



Private Practitioner's Guide to Social Media

SOCIAL MEDIA AND THE PRIVATE PRACTITIONER
 8th Annual Ethic and Legal Aspects of Dentistry Conference
 Dental Session II
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Private Practitioner's Guide to Social Media

UNDERSTANDING SOCIAL MEDIA: TOP 10 TIPS



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BE AWARE OF THE EFFECT OF SOCIAL MEDIA

- Standards of dental care do not change by virtue of the tools used to interact;
- For example, Section 106.001 of the **Texas Dental Practice Act**, Chapters 251 through 267 of the Texas Occupations Code (states that "the fact that an activity occurs through the use of the Internet does not affect a licensing authority's power to regulate an activity or person that would otherwise be regulated under this title");
- Social Media tools are powerful;
- May have unforeseen consequences;
- Depends on the type of social media and how used;
- **And most importantly–**



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WARNING: DO NOT BECOME A BAD HEADLINE

Observer

DALLAS ANESTHESIOLOGIST BEING SUED OVER DEADLY SURGERY ADMITS TO TEXTING, READING IPAD DURING PROCEDURES

BY ERIC NICHOLSON

TUESDAY, APRIL 1, 2014 | 2 YEARS AGO



Christopher Spillers
 December 25, 2012 via AOL

Just sittin here watching the tube on Christmas morning. Ho ho ho.



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WARNING: DO NOT BECOME A BAD HEADLINE, cont'd.

The Washington Post

Local

Anesthesiologist trashes sedated patient – and it ends up costing her

By Tom Jackman June 23, 2015



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USE YOUR SOCIAL MEDIA POWERS FOR GOOD, NOT EVIL–





KEEP CURRENT WITH MEDICAL NEWS AND DEVELOPMENTS

- Resources abound
- Make sure they are reliable dental authority
- State Laws, Rules/Regs (Texas Dental Practice Act)
- Check State Licensing websites
- Written Materials, Videos, Updates
- News and Journals



**MAINTAIN PROFESSIONAL PRESENCE
ENRICH PROFESSIONAL NETWORK**

- Use Facebook, LinkedIn, Twitter, other social media sites to
 - maintain your professional presence and
 - connect with colleagues, referral sources, and patients.
- Can a patient can "like" your personal Facebook page?
 - Where will this go?
 - Patient "likes" you; patient comments and you comment back;
 - Patient sends you a picture of her broken crown;
 - Patient makes concerning comments (suicide) or engages in risky activities ?
 - Do you respond? What do you do with information?
 - What if you don't respond? What if something happens?
 - What if you don't check your account?
 - Patient abandonment per Texas Dental Practice Act Rule 108.5?



**MAINTAIN PROFESSIONAL PRESENCE
ENRICH PROFESSIONAL NETWORK**

- Can a patient can "like" your Facebook page?
- Use cocktail party analysis;
- If any issues come up, be general;
- Always route through regular patient intake and practice communications channels for your practice;
- If urgent or emergent, direct to 911 / ER room.
- Make sure that all credentials, representations, and claims are
 - Accurate and current
 - and do not constitute false advertising.



EDUCATE AND INFORM YOUR PATIENTS

- Ethical Standards in the Federation of State Medical Boards Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice, 2013), are generally reflected **Texas Dental Practice Act**, as well as its rules and regulations:
- **Candor:** Practitioners have obligation to disclose any information (financial, professional, personal) that could influence patients' understanding of use of the information, products, services offered on website (Section 254.002, 259.005-007 deals with advertising; Rules 108.53-108.63 on fees, advertising of fees, and websites).
 - **Integrity:** Information contained on websites should be truthful, accurate, concise, up-to-date, easy for patients to understand, not misleading or deceptive (no false statements to patients, Section 259.001; defining as unprofessional conduct, Section 259.008; Rule 108.1 on professional responsibility; Rule 108.2 on fair dealing).
 - **Privacy:** Practitioners have obligation to prevent unauthorized access to or use of patient and personal data, and to assure that de-identified data cannot be linked back to user or patient (access to dental records, Section 258.051, 258.0511; dental privilege, Section 258.101 -108).



EDUCATE AND INFORM YOUR PATIENTS

The screenshot shows the consultantLIVE website interface. At the top, it says "What's New | March 07, 2014". Below this, there are several article teasers. One is titled "Obstructive Sleep Apnea: Just who is at Risk?" with a sub-headline "During an annual physical examination, a 54-year-old man has no major complaints, reports neither sleep, and is not tired during the day." Another is "Put your clinical acumen to the test" with a sub-headline "Take the DIAGNOSTIC CHAMPIONSHIP!" and a "QUIZ" icon. At the bottom left, there is a "NEWSLETTER" sign-up form with fields for "First Name", "Last Name", "Email", and "Address".



EDUCATE AND INFORM YOUR PATIENTS

This screenshot shows a quiz question on the consultantLIVE website. The question is: "After a patient with a 7-year-old son is concerned about this study genetic study on the chest, which involved during the pregnancy, he has no other lab studies. What do you recommend as the next step?" Below the question is a photograph of a person's chest. To the right of the photo is a "QUIZ" icon. Below the photo are four multiple-choice options: A. Echocardiogram, B. Chest X-ray, C. Sleep study, and D. Genetic testing. At the bottom, there is a "FOR MORE AND DISCUSSION, VISIT THIS" link and a "NEWSLETTER" sign-up form.

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HIPAA REFRESHER, CONT'D.

- **What is a PHI breach?**
- Any impermissible disclosure of PHI is a breach unless "low probability that PHI was disclosed." **Examples—**
- Forwarding e-mails outside of hospital/healthcare entities e-mail addresses (to personal accounts);
- Accessing and viewing PHI (electronic trail remains);
- Disclosing PHI on social media (ConsultantLive);
- Online New York Times Magazine "Diagnosis" column—depends on how much PHI detail given;
- Closed practitioner networks (e.g., possibly sites like Sermo, Medscape, Quantia MD).

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HIPAA REFRESHER, CONT'D.

- Don't be a target by disclosing any PHI on social media, even with privacy settings!
- HIPAA violations have now become a focus—
 - Given visible public enforcement efforts; and
 - Current technology that makes them easier to prove.
- Avoid even the appearance of a HIPAA violation.
- Don't give an easy peer review ground.
- Once discovered, healthcare entity may have to follow through.

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BE A COMMUNITY RESOURCE

- Always keep in mind your professional image to the public.
- If you link to other websites,
 - verify them as reliable authority
 - always give credit when due
 - beware if unsure about 3rd party compliance (i.e. ConsultantLive e-mails).

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ASSIST COLLEAGUES OR OBTAIN ASSISTANCE

- Closed practitioner networks (such as Sermo, Medscape, Quantia MD)
 - allow practitioners to disclose general patient conditions
 - solicit input from colleagues.
- Avoid specific details and photographs (esp. of facial areas and teeth) that may violate HIPAA and patient privacy laws.
- Even if other practitioners participate
 - Even though they are closed networks
 - Is disclosure of PHI is legal or allowed?

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AVOID GIVING MEDICAL ADVICE OR TREATMENT

- In using social media, a provider must
 - absolutely guard the PHI obtained as a covered entity under HIPAA
 - and avoid accessing PHI of non-patients.
- A provider should not disclose any PHI to any third party via social media, **even with privacy settings.**

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CONSIDER RECORDINGS "OFF LIMITS"

- While it may not be illegal in your state to record a conversation or interaction over the phone or in person if
 - you are a party to it (check state law),
 - never surreptitiously record any patient interaction.
 - remember this is a healthcare environment.
- Think twice before doing so even with patient consent and
 - never post recordings on YouTube or any other such site,
 - even with privacy settings.
- But keep in mind, **the patient may be recording you** so act and talk professionally and respectfully at all times!


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OKAY TO MAINTAIN PERSONAL SOCIAL MEDIA

- Having a Facebook page or a personal blog is acceptable as long as
 - the content “does not undermine the public trust in the profession.”
 - what is that? *Glass of Wine v. Obviously Intoxicated?*
 - **RULE OF THUMB:** Avoid “frat party pictures” that mom would not like to see.
- Be vigilant in keeping personal social media sites personal
- Direct patients asking for clinical advice through regular practice intake and communications channels.


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USE YOUR GOOD JUDGMENT

- If concerned, just say no.
- Examples— (*Federation of State Medical Boards Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice, 2013*)
 - Urologists posts disrespectful comments
 - Physician refers to a patient as “lazy and ignorant” on blog
 - Former patient “friends” practitioner on Facebook
 - Former patient’s posts worry practitioner on Facebook
 - Concerned patient notices practitioner is “partying”
 - Physician asks patient out on online dating website
 - First-year resident films doctor inserting chest tube; posts on YouTube
- Don’t become an online example of bad judgment.


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**AVOID SOCIAL MEDIA PITFALLS:
TOP 10 TIPS**

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SOCIAL MEDIA CREATES A PUBLIC AND PERMANENT RECORD

- An electronic trail is left.
- Can be disseminated to third parties in an instant.
- Think ahead before you press “send” or “post.”


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REFRAIN FROM POSTING IDENTIFIABLE PHI ONLINE

- Never disclose on social media or publicly—
 - Names, DOBs, contact information,
 - photographs, x-rays,
 - details of patient care,
 - **even when the patient asks you,**
 - obtained as a covered entity from a patient.
 - See AMA Opinion 9.124 (a).*
- * American Medical Association Code of Medical Ethics Opinions on Confidentiality of Patient Information: Professionalism in the Use of Social Media (June 2011).


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MAKE NO ASSUMPTIONS OF PRIVACY

- Use privacy settings so as to safeguard your own personal information and content;
- But privacy settings are not absolute.
- Monitor content posted about you by others to ensure propriety and accuracy.
- See AMA Opinion 9.124 (b).*

* American Medical Association Code of Medical Ethics Opinions on Confidentiality of Patient Information: Professionalism in the Use of Social Media (June 2011).

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MAINTAIN PROPER BOUNDARIES

- Just as in any other context (personal, telephone),
- when interacting with patients via social media, a provider must maintain appropriate boundaries for the relationship
- in accordance with professional ethical guidelines.
- See AMA Opinion 9.124 (c).*

* American Medical Association Code of Medical Ethics Opinions on Confidentiality of Patient Information: Professionalism in the Use of Social Media (June 2011).

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KEEP BUSINESS SEPARATE FROM PERSONAL

- See AMA Opinion 9.124 (d).*
- Monitor to make sure that interactions with patients remain consistent with business purposes.
- If specific clinical advice is sought through a personal Facebook inquiry,
- direct them instead to your professional page.

* American Medical Association Code of Medical Ethics Opinions on Confidentiality of Patient Information: Professionalism in the Use of Social Media (June 2011).

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AVOID QUESTIONABLE CONTENT

- Unprofessional content (business or personal)
 - can be viewed by state dental boards, professional societies, and health care entities
 - as undermining public trust in the dental profession
 - may create a basis for adverse action.
- See AMA Opinion 9.124 (f).*

* American Medical Association Code of Medical Ethics Opinions on Confidentiality of Patient Information: Professionalism in the Use of Social Media (June 2011).

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UNPROFESSIONAL CONTENT OF COLLEAGUES

- Unprofessional content posted by colleagues,
 - Bring to attention and suggest removal;
 - if not removed, may possibly require reporting to these same authorities.
- See AMA Opinion 9.124 (e).*
- Unclear if this affects dental practitioners but may be best practice.

* American Medical Association Code of Medical Ethics Opinions on Confidentiality of Patient Information: Professionalism in the Use of Social Media (June 2011).

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KEEP ONLINE RESPONSES GENERAL

- Create and maintain a social media policy (no offensive postings, no HIPAA and/or privacy violations, etc.).
- Do not reveal a patient's PHI acquired in a clinical setting.
- Keep postings and online responses general and non-specific to patient.
- Instead of specific response (this may be a HIPAA violation, **even if the patient first raises the issue**), request that the patient
 - make a clinical appointment
 - inquire to your office by telephone.

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EMPLOYED PRACTITIONERS SHOULD ASK

- If you are an employed practitioner,
 - follow any social media policies
 - get approval from employer for specific posts.
- Avoid disclosing proprietary and trade secret information.
- For personal accounts of practitioner, consider using a disclaimer stating:
 - posts are personal views;
 - not those of the employer.

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MAINTAIN BLOGS

- Blogs require attention monthly, if not weekly.
- Avoid discussing
 - specifics of patient care
 - malpractice cases
 - peer review or licensing matters
- Improper advertising (promise results/ misleading)?
- Add a disclaimer?

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RATINGS WEBSITES

- What does a practitioner do?
- Determine what Yelp, Angie's List, Rate MDs.com, and HealthGrades are saying about your practice.
- Defamation suits against patient unlikely to succeed.
- Also defer to ACLM speaker **Jeffrey Segal, M.D., J.D.**, Medical Justice Services, Inc. / Dental Justice / eMerit.

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RATINGS WEBSITES

- This may well have the **Barbra Streisand Effect**
- Attempting to hide, remove info may make information more popular especially on Internet
 - **Before: 6 downloads**
 - **After: 420,000 downloads**
- Make it easy for your satisfied patients to write favorable reviews;
 - Don't overreact to a few isolated negative reviews; may even lend credibility

Again, defer to ACLM speaker **Jeffrey Segal, M.D., J.D.**, Medical Justice Services, Inc. / Dental Justice / eMerit



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PAY ATTENTION TO YOUR ONLINE PRESENCE

- Separate personal from business;
- Keep resources current and accurate;
- Direct patients through regular practice channels;
- Before you respond or post (especially PHI), THINK;
- Put time and effort towards your online presence.
- If you don't, your practice may look deficient.

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FINAL NOTE: MOBILE DEVICES

- Special attention to mobile devices—
- www.healthit.gov/mobiledevices (hard copy in materials)
- For any mobile devices that contain PHI,
- Maintain physical control at all times;
- Use encryption and passwords;
- Installing firewall and remote disabling software;
- Use adequate security when using public Wi-Fi networks;
- Deleting all PHI before discarding any device.

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THANKS FOR COMING TO AUSTIN AND HOOK 'EM HORNS!

Questions? Comments?



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