maintain a professional tone

at all times. Refrain from using text abbreviations.

4.2. Specific Policies for Text Messaging Programs that Send Public Health Messages to Subscribers

4.2.1. Opt-In Requirement: To receive text messages through a program covered by this policy, a

subscriber must opt in.

a. A subscriber may opt in to receive general public health messages by signing a written

opt-in form or using a website form.

b. The opt-in method must provide the following information:

i. A statement that the subscriber’s cellular service provider may charge the

subscriber a fee for transmitting and delivering text messages.

ii. Instructions for how to opt-out of receiving text messages.

iii. A request that the subscriber notify the program of a change in phone number,

and information about how to provide that information.

c. Opt-out information should be sent to subscribers periodically to remind them how to

unsubscribe from text messaging.

4.3. Specific Policies for Text Messaging Programs that Send Appointment Reminders to Clients

Note: Appointment reminders contain protected health information. Protected health information

that is transmitted electronically (ePHI) is subject to the HIPAA Security Rule, which requires

covered entities to conduct an initial security risk assessment and periodic security risk analyses to

ensure the protection of ePHI. A security risk analysis is required when new methods of storing or

transmitting ePHI, such as texting, are adopted. In brief, this requires a covered entity to identify

where and how it acquires, creates, or maintains ePHI; assess its current security measures;

identify threats to the security of ePHI; and determine the likelihood of those threats occurring.

These findings must be documented and used to develop administrative, technical, and physical

safeguards for the ePHI.

4.3.1. Security Risk Analysis: KRL will conduct a security risk analysis before implementing a program to send text messages with appointment reminders.

Note: Some electronic health records include an application for sending text messages to clients. If the agency’s EHR has this type of application, as part of its risk analysis, the agency should consult with the EHR vendor to ensure that adequate security measures are in place to protect any ePHI that may be transmitted via the application. Local health departments should not approve the sending of appointment reminders via any device or computer application until the agency has completed the security risk analysis and determined that the requirements of the HIPAA security rule are satisfied.

4.3.2. Opt-In Requirement: To receive text messages with appointment reminders, a client must

opt in.

a. A client may opt in to receive text messages with appointment reminders by signing a

written opt-in form.

b. The opt-in form must provide the following information:

i. A statement that the recipient’s cellular service provider may charge the

recipient a fee for transmitting and delivering text messages.

ii. Instructions for how to opt-out of receiving text messages with appointment

reminders.

iii. A request that clients receiving text messages with appointment reminders

notify the program of phone number changes, and information about how to

provide that information.

c. Opt-in forms should be stored in accordance with medical record retention

requirements.

d. The staff of KRL should periodically confirm that the client’s contact

information is accurate and up-to-date.

e. Opt-out information should be sent to clients periodically to remind them how to

unsubscribe from text messaging.

4.3.3. Administrative, Physical, and Technical Safeguards:

a. KRL will identify which devices or computer applications may be used for

sending appointment reminders by text. No other devices or applications may be used.

b. Agency staff should assure that client cell phone numbers are recorded accurately and

should periodically verify the number with the client.

c. If a mobile device is used to send appointment reminders, staff members must:

i. Comply with existing policies for securing mobile devices that are used to access

or transmit ePHI.

ii. Delete the messages after the communication is completed and necessary

information is recorded.

d. Client names must not be stored in the address books or contacts lists of mobile

devices.

e. If a third-party vendor will be used to send text messages with appointment reminders,

the Dr. Kelly Lawler must be consulted first to assure an appropriate system is selected and security controls are thoroughly

evaluated.

4.3.4. Message Content: Appointment reminders sent by text message must be limited to the

following information:

* Sender first name (optional)
* Agency name
* Client first name
* Appointment date and time
* Telephone number for client to call with questions or to change appointment

4.4. Responding to Text Messages Received from Subscribers or Clients

4.4.1. KRL will respond to text messages received from subscribers to general

public health text messages.

4.4.2. KRL will respond to text messages generated by health care clients with a text

message asking the client to call. The response should include the first name and phone

number of the appropriate person to call.

4.4.3. Messages received from subscribers or clients will be deleted from mobile devices after

necessary information is documented in accordance with records retention policies.

4.5 Other Uses of Text Messaging by KRL Staff

4.5.1. KRL recognizes that agency staff may use text messaging in ways other than those

addressed by this policy. Agency staff who use text messages in the transaction of agency

business for purposes not covered by this policy must comply with the following:

1. Text messages must not include PHI or other confidential information.

5 Acceptable Use

5.1 Opt-In consent data is required to be recorded.

5.2 No mobile information will be shared with third parties/affiliates for marketing/promotional purposes and this includes your text messaging originator opt-in data and consent and personal information.

5.3 Message frequency varies.

5.4 Message and data rates may apply.

5.5 Reply STOP to cancel

5.6 Text HELP for help

5.7 Carriers are not liable for delayed or undelivered messages.