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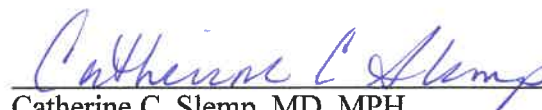
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THE APPROPRIATE USE OF SOCIAL MEDIA AND ELECTRONIC COMMUNICATIONS IN MEDICAL PRACTICE


Adopted by the West Virginia Board of Medicine from the April 2019 Model Policy Guidelines of the Federation of State Medical Boards of the United States (FSMB), developed by the FSMB Ethics and Professionalism Committee.



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Disclaimer: Section 5 of the FSMB Model Policy Guidelines is not incorporated herein because it is not pertinent to the purpose of this position statement. Section 5 of this position statement was authored by the West Virginia Board of Medicine.

Introduction and Charge:

In April 2018, Federation of State Medical Boards (FSMB) Chair, Patricia King, MD, PhD, tasked the FSMB's Ethics and Professionalism Committee (the Committee) with providing updated guidance on use of social media and electronic communications in medical practice and by state medical boards. Specifically, the Committee was charged with:

1. Evaluating current and emerging social media and electronic platforms for communication between practitioners and practitioners with patients, as well as communication in educational settings (students and residents), including blogs, twitter, websites, email, EHR patient portals, and others;
2. Reviewing current state medical board actions and concerns regarding social media, electronic communication, and professional conduct, and
3. Reviewing the FSMB 2012 policy, "Model Guidelines for the Appropriate Use of Social Media and Social Networking," and revise, amend or replace with updated recommendations for best practice in the professional use of electronic and social media communication.

Section 1: Background

The world has seen significant evolution in the use and applications of social media in recent years. This is perhaps most striking in terms of the rates of use of social media platforms which have risen from 5% of American adults using at least one platform in 2005 to nearly 70% at the beginning of 2018,¹ with rates of engagement among physicians often reported as even higher.²

Participation in social media is, for many, a personal activity. However, given the potential impact that engagement in social media can have on a physician's practice, the care of their patients, and the profession as a whole, personal use can often extend into the professional domain.

Professional uses of social media will often involve electronic communication among physicians or between physicians and other health care professionals for the purpose of discussing patient care, research, medical education, or other clinical subjects. This can occur through many different formats from email to closed Facebook groups or electronic hospital or practice portals. The feature that differentiates this type of use from purely social uses of social media is that the purpose of the discussions is to facilitate the provision of patient care or promote learning or other professional goals. Another category of professional use can involve communication between physicians and their patients through email using practice-associated email addresses or

¹ *Pew Research Center*, Social Media Fact Sheet, available at <http://www.pewinternet.org/fact-sheet/social-media/>

² *PM360*, Examining Physician Social Media Use in 2017, available at <https://www.pm360online.com/examining-physician-use-of-social-media-in-2017/>

via communication portals provided by hospitals or clinics, often through the electronic health record. Again, the purpose of these exchanges would be to support or enhance patient care, not to further social interaction or other goals.

Much of physician engagement in social media involves the passive consumption of information available on various platforms. However, the risk to patients and physicians themselves is heightened when engagement also includes commenting on posted information or the creation of original information. While these forms of expression may have legal protection, certain types of posting would be considered unprofessional and therefore unacceptable for physicians. These include unethical marketing involving misrepresentations of potential outcomes of treatment, inaccurate claims, or uncivil comments made on public or private forums. These types of inappropriate participation in social media are ethical violations and can result in loss of trust in the medical profession, patient reluctance to seek needed medical care, and reputational damage to the physician and their institution.³

When physician participation in social media occurs appropriately, there are many potential benefits for physicians, their patients, and even entire populations. The purpose of this policy is to highlight the potential benefits, while providing guidance to physicians, patients, and state medical boards for appropriate and meaningful use of social media and electronic communication in medical practice.

Section 2: Principles and Ethical Implications of Social Media and Electronic Communication Uses

Any attempt at determining the appropriate use of social media and electronic communication should begin by considering the same scenario in the absence of social media and electronic communication. The standards of ethics and professionalism should be the same, regardless of the medium.⁴ The principles and goals discussed in this section are highlighted given their particular relevance in situations involving social media and electronic communication.

Physicians must adhere to their professional responsibilities at all times, including in situations that may seem to be outside of the traditional clinical sphere. The principle of professionalism entails specific duties in the context of social media and electronic communication related to civility, collegiality, integrity and respect. Duties falling in the latter category involve respect for patients and colleagues themselves, their personal boundaries, values and beliefs, and the privacy and confidentiality of patients' personal health information. Professionalism also entails social responsibilities related to reporting breaches among colleagues, whether these relate to boundaries, clinical standards or other lapses in judgment and professionalism.

³ Doctor resigns from leadership posts at Texas Health Plano after remarks about female physicians, *Dallas News*, Sep 5, <https://www.dallasnews.com/news/2018/09/05/doctor-resigns-from-leadership-posts-at-texas-health-plano-after-remarks-about-female-physicians/>

⁴ Farnan JM, Snyder Sulmasy L, Worster BK, Chaudhry HJ, Rhyne JA, Arora VM. American College of Physicians Ethics, Professionalism and Human Rights Committee. Online medical professionalism: patient and public relationships: policy statement from the American College of Physicians and the Federation of State Medical Boards. *Ann Intern Med* 2013;158:620-7

Within acceptable parameters dictated by professionalism and the standard of care, physicians should exercise clinical judgment to determine the ways in which they wish to practice to best meet the needs of their patients. This includes decisions about how and whether they employ social media and electronic communication.

Respect for Autonomy

Patients need to be empowered with relevant and accurate information about their health and the potential treatment options available to them in order to be capable of making fully-informed decisions. In the context of social media, the principle of respect for patient autonomy therefore relates to access to timely and relevant information.

Respecting patients' autonomy also extends to respecting their ability to control who has access to information about themselves and their health. Respect for autonomy therefore also means respect for and safeguarding of patients' confidential information.

Nonmaleficence

Trust is a foundational component of the physician-patient relationship. Patients trust that their physicians will behave in a way that benefits them and improves their health, rather than in a way that harms them or their interests. Because patients and society place a high degree of trust in physicians, it is the physician's responsibility to use the power granted through this trust in a way that is consistent with patient values in furtherance of their health and life goals. Patients also trust that physicians will not attempt to coerce or unduly influence them towards treatment options or other courses of action that may not be in their best interest and could thereby erode their autonomy and negatively impact their health.

Beneficence

Physicians must always practice medicine with the intention of doing good for their patients. When a physician engages with social media and electronic communication in their capacity as a medical professional, whether or not for the purpose of direct patient communication and care, the intent or purpose of posting or sharing information electronically should be considered, as should the appropriateness of the chosen means of communication and its content. The purpose of posting, its desired and expected outcomes, and the implications of context are all important factors in deciding whether and what to share electronically and whether the communication should occur electronically at all, rather than in-person. All of these should be focused primarily on bringing benefit to the patient.

Section 3: Current and Emerging Social Media and Electronic Platforms

There is a wide variety of platforms available to physicians and patients for communicating electronically and sharing content, opinion and expertise. Physicians typically choose a particular platform or technology based on what and with whom they are hoping to communicate.

Physician engagement with social media can take a variety of forms, including finding and sharing information, networking with colleagues, disseminating research, marketing their practice and many more.⁵ Common platforms used among physicians include Facebook or Sermo for social networking, Twitter for brief commentary, advocacy or opinion sharing (microblogging), independent blogs or larger community blogs such as KevinMD for more detailed or in-depth commentary, and YouTube and Instagram for content sharing and educational purposes. For direct communication between physicians and patients or colleagues, email, texting, or WhatsApp are commonly used. Many practices and institutions also use secure patient portals for direct communication between physicians and patients and in some circumstances, may not allow direct communication between physicians and patients to occur through any other platform or electronic means.

Each of these different platforms comes with its own set of features or characteristics. For example, within Facebook, there can be various privacy settings applied to personal profiles, pages, and groups. *Public* profiles, pages, or groups have content available to any user. In contrast, in order to gain access to content within a *closed* group, a user would typically need to seek permissions. Many membership or interest group platforms such as Sermo or Doximity are open to members of the profession only.

While different platforms can offer varying degrees of privacy, with some allowing only those authorized by the person posting or the manager of a particular online community to view posted content, it is unlikely that true online privacy exists. Information posted can be captured, leaked, or shared by anyone viewing. Even the strongest levels of encryption should not be considered completely safe. Further, even content that is meant to be publicly available is open to interpretation and should therefore be considered carefully before being posted.

Section 4: Use Cases for Social Media and Electronic Communication

In addition to the different social media platforms and the variety of characteristics among them, these platforms can also serve many different uses. This section lists several among these, while providing some considerations for state medical boards, physicians and patients.

Communication Between and Among Practitioners and the Healthcare Team

Clear and timely communication is indispensable in the provision of patient care which can be facilitated and enhanced through electronic communication and social media. Communication between and among practitioners often occurs through texting and email, but could occur through a variety of different communication platforms. However, when patient orders are made electronically, these should be done via Computerized Provider Order Entry (CPOE).⁶

⁵ Chretien, K and Kind T, (2013) Social Media and Clinical Care: Ethical, Professional, and Social Implications. *Circulation* Apr 2;127(13):1413-21

⁶ Centers for Medicare and Medicaid Services Memorandum, "Texting of Patient Information among Healthcare Providers," Ref: S&C 18-10-ALL.

Social media can also present meaningful opportunities for professional networking, collaboration, continuing professional development and research. When sharing or consuming information on social media, physicians should always make attempts to verify the information's veracity before choosing to learn from or act upon it.

Protected Health Information (PHI) and Personally Identifiable Information (PII) should never be included on social media platforms without the express written consent of the patient. Before accepting such consent, the physician must adequately explain the risks of including PHI and PII on social media in order for the patient to understand these risks and for their consent to be fully informed. Physicians also should be mindful of several considerations in communicating with other professionals electronically or via social media. Most importantly, physicians should not include PHI or PII in text messages as texting is generally not compliant with the provisions of the Health Insurance Portability and Accountability Act (HIPAA).⁷ While the same is generally true for email, it is possible to ensure HIPAA compliance for email by following the provisions of the HIPAA Privacy Rule and HIPAA Security Rule.

Physicians should exercise discipline over their engagement with social media when communicating publicly or even with other health care professionals in a closed setting, particularly in anonymous contexts as anonymity can facilitate uncivil engagement.

Cyberbullying among professionals is never acceptable and should be reported to a responsible authority such as a medical school or residency program director, hospital administration, or state medical board. Modeling of positive behaviors in the use of social media by practicing physicians can help foster a positive culture and avoid future instances of inappropriate engagement with social media.

In any instance of electronic communication, physicians need to consider their responsibilities to their patients, the profession and society as they think about the purpose of their engagement, including their reasons for posting, as well as their desired and expected outcomes.

Communication Between Practitioners and Patients

For patients, improved access to physicians is likely the most significant benefit to electronic communication. However, physicians should be aware of evolving patient expectations for constant contact with providers and immediate answers to any health-related query. While increased access to physicians and their medical expertise can provide patients with a more satisfactory health care experience and be beneficial to the therapeutic relationship, it can also be unsustainable and unrealistic from a wellness perspective for physicians to be constantly available. Physicians have a responsibility to maintain reasonable accessibility for patients, but they are not expected to be available at all times. Unrealistic expectations on the part of the patient, without clarity of the communication policies and processes of the physician, may lead to complaints about the standard of care and increase the potential for patient harm.

⁷ Is Text Messaging HIPAA Compliant? *HIPAA Journal*: <https://www.hipaajournal.com/is-text-messaging-hipaa-compliant/>. See also APPENDIX A for a list of identifiers that are relevant under HIPAA.

Physicians should educate patients about their policies regarding availability for office visits and patient queries, as well as expected wait times between when a patient contacts the physician and the physician responds to the contact. This can help ensure that patients understand the parameters of the patient-physician relationship and can minimize the likelihood of any misunderstandings, thereby also potentially minimizing the likelihood of a patient complaint to the state medical board.

The ability to communicate more easily and outside of regular appointments can also be seen by both physicians and patients as an opportunity to engage in more meaningful shared decision-making processes whereby patients have the time to fully consider their values in relation to their health and potential treatment options and can share these with their physician. This type of exchange can result in improved informed consent and enhanced patient autonomy.

As with communication between and among professionals, efforts must be made to protect PHI and PII. Use of HIPAA-compliant EHR portals is the recommended platform for communication between physicians and patients, as it can offer a high degree of protection of PHI and PII. Use of portals may also help ensure that exchanges remain professional and related to the provision of care, rather than merely social.

In every instance of communication between physicians and patients, as well as physicians and other members of the health care team, personal and professional boundaries must be respected. The additional opportunities for communication with patients and colleagues should be professional in nature and kept completely distinct from personal exchanges. Physician-patient interactions and communication online should occur in the same way that they would occur in person. The standards of medical professionalism in communications do not change by virtue of the type of communication medium utilized. Therefore, inappropriate texting about personal issues that do not relate to the patient's health care should be avoided and "friend requests" from patients through Facebook or other platforms should be politely turned down by physicians.

Similarly, the standards of medical care do not change by virtue of the medium in which physicians and their patients choose to interact.

Where physicians choose to make efforts to increase availability by delegating communication tasks to staff, it is important to be truthful and candid about who is responding to texts and emails or contributing to a social media feed. It would not be fair to mislead patients into thinking that they are communicating with their physician directly, when this is not the case.

Physicians should also be mindful that when responsibilities are delegated or in instances where another physician is covering, new risks can arise, such as lapses in communication during delegation or hand-over. Therefore, if a physician is working with a Nurse Practitioner, Physician Assistant, or other staff to respond to electronic patient communication, this should be made clear to patients, so that there is not a misunderstanding about who responds.⁸

All communication that relates to the clinical care of the patient or is used to inform treatment decisions must be documented in the patient's medical record. Where possible, physicians should

⁸ See FSMB Policy 210.3, April 2011: Use of "Doctor" Title in Clinical Settings.

make efforts to retain all text and email communication that occurs with patients. This is important both so that messages can be retrieved when needed, but also to ensure that any communication that occurs as part of the patient-physician relationship is documented.

Additionally, as with telephone answering services, physicians should remind patients that social media and EHR portals are not meant to be used in health emergencies and that they must instead call 911 or visit their hospital's emergency department, as appropriate.

Physicians should also be mindful about the regional nature of medicine. In rural or remote contexts, while the standard of care does not differ, different approaches to care and social media engagement might be required because of resource availability.

“Googling”: Looking Up Patients Online

With the abundance of information about individuals' professional and personal lives available online, physicians may be tempted to look up or “Google their patients.” While pertinent health information that may be relevant to care provided and treatment plans could be gleaned, there are also potentially concerning elements to this activity. For example, if a physician were to find a value misalignment with a patient, they may use this as a reason for discharging the patient or dropping them from a patient roster.

Googling a patient is also different from randomly meeting them on the street or at the grocery store. While clinically useful health information can be gleaned in either scenario, there is an element of intent to googling a patient that can be (or can be perceived as) voyeuristic. Further, patient information available online only provides a brief snapshot about the patient and their lifestyle. This snapshot may often be incomplete, inaccurate and misleading. Physicians should therefore be cautioned against acting solely on the basis of information found online. At times, however, a physician may require information for the provision of care that the patient cannot provide. In such instances, it is best to seek consent from the patient, where feasible. Just as with posting information online, the purpose or intent of searching for information about patients should be considered.

Physicians can also find a great deal of information about themselves and their practice online, whether through sites that compile information about physician practices, or through patient reviews on sites such as RateMD and HealthGrades. There might be benefits that come from this information as it can provide an external measure of a physician's performance. However, physicians should be mindful of the fact that even these reviews reflect a snapshot in their careers and can contain inaccuracies. Physicians should also consider the potential negative impacts that can occur should they choose to respond to negative comments online. In any instance where physicians choose to respond to information found online, they should avoid sounding overly defensive, unprofessional, uncivil, or engaging in arguments with patients, colleagues or others.

Communication in Medical Educational Settings

Social media is already being used to a great extent in medical education and residency to enhance the education that students and trainees receive. Prospective students can currently learn much more than in the past about potential programs via social media through online forums such as Student Doctor Network or even following the Twitter and Facebook feeds of current students or residents who provide information about the programs in which they are enrolled.

Once enrolled in medical school or residency, students and trainees have access to virtual communities where learning takes place online. Online peer support groups can also have a positive impact on learning and the lives of medical students. Students, residents and even practicing physicians can also prepare for upcoming procedures by viewing them on YouTube or other online video platforms. This approach to training and care can have important benefits for procedural outcomes as it provides an important means of preparation that did not exist in the recent past. Verifying the veracity and reliability of sources used for learning is just as important in the educational context as it is in research.

In educational circumstances where feelings of isolation are common, engagement with others in similar situations through online communities or individual exchanges can help students and residents avoid feeling alone or isolated and provide additional ways of seeking support when it is needed most. At a time when physician burnout is high and death by suicide among medical students occurs at twice the rate of the general population, there is significant opportunity for social media to make a difference in student wellness, provided that it is used for integration and community building and does not lead to further isolation through passive viewing of the “highlights” of others’ lives. The same is true of practicing physicians who are equally susceptible to feelings of isolation, even those who practice in busy urban settings in close physical proximity to other health care professionals.

Use of Social Media as a Marketing Tool

As patients are more aware of how to seek information about their physicians online, social media has become a common marketing tool for physicians wishing to advertise their practice, highlight expertise or promote treatments offered.

Just as with any form of advertising, physicians must avoid making deceptive, false or misleading claims about themselves, their training, skills, areas of specialization or certification, treatments offered or expected outcomes.⁹

Transparency, as well as potential conflicts of interest should also be considered in a social media context. Conflicts can apply in circumstances where companies hire physicians to post or tweet about their products or services. Physicians should also consider their comments on other posts, in addition to endorsing or “liking” content posted by others. A “like” on social media is equivalent to an endorsement and should be considered as similar to a physician having posted the original content themselves.

⁹ FSMB Position Statement on *Sale of Goods by Physicians and Physician Advertising*. See also, Federal Trade Commission *Guides Concerning the Use of Testimonials and Endorsements in Advertising* - 16 CFR Part 255.

Information contained on physicians' medical practice websites should be truthful and not misleading or deceptive. It should be accurate, up-to-date, and easy for patients to understand. Physicians using medical websites should strive to ensure that information provided is, whenever possible, supported by current medical peer-reviewed literature, emanates from a recognized body of scientific and clinical knowledge and conforms to accepted standards of care. It should clearly indicate whether it is based upon scientific studies, expert consensus, professional experience or personal opinion.

Section 5: Potential Disciplinary Action

Where appropriate, the West Virginia Board of Medicine may discipline licensees for unprofessional conduct arising from the improper use of social media or electronic communications.

Section 6: Guidelines and Recommendations

The following guidelines and recommendations are based on the principles of ethics and professionalism explained in section 2, and recommended for physicians who use social media or electronic communication in their personal and professional lives.

1. Do not disclose individually identifiable patient health information or post images or videos online without the express written consent of the patient.
2. Be mindful of and remain in compliance with all relevant professional and legal responsibilities, as well as policies and guidelines of your state medical board.
3. Maintain appropriate professional boundaries with patients and their surrogates, as well as physician and non-physician colleagues at all times, whether online or in-person.
4. Politely turn down requests from patients to connect on social networking sites. It may be acceptable to accept requests on professional accounts, provided that the account is used for professional purposes only.
5. Communicate and engage in social media in personal and professional settings with civility and respect for others.
6. Comport yourself professionally, even when communicating or posting in a personal capacity. If you discover unprofessional or inappropriate content online posted by a professional colleague, notify the individual so that they may remove the post or change their methods of communicating. If the situation does not improve, report the behavior to the state medical board or other relevant authority.
7. Do not engage in disruptive behavior online such as cyberbullying, and report instances of such behavior by professional colleagues to the state medical board or other relevant authority.
8. Consider all online content as open and accessible to anyone, regardless of whether it is posted in a closed or private forum and regardless of privacy settings and levels of encryption used.

9. Consider any social media post as permanent, even after it has been deleted.
10. Be mindful of how and where you use devices, often referred to as AI Assistants, that record conversations, such as Amazon's Alexa, Apple's Siri, Google's Google Assistant and Microsoft's Cortana. If these devices are kept in clinical areas, they should be turned off or their settings changed in order that they do not record patient health information.
11. Do not provide medical advice to specific patients online, unless this is done via the secure patient portal of a practice or institution.
12. When discussing general medical issues online, identify yourself as a physician and avoid being anonymous (i.e., provide your name). Do not misrepresent your training, expertise or credentials.
13. When marketing your practice online, be sure to adhere to codes of conduct with respect to advertising.
14. Be transparent about any conflicts of interest, financial or otherwise.
15. Think twice before posting. If you would not comment publicly in your professional or personal capacity, do not do so online.
16. Consider innovative ways in which social media can enhance your practice, career, or patient care that reflect sound ethical and professional principles.

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Appendix A: Individually Identifiable Health Information under HIPAA¹⁰

Individually Identifiable Health Information is health information that can be linked to a specific person, or could lead to the identification of an individual if it were shared. The following list of identifiers must be removed for health information to be de-identified:

1. Full name or last name and initial(s)
2. Geographical identifiers smaller than a state, except the initial three digits of a zip code, provided the combination of all zip codes starting with those three digits. When the initial three digits of a zip code contains 20,000 or fewer people it is changed to 000
3. Dates directly related to an individual, other than year
4. Phone Number
5. Fax numbers
6. Email addresses
7. Social Security numbers
8. Medical record numbers
9. Health insurance beneficiary numbers
10. Account numbers
11. Certificate/license numbers
12. Vehicle identifiers
13. Device identifiers and serial numbers;
14. Web Uniform Resource Locators (URLs)
15. IP addresses
16. Biometric identifiers, including finger, retinal and voice prints
17. Full face photographic images and any comparable images
18. Any other unique identifying number, characteristic, or code except the unique code assigned by the investigator to code the data

¹⁰ What is individually identifiable health information, *HIPAA Journal*, January 11, 2018 <https://www.hipaajournal.com/individually-identifiable-health-information/>