SOUTH DAKOTA URBAN INDIAN HEALTH, INC.

Policy Manual

CHAPTER #: *11*	**CHAPTER TITLE:** *Medical Records*
POLICY #: *01.07.01*	**POLICY TITLE:** *Notice of Privacy Practices for SMS Text Message Communications*

AUTHORITY: SDUIH Board of Directors

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REVIEWED:

APPROVED:

PURPOSE

This policy describes how South Dakota Urban Indian Health, Inc. *(SDUIH)* will comply with all applicable HIPAA, TCPA Laws, and/or all other device regulation service acts to ensure the most stringent safeguards are in place in order to prevent the breach of any Protected Health Information (PHI) that is used or disclosed via SMS text communications between patients and the organization. SDUIH is permitted by Federal Privacy Laws to make uses and disclosures of patients protected health information (PHI) for purposes of treatment, payment, and other health care operations.

SCOPE

Any client (i.e. patient) that has provided a ***mobile phone number*** to South Dakota Urban Indian Health, Inc. *(SDUIH)* during patient registration, either in person or by phone, has provided a ***Mechanism of Consent***. Therefore authorizing, allowing, permitting, and/or agreeing to *"Opt-In"* for SMS text message communications from the organization.

- SDUIH will use the client's mobile phone number to initiate SMS text message communications for healthcare appointment reminders.

- By providing a mobile phone number during patient registration, the Client has also agreed to the *SMS Text Message Communications Terms of Service*.

- For more information regarding the *Terms of Service,* please visit our website at: www.sduih.org/terms or contact your local SDUIH Clinic directly.

COMPLIANCE

Purpose: South Dakota Urban Indian Health, Inc. *(SDUIH)* will ensure any patient protected health information (PHI) that is sent or received by SMS text communications complies with all current HIPAA guidelines and/or any other device regulation service acts applicable.

SDUIH complies with the Telephone Consumer Protection Act *(TCPA)* and maintains a list of mobile numbers requesting not to receive marketing messages. No mobile information will be shared with third parties or affiliates for marketing or promotional purposes. Text messaging originator opt-in data and consent will not be shared with any third parties, excluding aggregators and providers of the text message services.

Any protected health information (PHI) that is utilized for SDUIH SMS text message communications for healthcare appointment reminders will be done utilizing the HIPAA Privacy Rule - *Minimum Necessary Standards - 45 CFR 164.502(b), 164.514(d*). The minimum necessary standard is based on the established and current practice that protected health information (PHI) should not be used or disclosed when it is not necessary to satisfy a particular purpose or carry out a function. SDUIH will utilize only a limited data set (LDS) of protected health information (PHI) to carry out the function of SMS text message communications between the client and the organization.

- **Carrier Liability Disclaimer:** Carriers are not liable for delayed or undelivered messages. *Due to the complex and distinct issues related to the reliability of some patients' cellular service carriers, messages travel through a Short Message Service Center (SMSC), which stores and forwards those messages when the recipient's phone is reachable. This section is not intended to address the safeguards necessary to ensure confidentiality of that form of PHI transmission.*

DEFINITIONS

Purpose: The section defines the terms relevant to this specific SDUIH policy. Use of these terms and language are a requirement for TCPA, OHMD, and HIPAA compliance.

- **Client / Patient:** The term used interchangeably in this policy to describe the consenting patron, party, or user of the SMS text communication services provided by South Dakota Urban Indian Health, Inc. *(SDUIH).*

- **Mobile Phone Number:** The specific protected health information (PHI) that will be utilized by SDUIH for SMS text message communications between the organization and the Client (i.e. patient) for healthcare appointment reminders.
    - *Mobile Phone Numbers are part of the Limited Data Set (LDS) as defined below.*

- ***"Opt-In" /*** **Mechanism of Consent*:*** A specific statement of how a patient consents to receive SMS text message communications for healthcare appointment reminders from SDUIH.

- ***"Opt-Out" /*** **Withdrawal of Consent:** A specific set of instructions sent to the patient to stop receiving SMS text message communications for healthcare appointment reminders from SDUIH.

- **Limited Data Set (LDS):** A limited data set under the HIPAA Privacy Rule is a set of *still identifiable protected health information (PHI)* that a covered entity can share for research, public health activities, and/or healthcare operations without obtaining prior patient authorization; only when specific conditions are met.
    - Any other identifiers that could directly identify a Client (i.e. patient), their relatives, employers, and/or household members, must be removed.
    - In all cases, the HIPAA - *Minimum Necessary Standards* - apply and information in the data set must be restricted to only that which is necessary to perform the tasks or care for which it is disclosed.

- **Covered Entity / SDUIH:** Under HIPAA Privacy Rule, *45 CFR §160.103*, a *"covered entity"* is defined as one of the following who transmits health information in electronic form.
    - ***1. Health Plan:*** Individual and group plans that provide or pay the cost of medical care are covered entities.
    - ***2. Health Care Clearinghouse:*** *Health care clearinghouses* are entities that process nonstandard information they receive from another entity into a standard (i.e., standard format or data content), or vice versa.
    - ***3. Health Care Providers*****:** Health care providers include all "providers of services" (e.g., institutional providers such as hospitals and/or "providers of medical or health services"- non-institutional providers such as physicians, dentists and other practitioners) as defined by Medicare as any other person or organization that furnishes, bills, or is paid for health care.

GUIDELINES FOR USE OF PHI

Purpose: SDUIH SMS text communications are for patient healthcare appointment reminders only. The SDUIH SMS text message communications program for healthcare reminders ***will not*** provide information related to any of the following and/or restrict information sharing of the following protected health information (PHI) from the Client (i.e. patent):

- **Cancelling or Rescheduling Appointments:** To cancel, reschedule or ask questions about an appointment, the Client (i.e. patient) must contact the Clinic directly.

- **Requesting Transport to/from Appointments:** To request transport to/from an appointment, the Client (i.e. patient) must contact the Clinic directly.

- **Patient Medication Information:** If the client needs information regarding medications, they must contact their local pharmacy or prescribing providers office directly.

- **Texting of Photographs or Other Images:** Texting or sharing of any photos, images or documents of any kind with SDUIH through SMS text message communications for patient healthcare appointment reminders is restricted.
    - ***Note:*** *A* signed *SDUIH Media Release (Form: SDUIH – ADM – 16)* from the Client or Legal Representative is required prior to sharing any photograph, video, publication, image containing the patient's likeness, or artwork on any SDUIH associated webpage or social media platform. The SMS text message communications program is not a part of South Dakota Urban Indian Health, Inc.*'s (SDUIH)* social media sharing platforms.

- **Protected Health Information (PHI)**: PHI unrelated to patient healthcare appointment reminders and not in compliance with the - *Minimum Necessary Standards* will be restricted.
    - Other uses and disclosures besides those identified in this policy will not be made without written authorization from the client themselves; which may be revoked, except to the extent that information or action has already been taken.

- **Psychotherapy Notes and Substance Use Disorder (SUD) Records:** PHI unrelated to patient healthcare appointment reminders and not in compliance with the - *Minimum Necessary Standards* will be restricted.
    - Patient treatment records of these kinds require a specific release of information to be obtained for any use or disclosure; except to carry out Treatment, Payment, Operations or to defend oneself against legal action brought by the subject of the notes.

DISCLOSURES OF PHI

Purpose: The following describes how the client's (i.e. patient) protected health information (PHI) may be used or disclosed by SDUIH for SMS text message communications for patient appointment reminders.

- **Treatment Purposes:** SDUIH will use the client's (i.e. patient) mobile phone number to initiate SMS text message communications for healthcare appointment reminders.

- **Healthcare Operations:** Any of the following activities of the covered entity to the extent that the activities are related to covered functions.
    - Conducting quality assessment and improvement activities, including outcome evaluation and development of clinical guidelines provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities.
    - Population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives.
    - Other related functions that do not include treatment.

- **Data Collection:** SDUIH collects phone numbers and message content for SMS communications. Phone numbers are used solely for delivering SMS text messages related to services through SDUIH.

- **Data Retention:** SMS communications and associated data are retained for 5 years per SDUIH policy, unless required by law.

- **Obtaining a Mechanism of Consent:** See *SDUIH Policy #11.01.07.02 - SMS Text Communications Patient Consent & Terms of Service* - for more information.

- **Obtaining Withdrawal of Consent:** See *SDUIH Policy #11.01.07.02 - SMS Text Communications Patient Consent & Terms of Service* - for more information.

- **Restarting Text Message Communication or Changing a Mobile Number:** See *SDUIH Policy #11.01.07.02 - SMS Text Communications Patient Consent & Terms of Service* - for more information.

SDUIH RIGHTS & RESPONSIBILITIES REGARDING PATIENT PHI

South Dakota Urban Indian Health, Inc. *(SDUIH)* reserves the right to amend, change, or eliminate provisions in these privacy practices and access practices at any time. SDUIH also reserves the right to enact new provisions regarding the protected health information (PHI) we maintain. If our information practices change, we will amend our *SDUIH Notice of Privacy Practices for SMS Text Message Communications and SDUIH SMS Text Message Communications Patient Consent & Terms of Service.*

South Dakota Urban Indian Health, Inc. *(SDUIH)* will*:*

- Maintain the privacy of patient protected health information (PHI) as required by law.

- Provide patients with notice as to our duties and Privacy Practices as to the information we collect and maintain about them.

- Abide by the terms of this Notice.

- Notify patients if we cannot accommodate a requested restriction or request.

- Accommodate patient's reasonable requests regarding methods to communicate health information with them.

- Notify patients in the event there is a breach of unsecured protected health information.

Patients are entitled to receive a revised copy of this *Notice* and the *Patient Consent & Terms of Service. To view the most updated version of the SDUIH Notice of Privacy Practices for SMS Text Message Communications and SDUIH SMS Text Message Communications Patient Consent & Terms of Service, clients may use the following weblinks:*

- *www.sduih.org/privacy or www.sduih.org/terms*

PATIENT RIGHTS & RESPONSBILITIES REGARDING PHI

All health and billing records we maintain are the physical property of South Dakota Urban Indian Health, Inc. *(SDUIH).* Clients have the following rights with respect to their protected health information (PHI) and any PHI that may be used or disclosed through SMS text message communications for patient healthcare appointment reminders:

- The Right to: *"Opt-Out"* or Withdrawal of Consent for the SDUIH SMS Text Message Communications for Healthcare Appointments at any time.

- The Right to: Obtain a paper copy of the full *SDUIH Notice of Privacy Practices for SMS Text Message Communications.*
    - By making a formal request at one of our SDUIH Clinics in person, by writing, or by phone.
    - By contacting the SDUIH HIPAA Privacy Officer in person, in writing, or by phone.
    - By viewing a copy on website at www.sduih.org/privacy.

- The Right to: Obtain a paper copy of the full SDUIH Notice of Privacy Practices for Protected Health Information.
    - By making a formal request at one of our SDUIH Clinics in person, by writing, or by phone.
    - By contacting the SDUIH HIPAA Privacy Officer in person, in writing, or by phone.
    - By viewing a copy on our website at www.sduih.org.

- The Right to: Request an alternative form of communication from SDUIH for patient healthcare appointment reminders (i.e., standard phone calls and/or letters by mail).
    - Note: Other forms of communication for patient healthcare appointment reminders (i.e. email, etc.) are not applicable.

FOR MORE INFORMATION

If you have questions or would like further information regarding the SDUIH text message communications program, you need to report a problem regarding the handling of your PHI; or you have a dispute/issue related to your protected health information (PHI), you may contact:

SDUIH Clinical Risk Manager/HIPAA Privacy Officer
Rosie Hope, BSN, RN
Rhiannon.Hope@sduih.org
T: 605-339-0420
F: 605-339-0038

South Dakota Urban Indian Health, Inc. *(SDUIH)* Website
For more information about our SDIUH Clinic locations or the organization, please visit our webpage at www.sduih.org.

POLICY REVIEW

Review Cycle: *[State the review cycle and approval requirements for this policy.]*