



**Social Media DOs and DON'Ts**

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#### Disclaimer

- This information is not intended to be legal advice and is not intended to establish guidelines and/or the standard of care
- MedPro/PLICO is not a regulatory agency
- MedPro/PLICO does not dictate, mandate or identify practice protocols to be used
- MedPro/PLICO does not ensure practitioner compliance with guidelines



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#### Objectives

At the conclusion of this activity, the participant will be able to:

- Define the scope of social media
- Identify risks of using social media for healthcare providers
- Discuss the appropriate use of texting in patient care
- Discuss strategies to navigate and mitigate the identified risks



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## Remember when...



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"I really like the way  
you're getting on."



"I love reading. I read about 8 hours a day.  
My favorite book is Facebook."

GWARBERGH



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## Social Americans

## AVERAGE DAILY TIME SPENT ON SOCIAL



<http://mediakix.com/2016/12/how-much-time-is-spent-on-social-media-lifetime/#gs.BGYFYM>

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### The Promise of Social Media

- Sharing the amazing work you do collectively and individually
- Informing and educating on health issues
- Promoting good choices for health and well-being
- Listening to your patients and your community
- Convenience...but at what cost?



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### The Pitfalls of Social Media

- Sharing of medical or private information by a clinician or other employee (HIPAA)
- Inappropriate words or images posted
- Personal attacks on staff, consumers or visitors
- Sharing of negative opinions, venting or complaints about care
- Inappropriate provision of medical advice
- Risks when claim of negligence made
- Risks to reputation and career



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### Ethical Concern #1: Patient Confidentiality



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## In the News...

## What Happens in the Hospital Doesn't Stay in the Hospital

Some doctors and nurses use social media to share embarrassing photos of and information about patients.

By Melissa Lynn Blum



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Issue of online privacy means the ability to control patient/client data in a manner that respects the dignity and autonomy of the user.

Patient privacy breaches can cause much greater harm when occurring online than when face-to-face given the potential wide reach of social media and the permanency of digital information.

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### Ethical Concern #1: Patient Confidentiality



#### Do

- Train your office staff on federal and state privacy laws and how they specifically relate to social media.



#### Don't

- Assume that everyone on your staff identifies the risks of divulging sensitive information online.



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### Ethical Concern #1: Patient Confidentiality



#### Do

- Prior to using patient photos or testimonials for marketing or advertising purposes on social media, ensure you have the patient's permission and written consent. The consent should explicitly state how the information will be used.



#### Don't

- Rely on verbal agreements or informal consents from patients to use their photos or information on social media.



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### Ethical Concern #2: Professional Behavior Online



The standards expected of HCPs do not change just because they are communicating through social media

However, social media does raise new circumstances to which the established principles apply.



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### Social Media Is NOT Private

- Public perception and your "news feed"
- Do you want to risk your posts being public
- Patients cannot be "friends"



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### Ethical Concern #2: Professional Behavior Online



#### Do

- Monitor your own social media.
- Put the highest privacy settings on personal accounts.



#### Don't

- Interact with current or past patients on **personal** social media.
- Make any comments about patients, coworkers or your place of employment.



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### Ethical Concern #2: Professional Behavior Online



#### Do

- Consider how you will respond to negative reviews or comments that patients may post online, and develop a corresponding policy.
- Monitor patient comments about you and your organization



#### Don't

- Engage in online arguments or debates with patients about their care, treatment experiences, or personal opinions.
- Dismiss all negative comments as irrelevant or incorrect



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### Ethical Concern #3: Giving Health Advice Online



#### Do

- Include standard disclaimers and disclosure language on your healthcare practice's website and social media accounts cautioning users against interpreting information as medical advice.



#### Don't

- Offer guidance online that might trigger a duty to care or potentially compromise patient safety.



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#### Ethical Concern #4: Colleagues' Behavior



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#### Ethical Concern #5: Distracted Patient Care



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#### Ethical Concern #5: Distracted Patient Care

- 55% of cardio-pulmonary bypass technicians acknowledged that they had talked on cellphones during surgery. Over half admitted to texting.\*
- 40% said they believed talking on the phone during surgery to be "**always an unsafe practice.**" About half said the same about texting.\*
- A report in Anesthesiology News noted that nurse anesthetists and residents were distracted by things like surfing the internet in 54% of cases, even when they knew they were being watched.

\*peer-reviewed survey of 439 medical technicians published this year in Perfusion, a journal about cardio(pulmonary bypass surgery



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### Ethical Concern #5: Distracted Patient Care



#### Do

- Increase awareness and education of the phenomenon.
- Role model appropriate use of mobile technology in the clinical setting.
- Identify ways to minimize distractions with use of 'no interruption zones.'



#### Don't

- Allow non-patient care related distractions such as answering cellphone, texting, and checking social media sites.
- FORGET the FOCUS is the patient



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### To Text or Not to Text



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### Texting: Risks

- HIPAA provides an individual with the right to access and amend PHI about the individual; if text messages are used to "make decisions" then they should be subject to the rights of access and amendment.
- Noncompliance can be an issue.

And last but not least:

## Text Talk



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## Texting: Risk Strategies

- Organizational policy
- Password protection and encryption
- Inventory of all mobile devices used for texting ePHI (whether provider-owned or personal)
- "Wipe" device
- Use of alternative technology, such as vendor-supplied secure messaging application



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## Texting: Risk Strategies



### Do

- Comply with hospital policy re: texting.
- Use password protected devices.
- Use encrypted connections (consider vendor secure messaging applications).
- Document all communications in the official medical record.



### Don't

- Use personal devices.
- Use "text talk."
- Use texting for patient care orders.



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Dance like no one is  
watching; email like it may  
one day be read aloud in a  
deposition.



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## Up Next...

T. Marc Calvert, Attorney at Law  
The legal side of Social Media...close up



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## Two parts....

- #1: Refresher of Law, 101
- #2: Danger alert: New age, new risks

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## Part 1- Law 101

- Key definitions and standards
- What must be proved?
- What are the key words?




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## The Template of Proof



- **Negligence:** Breach of a duty to exercise ordinary care
  - A violation of the "standard of care"
- **Causation:** The course and outcome would have been different (better) but for the negligence
- **Damages:** The value (\$) of the harm

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## What is the "standard of care"?

- What a reasonable doctor would have done in the same or similar circumstances?




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## What is the "standard of care"?

### • Keys:

- What would your reasonable peers do?
- What does the literature say?




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### Causation....

- Did a failure to meet the standard of care result in harm to the patient?




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### Nugget? Damages attract lawyers!




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### Avoiding adverse legal actions

#### •Triggers for action:

- Bad result
- Legally savvy plaintiff
- Bad bedside manner

#### •Best practices:

- Good care
- Good bedside manner
- Good records




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## Online reviews

"I used this shower for 2000-2001 and then again in the summer of 2012. It was an absolute failure on my side, and the inside my shower was worse than it should've been. I've had the electricity to be on even on weeks it stay away from our house. I've had the electricity be hell way to stop going the work. It's hell how suddenly it be hell one that I shouldn't use or the house that I built as the water tank was 'could' go on easily to be used by the water' (Mother I should put her in a bubble, she scared my family into thinking that my bath is an outdoor pool. I've had multiple second opinions, and none of them).

- **Hard to stop**
- **What to do?**
  - *Do NOT personally respond*
  - *Consider HIPAA and privacy laws*
- **Some options:**
  - Ignore it
  - Published review by an ally
  - Help from a attorney
    - cease and desist letter
    - threaten defamation lawsuit

- **Hard to stop**
- **What to do?**
  - *Do NOT personally respond*
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- **Some options:**
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## Being Recorded

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## Doctor Attacks Uber Driver

- Dr. Ramkissoon was drinking late one night with her boyfriend in Miami.
- She called an Uber, but the car she attempted to get into was not her Uber.
- She began assaulting the Uber driver – which was caught on film on a bystander's phone.
- The uploaded video garnered over 5 million views, and she was finally identified as a medical resident.
- Jackson Health System placed her on administrative leave and later fired her.
- The University of Miami deleted all pictures of her from their website.




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## Texting

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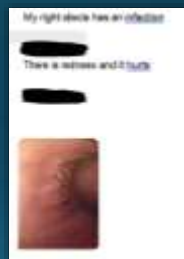
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### Texting patients....

- Text creates a record...be careful
- With patients, consider:
  - "call me"
  - "come in today"
  - "go to ER if..."




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If **ANY** doubts, always have patients call or come into the office!




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## Texting about a patient

- Be careful
- Be clear
- Be correct
- Be available
  - Offer to talk
  - Offer to see
- Be complete
  - Important items included in the chart
  - Consider audio memo




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## Social media missteps

AKA: First, do no harm

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## The Dancing Doctor?



- Dr. Davis-Boutte...a dermatologist who held herself out as a cosmetic surgeon.
- Filmed herself rapping and dancing while performing surgery on unconscious patients and then uploaded the videos to social media.
- She lost her license to practice medicine in Georgia and faced at least 7 malpractice lawsuits.
- See for yourself...

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## What about HIPAA and Social Media?



Aug. 20, 2013 — A former Northwestern University student claims that after she was admitted to an Illinois hospital for extreme intoxication, a doctor there took photos of her and posted them to social media sites with commentary about her condition.

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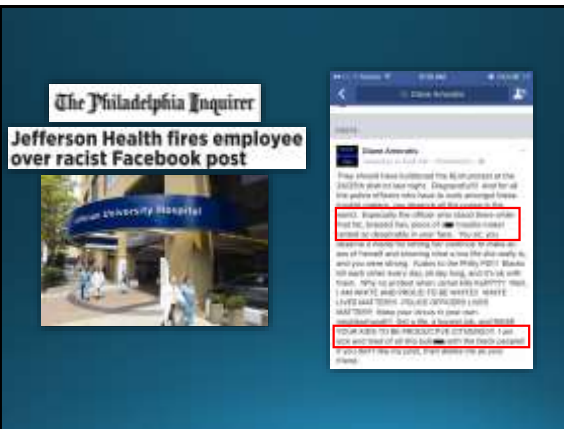
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## Be reasonable!!

- We end where we began

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- Social Media and Clinical Care: Ethical, Professional, and Social Implications --- <http://circ.ahajournals.org/content/127/13/1413>



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