

Social media missteps could put your nursing license at risk

By Melanie L. Balestra, NP, Esq

Learn the rules and what to do if you make a mistake.

social media has become an integral part of modern life. Today, seven in 10 Americans use social media to get news, connect with others, and share information. Facebook leads the way with more than 2 billion users worldwide, followed by other popular platforms such as Twitter, Instagram, LinkedIn, and YouTube. For nurses, social media use has daily applications in their personal and professional lives, facilitating conversations with colleagues about best practices and advancing healthcare.

Although social media offers many benefits, inappropriate use can create legal problems for nurses, including job termination, malpractice claims, and disciplinary action from boards of nursing (BON), which could negatively impact their nursing license and career.

What to avoid when posting

Remember that professional standards are the same online as in any other circumstance. And although you should approach all social media posts with caution, several high-risk areas deserve closer examination.

Whether intentional or inadvertent, social media posts that breach patient privacy and confidentiality are the most egregious. They include patient photos, negative comments about patients, or details that might identify them, the healthcare setting, or specific departments. Even when posted with the best intentions, such as trying to get professional advice from colleagues about patient care, these posts are discoverable and can lead to legal problems, with potential fines and jail time for Health Insurance Portability and Accountability Act (HIPAA) violations, termination or other discipline from your employer, action taken against your license by a BON, civil litigation, or professional liability claims.

According to the 2015 nurse professional liability exposures claim report update from the Nurses Service Organization, examples of civil litigation and closed

claims in connection with inappropriate electronic and social media use include:

- An RN who took a picture of a man getting an electrocardiogram and posted it on Facebook.
- An RN who sent text messages to another nurse and physician describing a sick child and his mother in an unfavorable light.
- Staff members at a long-term-care facility who videotaped and photographed a certified nursing assistant colleague who was in labor. They allegedly mocked the woman, posting photos, including of her vaginal area, on various social media sites.



Second high-risk area

A second high-risk area are posts that could be considered unprofessional or reflect unethical conduct—anything defined as unbecoming of the nursing profession. For example, negative comments about your workplace, complaints about coworkers and employers, or threatening or harassing comments fall into this category.

The highly publicized firing in 2013 of an emergency department nurse at New York–Presbyterian Hospital demonstrates the risks connected with posting workplace photos. The nurse shared a photo on Instagram depicting an empty trauma room where a patient

How to avoid social media pitfalls

Using caution, you can enjoy the benefits of social media without risking the loss of your license and livelihood. Follow these tips to help keep your social media content in the clear.

- Always maintain patient privacy and confidentiality.
- Don't post photos or videos of patients or identify them by name.
- Don't refer to patients in a disparaging manner, even if they're not identified.
- Avoid connecting with patients or former patients via social media.
- Don't post inappropriate photos or negative comments about your workplace, colleagues, or employers. Instead, use social media to post positive comments about your workplace and its staff.
- If you haven't already done so, review and sign your employer's social media policy. Keep that policy

in mind when using social media.

- Don't access personal social media while on duty.
- Share educational information that may benefit others, such as safety notices and medical news.
- Use social media to enhance the role of nursing in the community, among friends, and to the public.
- Know that using social media to make referrals to practitioners, specialists, and healthcare practices is permissible.
- Use caution when promoting healthcare services online, especially in aesthetics. For example, state law may require advertising to include the physician's name associated with a practice. This also extends to the controversial topic of Groupon and medical services; many state healthcare laws make getting paid for referring a patient to another

medical practice illegal. Use care in this gray area.

- Know that your behavior off the job, such as drinking socially, could be discussed or photos posted on social media. Remove inappropriate photos and evidence of alcohol or drug use.
- Think before you post something that could be deemed offensive. This includes comments made when debating current events or other issues via social media where you might use language that you wouldn't use in a face-to-face conversation. If you're angry or emotional, wait 24 hours before making a post.
- Remember that online posts, Tweets, and blogs are not private communications and can be used against you in an investigation by your board of nursing.

had been treated after getting hit by a subway train. Although the post didn't violate HIPAA rules or the hospital's social media policy, she was terminated for being insensitive.

Posts about your personal life also can negatively affect your professional life. Posting photos or comments about alcohol or drug use, domestic violence (even comments about arguing with a spouse) and use of profanity, or sexually explicit or racially derogatory comments could lead to charges of unprofessional behavior by a BON. And keep in mind that complaints can come from anywhere, including employers and coworkers, family and friends, and intimate partners, so the privacy setting on the social media platform won't protect you.

Court rulings have supported disciplinary actions by BONs against nurses for unprofessional behavior in their personal lives. A key example is the 2012 decision by the California Supreme Court, which left intact an appellate ruling (*Sulla v Board of Registered Nursing*) that allowed a state board to discipline a nurse who was caught driving drunk, even though his arrest had nothing to do with his job. The BON placed the nurse on 3 years' probation after his arrest. The appeals court ruled that state laws authorize disciplinary action against a nurse who uses alcohol, on or off the job, in a way

To *protect* yourself,
carry your own
malpractice/disciplinary
insurance.

that endangers others. The result is that nurses in California who are convicted of driving under the influence will have their nursing license suspended by the BON. This has clear implications for social media posting about alcohol use (or any high-risk topic) in your personal

life. (See *How to avoid social media pitfalls*.)

If you hear from the BON

If you receive a letter from the BON about an investigation, don't represent yourself. Hire an attorney who specializes in administrative law and procedure—ideally one who's familiar with your state BON. Decisions about a complaint can take from several months to more than a year, and outcomes can range from case dismissal for lack of merit or insufficient evidence to referral to the state's attorney general office for prosecution. If no settlement is reached, you and your attorney will argue the case at a hearing with potential outcomes that include public admonition/reprimand, restriction, probation, suspension, or revocation of your nursing license.

Other serious repercussions are possible. Decisions made by BONs are communicated via Nursys.com, a national database for verification of nurse licensure, discipline, and practice privilege administered by the National Council of State Boards of Nursing. If disciplined, you also

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Stay in the present moment. Worry about the future and guilt about events in the past can cause stress. Learn how to stay in the present moment; for example, chew a piece of gum and count the number of chews it takes before the gum runs out of flavor. The book *The Present: The Gift for Changing Times* by Spencer Johnson is a great quick read that teaches the value of living in the present moment.

Meditate. Meditation can calm your mind and ease anxious, negative thoughts. Even a few minutes of visualizing a calm environment can release tension. Try a mobile phone app, such as Calm, to engage in guided imagery, or The Mindfulness App, which also has a health component.

Go outside. Enjoying nature can be a great way to relax, shed stress, and elevate your mood. If you're stuck indoors for a while, use screen savers with calming outdoor images or listen to recordings of nature sounds in your car.

Disconnect to socially connect. Technology can be overwhelming, so regularly disconnect from the TV, phone, computer, and social media to stay connected with family and friends and to cultivate new relationships whenever possible. Talk to someone you trust about how you feel.

Get help. If you're feeling overwhelmed and it's in-

terfering with your functioning, get help. Don't feel ashamed if you need to see a mental health professional to help you strengthen your coping skills.

Take action

You can learn to cope positively with stressful or emotionally draining situations using the strategies outlined in this article, moving regularly, expressing your emotions, and letting go of guilt and worry. As the Dalai Lama once said, "The suffering from a natural disaster we cannot control, but the suffering from our daily disasters we can." With these action tactics, you'll feel more relaxed, healthier, and maybe even ready for new exciting challenges you'll enjoy. ★

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could receive a letter from the U.S. Department of Justice restricting your ability to work in any facility that receives reimbursement from Medicare and Medicaid. In addition, disciplinary action in one state may affect your license in another. After you've been disciplined, each state in which you hold a license can review or open the case.

To protect yourself, carry your own malpractice/disciplinary insurance (don't rely on the insurance carrier for your hospital or private practice). This is especially important with the anticipated increase in medical professional liability claims associated with social media use.

Think twice

Social media is a great way to connect personally and professionally. But remember that online posts live forever and that social media misfires could negatively affect your license and ability to practice. To protect yourself, think twice before you post content that could be judged as unprofessional. ★

Visit www.AmericanNurseToday.com/?p=39407 for a list of selected references.

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