



Collection Tip of the Month

Last year I told you that the Federal Communications Commission (FCC) was going to revise the Telephone Consumer Protection Act (TCPA) sometime in 2015. As an industry we were very excited because the TCPA (which was enacted in 1991) was out of date due to the many changes in technology. TCPA lawsuits against collection agencies have been out of control because the ruling lacks clarity regarding new technology. The primary suit evolved around Automatic Telephone Dialing Systems (ATDS) calling cell phones without the consent of the consumer. The spirit and intent of the TCPA was to stop an ATDS that can make random robocalls. We don't make random robocalls with our ATDS. All of our numbers are provided to us by our clients. That is called predictive dialing. However, there had been many lawsuits where the courts did not distinguish between the two because our predictive dialer has the "capacity" to make random calls even though we do not have that feature activated on our dialer. Therefore, like many agencies we made the decision not to call cell phones using our automatic dialer about 1 year ago. Since then, we have been manually dialing cell numbers. Given that 60% of all the numbers we call are cell phones, that really hurt our ability to contact consumers as our automatic dialer can call 5 times the people than one of our collectors can dialing manually. The dialer is our most valuable tool to reach consumers.

The Association of Credit and Collection Professionals (ACA) along with many other industries (banking, airlines, financial services, etc..) worked diligently to make suggestions to the FCC that would alleviate these nuisance lawsuits while still protecting consumer's rights. Here are the 4 petitions that the ACA presented to the FCC:

1. Confirm that just because a predictive dialer can be an ATDS, not every predictive dialer must be an ATDS covered by the TCPA.
2. Confirm that "capacity" means the "present ability" of the dialing system.
3. Establish a safe harbor for autodialed "wrong number" calls to wireless numbers.
4. Clarify that prior express consent attaches to the person incurring a debt, not the wireless number.

On July 10th, the FCC released their declaratory ruling and it became effective immediately. Unfortunately, the ruling did not go the way we had hoped it would. In fact, the ruling added no clarity to our 4 petitions and in most cases made matters worse. Here are the highlight of the ruling:

1. All predictive dialers will be considered ATDS as long as they have the "capacity" or can be modified to have the "capacity" to

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make random calls. Given that definition almost every telephone, with maybe the exception of a rotary phone, can be modified to be an ATDS. I bet your current phone system has the ability to speed dial. That would probably qualify as an ATDS. As would your cell phone.

2. If you have consent to call a cell phone, but that number has been reassigned to a new consumer you could be in violation because the new consumer has not given you consent. The new ruling did provide a safe harbor for reassigned cell phones. The rule gives you one call attempt (not one contact) to gain knowledge of the reassigned number. Also, if a person other than the intended party answers their phone, you could be in violation.
3. If a consumer gives you consent to call their cell phone using an ATDS, they have the right to revoke prior consent in any reasonable time or way. Their revocation can be made orally.
4. If a consumer "ports" a land line to a wireless line you must have consent to call the wireless number. If a patient lists their cell phone number as their home phone number on your intake form that does not give you consent to call that number. The burden is on you to identify whether it is a land line or a cell phone.
5. Text messages are considered calls and you must have prior consent.
6. Exemptions to the rule include: financial service calls to inform the consumer of fraud or identity theft; RX refill reminders; and health related appointment notifications (does not include attempts to remind the patient to pay their bill).
7. Phone carriers can offer robo-blocking technologies to consumers to use to stop ATDS calls.

On July 10th, the ACA International filed a suit in the U.S. Court of Appeals seeking judicial review of the FCC's ruling. In all likelihood, this will be a tough and long road to get the ruling overturned. Meanwhile, here's what you must do:

Immediately download this consent form ([Patient Consent Form Allowing Communication.docx](#)) and have every patient that comes into your office read it and sign it. You can add it to your current financial policy form or use it as a stand-alone form. You need to do this for your protection as well as ours. When you submit accounts, please include the signed consent form so we know for sure that we can call the number. The consent form also gains consent for texts and emails. Emailing consumers is going to be the next big technological breakthrough so you will be covered.

Over the next few weeks, Dave and I will be talking to you about this topic in more depth. This is important to each of our businesses. Please make this a priority.

How Can I Earn CEU's By Attending a CDA Seminar?

Many of you belong to various professional medical office management associations and are looking for industry professionals to conduct a seminar at your local or state meetings. CDA is now offering a free seminar called "9 Red Hot Ingredients to Fire Up you're A/R Collections in Just 30 Minutes a Week?" for your medical or office managers association. We will be conducting a seminar for the American Association of Professional Coders in February and they will receive 2.0 CEU's towards their professional certification for attending. Also, we were approved by the American Academy of Medical Administrators are allowing their members 1.5 CEU's for attending a live seminar or webinar.

You can view a short video on the seminar by going to <https://www.cdac.biz/spiceitup>

If you are interested in learning more about how you can bring our seminar to your association, please call Dave or Tony.

Thank You For Your Trust!!

We are looking to help more clients like you. The greatest form of flattery is when one of our clients refers us to one of their colleagues. If you know someone that can benefit from our services, let us know and we will be glad to follow up.

Chef Dave's Kitchen

Simple Italian Grilled Chicken

- pam no-stick grilling cooking spray
 - 3 tablespoons [extra virgin olive oil](#)
 - 1 tablespoon [lemon juice](#)
 - 1 tablespoon dried Italian seasoning (I sometimes use a Middle Eastern spice mix called Baharat that I received in a "B" swap)
 - 1 teaspoon garlic salt $\frac{1}{4}$ teaspoon [ground black pepper](#)
 - 4 [boneless skinless chicken breasts](#)
1. Coat grill pan with no-stick cooking spray. Heat over medium heat.
 2. Combine olive oil, lemon juice, Italian seasoning, garlic salt, and pepper, in a medium microwavable bowl. Microwave on HIGH for 1 minute. Stir. Dip chicken in olive oil mixture to

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- coat evenly.
3. FOR INSIDE COOKING: Place on hot grill pan. Cook 6-8 minutes per side until juices run clear and thermometer reads 165 degrees. Allow to rest 5 minutes before serving.
 4. FOR OUTDOOR GRILL: Coat unheated grill grate with no-stick cooking spray. Preheat grill to medium-high heat. Grill chicken 6-8 minutes per side until juices run clear and thermometer reads 165 degrees F. Allow to rest 5 minutes before serving.

All the best,

Tony Muscato, VP of Sales

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