



THE SOUTH AFRICAN MEDICAL ASSOCIATION

Electronic Communication Guidelines

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This a living document and is intended to inform SAMA members about the ethical implications of using electronic communication.

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Introduction

Electronic communication is increasingly becoming the communication method of choice for medical doctors and patients alike.

Electronic messaging is defined as ‘the creation, storage, exchange, and management of electronic data over a communications network.’

Electronic communication can include, inter alia services and/or platforms for short message service (SMS), electronic mail (e-mail), facsimile (fax) and instant messaging services such as WhatsApp Messenger.

For the purposes of this document, WhatsApp (WA) will be used as the primary example of electronic communication. WhatsApp Messenger is a freeware, cross-platform messaging and voice over Internet Protocol (IP) service owned by Facebook.

It allows users to send and receive text and voice messages, make voice and video calls, and share images, documents, user locations, as well as other media.

While there are many advantages of electronic communications (e.g. convenience, comfort, and speed), it is, however, important for medical doctors to recognise the ethical implications of using electronic communication to conduct their day-to-day duties.

In addition, medical doctors have a responsibility to educate their patients about the ethical implications, when both parties agree to use electronic communication (such as WA).

Important to note:

- These guidelines are not an endorsement for doctors to use WA or any other form of electronic communication.
- These guidelines are intended for communication between medical doctors and pre-existing patients who are already within an established doctor-patient relationship.
- These guidelines are not to be used in an emergency.
- In the case of a patient seeking advice via electronic communication [WA] in an emergency or life-threatening situation, doctors should refer the patient to their nearest hospital or clinic casualty department.

Guidelines

Ethical Considerations

1. The Patient-Doctor Relationship

The patient-doctor relationship should be based on a personal [face-to-face/hands on] examination and sufficient knowledge of the patient's medical history. Electronic communication should be employed primarily in situations in which a doctor cannot be physically present within a safe and acceptable time. It could also be used in the management of chronic conditions or follow-up after initial treatment where it has been proven to be safe and effective.

The patient-doctor relationship must be based on mutual trust and respect. It is therefore essential that the doctor and patient be able to identify each other consistently when electronic communication is employed. In case of consultation between two or more professionals within or between different settings, the primary doctor remains responsible for the care and coordination of the patient with the distant medical team.

Confidentiality

The doctor must aim to ensure that patient confidentiality, privacy, and data integrity are not compromised. Data obtained during an electronic communication consultation must be secured to prevent unauthorized access and breaches of identifiable patient information through appropriate and up to date security measures per local legislation. Electronic transmission of information must also be safeguarded against unauthorized access.

Informed Consent

Valid informed consent requires that all necessary information regarding the distinctive features of electronic communication, i.e. WhatsApp Messenger is explained fully to patients, including, but not limited to:

- explaining how electronic communication, i.e. WA works,
- how to schedule appointments electronically,
- privacy concerns,
- risks, including the possibility of technological failure and confidentiality breaches,

- protocols for contact during virtual visits,
- prescribing policies and coordinating care with other health professionals clearly and understandably, without influencing the patient's choices,
- patients must be made aware of the risks involved in utilising such services,
- an explanation that the patient will agree to mediation prior to litigation in the event of a dispute arising.

See annexure 1 for an example of an informed consent document for electronic communication.

Doctors must be aware that electronic communication platforms such as WA could be unaffordable and inaccessible to certain patients and hence this could impede access to care. Inequitable access to WhatsApp Messenger can further widen the health outcomes gap between the poor and the rich.

2. Autonomy and privacy of the Doctor

Electronic Communication can potentially infringe on a doctor's privacy due to 24/7 virtual availability. The doctor needs to inform patients about availability and recommend services such as referral to the nearest hospital or clinic casualty department when care inaccessible.

The doctor should exercise professional autonomy in deciding whether an electronic communication versus face-to-face consultation is appropriate.

A doctor should exercise autonomy and discretion in selecting the electronic communication service or platform to be used, should she/he deem this platform appropriate for her/his specific patients and their particular needs.

3. Responsibilities of the Doctor

A doctor whose advice is sought through the use of electronic communication should keep a detailed record of the advice he/she delivers as well as the information he/she received and on which the advice was based to ensure traceability.

If a decision is made to use electronic communication, it is necessary to ensure that both the patient and doctor can use the necessary electronic communication system correctly. The doctor thus needs to assess practically the patient's level of understanding, as well as accessibility to the system.

The doctor must seek to ensure that the patient has understood the advice and treatment suggestions given and take steps in so far as possible to promote continuity of care.

The doctor should be aware of and respect the special difficulties and uncertainties that may arise when he/she is in contact with the patient through means of electronic communication. A doctor must be prepared to recommend direct patient-doctor contact when he/she believes it is in the patient's best interests.

4. Quality of Care

Health care quality assessment measures must be used regularly to ensure patient security and the best possible diagnostic and treatment practices during electronic communication consultations. The delivery of services via electronic communication must follow evidence-based practice guidelines, to ensure patient safety, quality of care and positive health outcomes. Like all health care interventions, electronic communication platforms or services must be tested for their effectiveness, efficiency, safety, feasibility, and cost-effectiveness.

The impossibilities and weaknesses of electronic communication in emergencies must be duly considered. If it is necessary to use electronic communication in an emergency, the advice and treatment suggestions are to be influenced by the severity of the patient's medical condition and the level of competency of the persons who are with the patient.

Security Considerations

5. Security Features

Any electronic communication platform or service on which medical doctors communicate with patients must be protected by one or more of the following security measures: a password, pin, pattern and/or fingerprint, voice or face recognition.

Although certain electronic communication platforms or services such as WhatsApp Messenger has an end-to-end encryption, meaning only the parties involved in the communication with can read what is sent, doctors nevertheless need to ensure that access to that electronic communication is restricted and highly protected.

Other Considerations

6. Information cannot be deleted with certainty

There is no certainty that the recipient/s has/have not seen the message/s or information before it has been deleted. As a result, doctors need to exercise extreme caution when communicating electronically with patients to make sure that the appropriate recipient/s is/are receiving the correct information. One way of mitigating the risk of sending information to the incorrect recipient/s is for doctors to use WhatsApp Messenger Business. This is discussed in detail below.

7. Doctors Considering the Use / Already using WhatsApp

It cannot be denied that electronic communication platforms or services such as WhatsApp Messenger can be a quick and convenient way for doctors to effectively communicate with patients. However, as mentioned before, it can create an unrealistic expectation that doctors are constantly available - the boundary between professional and personal interactions may become compromised. Therefore, WhatsApp Business may assist in such cases.

WhatsApp Business

8. What is WhatsApp Business?

WhatsApp Business is a free to download communication app - It could be a valuable tool for doctors who prefer using WhatsApp Messenger as a method of communication with their patients. Its user interface is intended to feel and work just like WhatsApp Messenger. WhatsApp Business can help you provide 'customer' support and deliver important notifications to patients. While it is completely separate from the standard version of WhatsApp, it works in the same manner.

See annexure 2 for instructions on how to download and use WhatsApp Business.

9. Is WhatsApp Business Safe?

As with the Standard Version of WhatsApp – WhatsApp Business has the same security features including encryption of messages.

Nevertheless, as with any technological product, there is no guarantee that WhatsApp Business is 100% safe and as a result, there may be risks involved in using WhatsApp Business, such as hacking and malicious spyware.

Pointers Doctors need to be aware of When Using Electronic Communication

If doctors decide to communicate with their patients electronically, they need to remember the following:

- WhatsApp Messenger is generally invasive. Even more so when transferring medical information. Doctors need to exercise extreme sensitivity and caution. Keep communications clear and short, without disclosing any sensitive information, in a language level comfortable to the patient.
- The interpretation of texts is based on perception. Thus, there is potential for misunderstandings due to typographical or interpretation errors. A follow-up call may be needed if the patient does not understand the text/s.
- Consultations made using electronic communication are not routinely covered by reimbursement/indemnity policies. This is managed on a case-by-case basis. Consequently, doctors are cautioned that medicolegal claims may not have adequate insurance coverage.

10. References

Netolink. WhatsApp Business: Creating and setting up a business account – Comprehensive Guide. 2018. <https://netolink.com/whatsapp-business/> [Accessed: 18 November]

Quora. 2019. What are the disadvantages of WhatsApp?
<https://www.quora.com/What-are-the-disadvantages-of-whatsapp> [Accessed: 16 August May 2019]

The Business Alert. 2019. WhatsApp Business App | New WhatsApp For Business On Android & iPhone. <https://thebusinessalert.com/whatsapp-business-app-android-iphone/> [Accessed: 21 May 2019]

WhatsApp. <https://www.whatsapp.com/business/> [Accessed: 21 May 2019]

WhatsApp. WhatsApp Business App. <https://www.whatsapp.com/business/>
[Accessed: 21 May 2019]

WhatsIs.com. Messaging. <https://whatis.techtarget.com/definition/messaging>
[Accessed: 18 November 2019]

World Medical Association (WMA). WMA Statement on the Ethics of Telemedicine. <https://www.wma.net/policies-post/wma-statement-on-the-ethics-of-telemedicine/>
[Accessed: 16 August May 2019]

Annexures

11. Annexure 1: Example of an informed consent document for electronic communication

CONSENT TO USE OF SOCIAL MEDIA AND ELECTRONIC COMMUNICATION PLATFORMS

This template is intended as a departure point for informed discussion and decision-making.

Practitioners should adapt it to meet their particular circumstances.

Practitioners are encouraged to contact SAMA should they require any assistance related to social media and electronic communication.

Practitioners should always remain cognisant of applicable legislation (i.e. National Health Act) and HPCSA guidelines (i.e. Booklet 1, 5, 10) related to confidentiality and patient consent.

PRACTITIONER

Name:

Practice Address:

Practice Email:

Practice Phone:

WhatsApp Phone:

SOCIAL MEDIA AND ELECTRONIC COMMUNICATION PLATFORMS

The practitioner and the patient have agreed to communicate using the following social media and electronic communication platforms:

- ☐ Email
- ☐ Instant Messaging (WhatsApp)
- ☐ Other Social Media (specify)

[(Please tick the applicable boxes)]

PATIENT ACKNOWLEDGEMENT AND AGREEMENT

I acknowledge and agree that the use of social media and electronic communication is offered solely as an added convenience by the Practitioner for my benefit.

I acknowledge and agree that since the use of social media and electronic communication is offered solely as an added convenience by the Practitioner for my benefit, I hereby indemnify the Practitioner and his Practice against any and all claims and/or liability that might arise as a result of utilizing this added convenience.

I acknowledge and agree that the use of social media and electronic communication does not in any way alter the existing contract and legal relationship between the Practitioner and myself. The Practitioner is not burdened with any additional undertaking other

than that agreed upon at the outset of the relationship. The use of social media and electronic communication does not create any additional expectations or entitlements as to the level of care and skill the Practitioner is brought to bear.

I acknowledge and agree that either I or the Practitioner may, at any time, withdraw the option of communicating via the social media and electronic communication platforms upon providing written notice.

I acknowledge and agree that I have familiarized myself with all the risks, limitations and conditions of the use of social media and electronic communications platforms.

I acknowledge and understand that the Practitioner will use reasonable means to protect the security and confidentiality of information sent and received using the social media and electronic communication platforms. However, because of the potential heightened risks, which are out of the Practitioner's control, the Practitioner cannot and does not guarantee the security and confidentiality of electronic communications.

I acknowledge and agree that despite recommendations that encryption software be used as a security mechanism for electronic communications, it is possible that communications with the Practitioner using the social media and electronic communication platforms may not be encrypted. Despite this, I agree to communicate with the Practitioner using these platforms with a full understanding of the risk.

I acknowledge and understand that while the Practitioner will attempt to review and respond in a timely manner to social media and electronic communications, the Practitioner cannot and does not guarantee that all electronic communications will be reviewed and responded to within any specific period of time.

I acknowledge and agree that I will contact the Practitioner either in-person or over-the-telephone should an urgent response be required. Electronic communication is not an appropriate substitute for in-person or over-the-telephone communication or clinical examinations. I remain responsible for following up on the Practitioner's electronic communication and for scheduling appointments where warranted.

DISPUTE RESOLUTION

1. Should any dispute, disagreement of claim arise between the parties (called hereafter 'the dispute'), the parties shall try to resolve the dispute by negotiation. This entails that one party invites the other in writing to a meeting and to attempt to resolve the dispute within seven days from date of the written invitation.
2. If the dispute has not been resolved by such negotiation within seven days of the written invitation, the dispute shall be submitted to mediation, which shall be administered by the Arbitration Foundation of South Africa ('AFSA') in terms of the AFSA Mediation Rules. Any party to this agreement may refer the dispute to mediation.
3. If the parties are unable to resolve the dispute through mediation, the dispute, if arbitral by law, shall be finally resolved in accordance with the AFSA Commercial Rules.

I acknowledge and understand that the social media and electronic communications platforms will not be used for medical emergencies or other time-sensitive matters. If I require immediate assistance, or if my condition appears serious or rapidly worsens, I should not rely on the social media and electronic communication platforms.

Patient Name:

Patient Email:

Patient Mobile Phone:

Patient Signature:

Date:

12. Annexure 2: Instructions on how to download and use WhatsApp Business

These instructions are courtesy of Netolink.

First requirements

To download the WhatsApp Business application, you must ensure that your system requirements meet the requirements of the application. These are the requirements:

Android

The operating system version is 2.3.3 or later.

Your device can receive phone calls or SMS messages.

These requirements are the standard application requirements.

iOS

The operating system version is 8 or later.

Your device can receive phone calls or SMS messages.

Windows Phone

The operating system version is 8.1 or later.

Your device can receive phone calls or SMS messages.

Download and install the application

The next step is to download the application onto your mobile device. Before you download the application, you need to know a few things:

If you have a standard WhatsApp account, you can transfer all call/chat history to a WhatsApp Business account. It is recommended that you back up.

You will not be able to transfer your call/chat history back to your regular WhatsApp account once you decide to stop using a business account.

Both applications (WhatsApp Messenger and WhatsApp Business) can be used on the same device, provided they have two different phone numbers. You cannot use the same phone number for both.

Once you have decided to download and install the app, you will need to do the following:

Download for Android and iOS devices

Download WhatsApp Business app via Google Play for Android devices or via AppStore for iPhone iOS devices.

Verify your phone number with which you want to communicate with your patients.

Restore call history if desired.

Adding a name to your business (at this step, you cannot change your business name once you have set it up).

Build a business page (next step).

Set up a business page

Now the part of setting up a business page remains.

To start the business page setting you must click the menu button at the top > then click Settings > then click on Business Settings > and then click on Profile.

Now you are on your business page, where your business information needs to be updated. To edit, click the pencil icon.

Profile picture – The image must be of your business; a logo is recommended.

Location – here you must specify your business address, you can also use the map that is there.

Category – Choose the right category for your business.

Business Description – Choose a description.

Business hours – You can update the hours of your business.

E-mail – Email where patients can contact you; it is recommended that you use a business email.

Website – Add a website address.

Then, check that everything is normal and correct. Then click the “Save” button.

Set up automatic messages

Using WhatsApp Business, you can set up automated messages for your patients.

To start the business page setting, click on the menu button at the top > then click Settings > then click Business Settings > and then continue to the “Messaging Tools” section. Where you can edit these messages.

Away Messages – Automatic messages can be set as soon as you are not available or out of the office. You can also schedule these messages automatically at certain times, for example when your practice is closed.

Greeting Messages – You can set a notification to be displayed to patients when they first call or after 14 days of inactivity.

Quick Replies – You can create predefined messages and create keyboard shortcuts for them to save the time to send the message.

For more information on WhatsApp Business, please visit:

<https://www.whatsapp.com/business/>