



8 April 2016

Marlene H. Dortch, Esq.
Secretary, Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Dear Ms. Dortch:

The American Association of Healthcare Administrative Management (AAHAM) is the premier professional organization in healthcare administrative management. AAHAM's purpose is to be a leading resource for healthcare professionals for information, education, and especially advocacy. Within this role, AAHAM has concentrated its efforts on ensuring laws enacted regarding reimbursement, admitting and registration, data management, medical records, and patient relations reflect today's standards and are fairly applied to healthcare professionals.

AAHAM is sending this letter in support of Eliza Corporation's (Eliza) recent filings submitted on March 29, 2016.¹ In short, the three separate filings encouraged the FCC to update and clarify certain language included in the 2015 Telephone Consumer Protection Act ("TCPA") Omnibus Declaratory Ruling and Order (the "Order") regarding healthcare calls.

As detailed in Eliza's filings, Patient Health Engagement (PHE) is an integral part of the healthcare industry. PHE is the use of multi-channel communications to involve/activate individuals in specific aspects of their health. As Eliza explains, "prerecorded, interactive messages delivered by phone have been shown to be one of the most effective and efficient methods of improving patient engagement and health outcomes."² Providers utilize and rely on such communication as a tool for improving the quality, cost, and outcomes of healthcare.

In light of quality enforcements within the Affordable Care Act and recent IRS rulings, AAHAM members are required to maintain connection with patients. To ensure quality of care, healthcare providers and their affiliates need to notify patients of information concerning their accounts, billing, collection and other financial content so that balances can be obtained, care remains uninterrupted, and quality decisions can be made with efficiency. The current status of the Order prohibits AAHAM members from reaching those requirements and subjects them to potentially devastating TCPA liability.

¹ Corporation, Eliza. "Ex Parte Notice." Letter to FCC. 29 Mar. 2016. MS.
[Http://apps.fcc.gov/ecfs/comment_search/execute?proceeding=02-278](http://apps.fcc.gov/ecfs/comment_search/execute?proceeding=02-278), n.p.

² *Id* at pg. 2.

Covered Entities and Prior Express Consent

The enforcement of HIPAA is applied to all “Covered Entities,” including health plans, healthcare providers, and healthcare clearing houses. It was necessary to include all three categories of entities because all three work closely together to deliver quality healthcare. For example, a hospital needs to be able to contact a health plan to verify eligibility and a health plan to contact a healthcare clearing house regarding a patient’s bill. All of these entities perform an essential function for the healthcare industry and all need to have an open stream of communication to ensure patient care and the exchange of accurate information.

The same facts can be used today regarding the TCPA. By limiting the Order’s clarification and exemption to just “healthcare provider” instead of “covered entities,” the TCPA will essentially prevent healthcare providers, health plans, and healthcare clearing houses from being able to work together to effectively communicate with patients for the benefit of their care.

Currently, the Order states: “*that provision of a phone number to **healthcare provider** constitutes prior express consent for healthcare calls subject to HIPAA by a HIPAA-covered entity and business associates acting on its behalf, as defined by HIPAA, if the covered entities and business associates are making calls within the scope of the consent given, and absent instructions to the contrary.*” AAHAM supports Eliza’s argument that the above statement is flawed because the statement could be interpreted to mean that the phone number must be given directly to the healthcare provider (not health plans or healthcare clearing houses). As such, AAHAM supports Eliza’s recommendation to change the Order to read as follows: “*that provision of a phone number to **covered entity and their business associates** constitutes prior express consent for healthcare calls subject to HIPAA by a HIPAA-covered entity and business associates acting on its behalf, as defined by HIPAA, if the covered entities and business associates are making calls within the scope of the consent given, and absent instructions to the contrary.*”³

Healthcare Calls

Eliza also showed support for AAHAM’s argument that “insurance coverage,” “available payment options,” “account communications and payment notifications,” and “social security disability eligibility” calls are within the scope of “prior express consent” obtained by the provision of a telephone number to a healthcare provider or other covered entity. As Eliza concluded, such messages are very important to the effective and efficient delivery of healthcare services. Moreover, as Eliza noted, “statistically zero” complaints are submitted to the FCC regarding health care related calls.⁴

The FCC should confirm that its HIPAA “health care” language in the Order was not intended to be an exhaustive list of the calls that may be placed based on the provision of a telephone number to a healthcare provider or other covered entity. Certain calls should also be included in the consent provided to a covered entity even if they do not meet the definition of “health care” under the HIPAA Privacy Rule. Imagine if your doctor could send you a text message to remind you that your visit later that day requires a \$20 copay on site, or that your health insurance denied a specific service and

³ *Id* at pg. 5.

⁴ *Id*.

assigned it to you as patient responsibility – this type of information in real time helps patients make informed decisions.

Eliza also points out that the telehealth movement expands access to healthcare to underserved populations. Maintaining unnecessary borders of communication between patients and their care will negatively impact healthcare quality, cost, and access.⁵

In sum, AAHAM whole-heartedly supports Eliza's filings and sincerely hopes that the FCC will consider the changes and how such advancements can improve the delivery of healthcare.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Currier".

John Currier, CRCE-I, Executive Director Revenue Cycle Management
Gibson Area Hospital & Health Services
AAHAM President

⁵ *Id.* at pg. 9.