Social Media DOs and DON'Ts

Disclaimer

• This information is not intended to be legal advice and is not intended to establish guidelines and/or the standard of care

• PLICO is not a regulatory agency

• PLICO does not dictate, mandate or identify practice protocols to be used

• PLICO does not ensure practitioner compliance with guidelines
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
The Social Tsunami

**Definition of social media**

noun [treated as singular or plural]

Websites and applications that enable users to create and share content or to participate in social networking.

Social Americans

**Americans' Daily Time Spent Social Networking**

(Self-reported average hours per day among social network users)

January 2013

Source: Buzzfeed Insights Exchange
Social Americans

AVERAGE DAILY TIME SPENT ON SOCIAL

<table>
<thead>
<tr>
<th>Platform</th>
<th>Time Spent</th>
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<tbody>
<tr>
<td>Youtube</td>
<td>40 minutes</td>
</tr>
<tr>
<td>Facebook</td>
<td>35 minutes</td>
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<tr>
<td>Snapchat</td>
<td>25 minutes</td>
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<tr>
<td>Instagram</td>
<td>15 minutes</td>
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<tr>
<td>Twitter</td>
<td>1 minute</td>
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TIME SPENT ON SOCIAL IN A LIFETIME

= 5 YEARS, 4 MONTHS ON SOCIAL MEDIA

SOCIAL RANKED WITH DAILY ACTIVITIES

WATCHING TV  
7 YEARS + 8 MONTHS

ON SOCIAL MEDIA  
5 YEARS + 4 MONTHS

EATING + DRINKING  
3 YEARS + 5 MONTHS

GROOMING  
1 YEAR + 10 MONTHS

SOCIALIZING  
1 YEAR + 3 MONTHS

DOING LAUNDRY  
6 MONTHS
Major Social Media Platforms

Social Americans

The Promise of Social Media

• Stay in touch with family and friends
• Information and education on issues of interest to you
• News, news, more news...fake news

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?
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

First, do no harm with your smartphones.
Ethical Concern #1: Patient Confidentiality

• Hospice nurse - one of her patients posted on a hospital-sponsored communication page to keep family and friends updated on her battle with cancer. One day, patient posted about her problems with depression. The nurse, in an attempt to be supportive, posted “I know the last week has been tough! Hopefully the new happy pill will help, along with the increased dose of morphine. I’ll see you on Wednesday”. The site automatically listed the user’s name with each comment.

• The next day, nurse was shopping at the grocery store when a friend asked her about Maria’s (the patient’s) condition. “I saw your post yesterday. I didn’t know you were taking care of her. I hope that new med helps with her pain.”
Ethical Concern #1: Patient Confidentiality

- An LPN took photos on his personal cell phone of a patient who was a resident at the group home in which he worked. Before he took the resident’s photo, he asked permission from the resident’s brother, because she was unable to give consent because of her medical and physical condition. That evening, the LPN ran into another nurse who had previously worked at the group home. While catching up, he showed the fellow nurse the patient’s photo, and they discussed her condition.

In the News...

In April, a 60-year-old man was violently attacked by another resident at his nursing home. The victim was stabbed more than a dozen times with such ferocity that he was nearly decapitated. He was brought to the emergency department of St. Mary Medical Center in Long Beach, California.

As he lay dying, multiple nurses and other hospital staff took photos of the man and his injuries and posted them on Facebook.

The photos were up for two days before another hospital employee saw them and reported the incident.

The hospital fired four of the employees involved and disciplined three others.

Sharing Photo of Gunshot Wounds Gets Hospital Staffers Fired:
Clinician took a cellphone photo of 17-year-old gunshot victim's wounds in the ER and the photo was shared with several other people.

Hospital Workers Fired for Posting Patient Pictures on MySpace:
Two members of staff at the University of New Mexico Hospital have been sacked after it emerged they had taken pictures of patients and uploaded them to a popular social networking site.

Three years ago, Tri-City officials fired five nurses and five staff members for taking cellphone photos of a suicidal patient and patient X-rays.

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 Jayne Kinney

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.
"I don’t know what HIPAA stands for, but I know I believe in it.”

Peyton Manning

Ethical Concern #1: Patient Confidentiality

**Do**
- Maintain the same standards for privacy and confidentiality of patients’ protected health information on social media as you would in all other forms of communication.

**Don’t**
- Post pictures or details about patients on personal or professional social media accounts, even if you think the level of detail isn’t sufficient to identify the patient.
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.
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.

In the News...

#Man vs. 6 Train
In the News...

The Hospital Employee Who Suggested Police Should Commit Genocide in Ferguson

A member of the public alerted the poster’s employer, reasonably arguing that “a hospital is a place where you're supposed to have compassion upon people of all races.” The hospital agreed and the employee was fired.


In the News...

January 2011: Facebook claims yet another victim: A Kansas nursing student is fighting back after taking a photo of herself with a human placenta and posting it on Facebook—then getting expelled.
Patients as Friends?

Social Media Is *NOT* Private

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

Social media can make or break your personal brand. More people will “know” you through social media than you will likely ever meet/work with in real life.
Ethical Concern #2: Professional Behavior Online

**Do**
- Separate your personal and professional social media accounts, and conduct yourself with professionalism in both.

**Don’t**
- Assume that postings made to personal or security-restricted social media accounts are private or irretrievable.
Ethical Concern #2: Professional Behavior Online

**Do**
- Consider your social media strategy, including your communication goals, your target audience, and the type of information you plan to disseminate or promote.

**Don’t**
- Rush into social media without a clear idea about how your healthcare practice can best use the technology and appropriate roles for your staff members.

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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.
Ethical Concern #2: Professional Behavior Online

Compliments: “Thanks for the kind words! We’re really proud of our staff, and glad to hear that you had a good experience.”

Complaints: “We strive to give the best care to our patients and are always disappointed to hear of issues with anyone’s experience.”

“We’re sorry to hear that you’re having trouble with billing, and we would like to work with you to resolve the problem. Please get in touch with us at (phone number) so that we can help.”


Ethical Concern #3: Giving Health Advice Online

What if a patient asks a clinically significant question online and expects an answer in the same venue?
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 #3: Giving Health Advice Online

**Do**
- Have a signed release for Email communication with patients including:
  - Type of communication permitted
  - Right for physician to refuse Email if misused
  - Notice of encryption
  - Use of auto reply
  - Hold harmless clause
  - Privacy notice

**Don’t**
- Use PHI in subject line.
Ethical Concern #3: Giving Health Advice Online

**Do**
- Provide guidelines to patient for use of Email communication including:
  - Notice by phone for all urgent or emergent concerns
  - Message turnaround time
  - Right to refuse conclusions or decisions regarding treatment using this format

**Don’t**
- Provide Email addresses to 3rd party vendors.

Ethical Concern #4: Colleagues’ Behavior
Ethical Concern #5: Distracted Patient Care

From Stanford Alerts for Events (SAFE) reporting system:
A physician was busy trying to complete progress and consult notes on his patients for the day, while waiting to get a call back on a page that he had placed. Realizing that there were orders that needed to be put in on patient A, the physician inadvertently placed a medication order into patient B's record, which was opened in EPIC. The staff complied immediately with the order, with patient B getting the medication intended for patient A. Fortunately, patient B did not get injured by the event. But the root cause of this error was the physician's momentary distraction while trying to do several routine things at once.
Ethical Concern #5: Distracted Patient Care

Nine D.C. Workers Fired for Looking at Porn

Nine D.C. government employees are being fired for viewing pornography on their work computers, including three who looked at inappropriate sexual images an average of about 200 times per work day in 2007, city officials said yesterday. Each of the nine employees clicked on porn sites more than 19,000 times last year, according to the results of an internal investigation of 10,000 government computers, officials said. Three visited such sites more than 39,000 times apiece last year, the investigation found.
Ethical Concern #5: Distracted Patient Care

- A man suffering from multiple facial contusions and a head injury after an accident was seen in the ED, accompanied by his spouse. The resident began taking a history, then stopped mid-sentence, pulled out his phone, read the screen and began to text. The spouse of the patient said, “What are you doing?” The resident replied, “I have to answer this. It’s about dinner.”

- According to American Medical News, one patient developed complications and eventually required open-heart surgery after remaining on a medication for too long. The resident who had been instructed to update the patient’s drug order was doing so on her smartphone when she received a text about a party. After replying, she forgot to complete the order to discontinue the drug.

- The New York Times cites a case where a patient was left paralyzed and the neurosurgeon was sued, in part for being distracted. He made 10 personal calls during the operation.

- 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
Ethical Concern #5: Distracted Patient Care

Medicine is a vocation of focused attention. To be a good physician, an ability to selectively identify key information is essential. Patients must be listened to and attended to, both for what they are saying and what they are choosing not to say. Generating a differential diagnosis means focusing on what is relevant and discarding what is not. Focused attention is increasingly difficult to promote in an age of electronic multitasking.

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**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
To Text or Not to Text

Texting: Statistics

Some features are popular with a broad spectrum of smartphone owners:
Social networking, watching video, and music/podcasts are especially popular among young users.

61 percent of physicians in the U.S. sent work-related text messages on their personal phones and 61 percent received them, according to a recent study of 97 pediatric hospitalists published in Telemedicine and e-Health. Only 11 percent of these hospitalists said their organization offered a secure texting service, but 58 percent weren’t sure.
Texting: Risks

- Text messages may reside on a mobile device indefinitely; might be exposed to unauthorized 3rd parties due to theft, loss, or recycling of the device.
- Text messages may be accessed without any level of authentication.
- Interception and decryption of text messages possible with inexpensive equipment.
- Documentation not accomplished.
- All information on device may be discoverable if medical information is exchanged on your personal device.

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
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

Considerations for policy:
- To text or not to text...
- Limitations or prohibitions on what type of information can be shared via text
- Training requirements for work related texting
- Password protection requirements
- Inventory control (personal device vs. hospital owned)
- Cleaning the device ("wiping")
- Proper documentation requirements
- Text talk
- Retention periods
- Use of alternative technology (vendor secure messaging applications)
Secure Messaging Technology

Healthcare providers can text about their patients without violating HIPAA — but only with secure messaging technology. Here are features to look for in a healthcare texting solution:

- Encryption at all levels — database, transmission and on the app — with federally validated standards
- Tracking of whether messages have been delivered, with repeated ping of the user
- A secure private server that is backed up
- Remote mobile app wipe option if a phone is lost or stolen
- Automatic logout with inactivity
- Ability to work on all spectrums of cell data and Wi-Fi for broad coverage
- Limited data life — for example, 30 days — for messages

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.
The Joint Commission and the Centers for Medicare & Medicaid Services (CMS) reversed their May 2016 decision on secure text messaging to transmit patient care orders. The statement explained that secure text messaging platforms are NOT an acceptable method to transmit patient care information and privacy and security concerns remain.


Social Media: Policy

Do you have a process:

• to address photo/video outside of that intended for medical record

• to address limited or prohibited staff discussions or publication of personal use information about other staff or organizational practices

• to address storage, auditing, and purging of social networking/electronic communication
Social Media: Policy

- Internet use- when is it ok
- Personal devices
- Allowed websites
- Type of internet interactions by job function
- Confidentiality agreements
- Disciplinary action for violations
- Monitoring

Do
- Develop detailed social media policies and guidelines for your healthcare practice that outline acceptable and unacceptable uses of the practice's social media accounts.

Don’t
- Exclude practice staff from participating in the drafting of social media policies and guidelines.
Social Media: Policy

**Do**
- Educate staff about your healthcare practice's social media initiatives and policies, as well as the potential risks and liability issues associated with inappropriate social media use.

**Don’t**
- Assume that common sense about social media usage negates the need for training and reminders.
Our 2 Cents...

You are a highly-trained professional...

• In whom people need to put their trust on a daily basis
• Who might want to one day hold a position of authority
• Who doesn’t want to risk your livelihood
• Who is legally responsible for your social media

“We need to be as professional on the Web as we are face-to-face with a patient, and we always need to be aware of HIPAA rules. When you use any form of social media, ask yourself before you hit the send button: if I were in a crowded hospital elevator and I said aloud what I just wrote for a social media network, would that be OK? If the answer is no, don’t post it!”

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

Reference Sources

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- Federation of State Medical Boards. Model policy guidelines for the appropriate use of social media and social networking in medical practice. April 2012. ----
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Thank you!

Shari Moore, RN, BSN
Vice-President, Risk Management
PLICO/a MedPro Group Berkshire Hathaway Company