

Avoiding Social Networking Pitfalls

■ ■ MedPro Group Patient Safety & Risk Solutions

These days you can't watch the news, pick up a newspaper, or surf the Internet without seeing or hearing headlines about social media or social networking — loosely defined as web-based technologies that provide quick communication access and/or publishing resources.

From a business perspective, it's becoming the norm to have a Facebook page or to "Tweet" to followers on Twitter. No wonder a Nielson Report found two-thirds of the world's Internet population visits a social networking or blogging site.¹

From a clinical perspective, these technologies provide doctors and healthcare professionals with numerous ways to share information, to improve access, and to market their services to patients and non-patients. However, because these methods continue to evolve, they also create potential problems and risks that must be considered prior to engaging in these forms of communication. Carefully crafted policies, processes, and safeguards can help mitigate these risks.

Social Networking

The news media have reported on various cases of healthcare providers posting cell phone pictures of patients to social media pages. Such actions may constitute breaches of confidentiality and invasions of privacy, in addition to potential HIPAA and other state and federal violations. If you are an employer, you could be held responsible for the actions of your employees.

Therefore, it is imperative to have policies and procedures in place that clearly specify prohibited topics or information that may not be discussed, shared, or posted on any website, blog, or social networking site.

Employers cannot censor lawful speech posted by employees outside of the workplace, but the use of any patient information or description of any patient should be prohibited.

Some doctors and healthcare professionals assume that if they don't reveal a patient's name or other identifiers, then it's fair game to describe or share information about the patient online. Not so! The context of the situation, description of events, circumstances, treatment, pictures, or patient presentations can provide just enough information to allow individuals viewing the site to identify the patient.

This is an area in which healthcare leaders and their administrators may need to seek legal advice. They may benefit from guidance as they devise policies that educate everyone associated with the practice about their obligations while using social network sites, blogs, etc. State and federal laws must also be taken into account when developing these processes.

Whether or not to engage or accept “friend” status with a patient on a social networking site can be a sensitive matter fraught with potential challenges. For example, a patient may easily misconstrue content on a social media site as treatment orders when it was merely intended as general information.

Another problem occurs if patients or healthcare providers inadvertently allow a breakdown in the social barriers between professional and personal relationships. Sometimes these breaches occur for benign reasons — the patient likes the doctor or provider and wants to have a more social relationship with him or her.

In other instances, patients may use social media links to “work around” established communication channels. Once these divisions blur, it can be embarrassing and upsetting for both parties if the barrier must be reinforced.

Access to care policies may not always be clear in a social media format, and a common misunderstanding occurs when patients are given the impression that the practice is available 24/7.

Overall, the essential benefit of existing social media sites — and yet-to-be-developed social networking technologies — is the speed with which comments, information, and photos can be shared — in real time and with numerous parties.

In the healthcare environment, doctors and other healthcare professionals can communicate with patients and other individuals, sharing health updates, instructions about treatments, and explanations of new products and procedures.

However, all of these professionals, as well as their administrative staffs, need to understand that the promotion of products and services may be considered advertising, which comes under the jurisdiction of the Federal Trade Commission (FTC), thus requiring adherence to FTC regulations. Such activities may also fall under a state's consumer protection act. Additionally, comments made in social networking arenas could become the subject of defamation lawsuits.

Summary

Leadership within the healthcare professions may want to evaluate how social networking can promote their services, provide information, and improve communication with patients. The vast reach of social media creates an array of opportunities for healthcare providers to market their practices.

However, it's equally important to evaluate social networking in order to identify its potential pitfalls. Sound risk assessment can help mitigate liabilities that cannot be completely eliminated — and may help avoid potential suits and regulatory violations.

Endnotes

¹ Global Faces and Network Places. The Nielson Company. March, 2009.

The information provided in this document should not be construed as medical or legal advice. Because the facts applicable to your situation may vary, or the regulations applicable in your jurisdiction may be different, please contact your attorney or other professional advisors if you have any questions related to your legal or medical obligations or rights, state or federal statutes, contract interpretation, or legal questions.

The Medical Protective Company and Princeton Insurance Company patient safety and risk consultants provide risk management services on behalf of MedPro Group members, including The Medical Protective Company, Princeton Insurance Company, and MedPro RRG Risk Retention Group.

© MedPro Group.® All Rights Reserved.