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Imagine that you are the chief nursing officer of a hospital. You're proud of the fact that your hospital has a fully active Facebook and Twitter presence through which the hospital informs the community of the good work it does and the most recent health care issues facing your community. You were a strong advocate of entering the world of social media because you saw it as dynamic, and a better revenue producing tool than the hospital's website. Through Facebook and Twitter the hospital can go to the community rather than wait for them to come to it. The hospital can post YouTube videos, health advisories, success stories, information about capital projects and even sell hospital merchandise. Recently, the entire hospital and community were abuzz with excitement when one of your patients tweeted during his surgery with glowing comments about the doctor and the nursing staff. Everything seems to be going well using this inexpensive, expansive marketing and networking tool.

Now imagine that one day the hospital's human resources director comes into your office with several print outs from Facebook and Twitter. The first is an employee's Facebook profile picture. The HR director tells you that she found the photo located on the hospital's Facebook page under the likes section of the page. You are shocked to see your new hotshot twenty-something emergency room nurse standing before the camera dressed only in a gold bikini swimsuit with a cape around his shoulders. He wears sunglasses and a crown of thorns on his head. Around his neck is a sign that reads, "Jesus." Usually not at a loss for words, you are.

The next page is a printout of a Twitter tweet from a patient's daughter. Accustomed to only glowing comments from patients, you are surprised to read a scathing indictment of your nurses because the patient developed a very serious infection while in the hospital for a minor surgery. The patient is now on intravenous antibiotics that Medicare won't pay for unless she goes into a nursing home. The daughter claims that nobody in the hospital washed their hands before touching the patient.

The last page handed to you is a printout of one of your nurse's Facebook walls. On it, she and three other nurses are discussing a particularly difficult elderly patient. At one point the nurse whose wall you are viewing says, "I wish he would just hurry up and die."

Such is the world of social media. On one hand, it is a remarkable, efficient and inexpensive way to let the world know you exist and to advertise what you do. Social networking allows a company to tap into the fact that the average Facebook user has 130 friends and spends 55 minutes a day on the site. You can create a Facebook page or a Twitter account to interact with your consumers and drive Internet traffic to your website. Your Facebook posts or your Twitter tweets can be shared in a way that expands your audience without you doing more than posting or tweeting. For as little as pennies per click-through you can create an ad that is specifically targeted at your market audience using the demographic information obtained by the social networking site. For less than a couple thousand dollars, your ad can be seen millions of times. Simply, everyone is doing it, everyone is there and it is the place to be.

On the other hand, a business's presence on the Internet leaves the business vulnerable to virulent and possibly irrational attacks from many different sources, including from within the organization. Social networking is a virtual wild west where the line between the professional and the personal is blurred, if not completely obliterated. It is a place where those interested in serious marketing meet the casual, the weird and the truly outrageous, such as the bikini-clad Jesus lover in the photo described above. It is where employees share their private lives and post comments that they would never make to a person's face and did not think would be seen by hundreds, if not thousands of people.

Employers and professional educators and oversight bodies have struggled and continue to struggle to address the dark side of the wild cyber world. Controlling the social media world has become more difficult as people redefine privacy and as the government has stepped in to protect that redefined privacy and other employee rights. There are, however, ways to impose some control over the seemingly uncontrollable world of social networking.

1. Pay Attention to Ethical Issues

Nurses and all medical professionals have ethical obligations and standards to which they must adhere. Regardless of the protections available to employees from the National Labor Relations Board, or any rights that may be granted them to protect their privacy, nurses have ethical standards that can be violated by their online behavior.

The American Nurses Association has articulated six principles to guide a nurse's use of social media:

- Nurses must not transmit or place online individually identifiable patient information
- Nurses must observe ethically prescribed professional patient-nurse boundaries
- Nurses should understand that patients, colleagues, institutions and employers may view postings
- Nurses should take advantage of privacy settings and seek to separate personal and professional information online
- Nurses should bring content that could harm a patient's privacy, rights or welfare to the attention of appropriate authorities
- Nurses should participate in developing institutional policies governing online conduct

The ANA also provides six tips follow to avoid problems with the use of social media:

- Remember that standards of professionalism are the same online as in any other circumstance
- Do not share or post information or photos gained through the nurse-patient relationship

- Maintain professional boundaries in the use of electronic media, online contact with patients can blur this boundary
- Do not make disparaging remarks about patients, employers or co-workers, even if they are not identified
- Do not take photos or videos of patients on personal devices, including cell phones
- Promptly report a breach of confidentiality or privacy

Although these principles and tips may appear obvious, the unfortunate truth is that social media can transform reasonable, clear-headed professionals to irrational, irresponsible individuals. The idea that a nurse would ever take a picture of a dying patient and post it on Facebook seems impossible to fathom, but it has happened. Nurses may enjoy the benefits of the online world, but must do so in an extremely judicious and responsible way. To do otherwise risks putting one's entire professional life at risk.

2. Create Policies That Make Sense and Enforce Them

By now, most employers have electronic use policies that control their employees' use of the Internet and electronic mail on the employers' computer systems. Many employers have policies that address their employees' use of social networking media in a manner that implicates employers. It remains advisable to create and implement a social networking policy that encourages the responsible use of social media.

An appropriate social networking policy should do the following:

- Inform employees that the employer's sexual harassment, discrimination, confidentiality, trade secrets and other workplace policies apply to behavior on the Internet
- Instruct employees to use good judgment and take personal and professional responsibility for what they publish online
- Instruct employees not to post or blog during working time, whether on their personal hand held devices or company-issued devices, unless for official business purposes
- Prohibit employees from discussing patients and their families even if the employees attempt to de-identify the patient
- Prohibit or discourage employees from friending patients unless there can be assurances of establishing appropriate boundaries and controls over access to information
- Prohibit employees from using company email addresses to register for social media sites
- Prohibit posting false or maliciously defamatory information about the company or its employees, customers or affiliates

- State that employees have no expectation of privacy in any communications made on or with company property, including personal communications on webmail and social networking pages
- Notify employees that violation of social networking policy can be grounds for discipline up to and including termination
- Update existing policies to keep pace with new technology
- Strongly encourage (but do not require) employees to bring work-related complaints to human resources before blogging or posting about such complaints
- Remind employees that regardless of whether the employee identifies him or herself as your employee, the employee should ensure that his or her social media profile and related content is consistent with how he or she wishes to present him or herself to colleagues and customers
- Advise employees that you reserve the right to have them change an inappropriate profile picture if the employee identifies themselves on the social media site as working for you or the employee is high-profile enough to be linked in the community as working for the employer

Unless the state in which the employer operates has laws protecting an employee's off-duty activity, the employer may discipline an employee for violating its social media policy. It is important to remember that, as with all policies, a social media policy will not provide much protection if it is not enforced appropriately and consistently.

3. *The NLRB Seeks To Constrain Attempts to Control Online Behavior*

As employers have struggled to control the negative effects of social media with policies and discipline for inappropriate behavior, the National Labor Relations Board has stepped into the fray to protect employees even when the employees have engaged in what many would consider inappropriate online behavior. The National Labor Relations Act protects any non-supervisory employee, regardless of whether the employee belongs to a union, from being disciplined for engaging in "protected concerted activity." Specifically, Section 7 of the NLRA provides, "Employees shall have the right to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities" 29 U.S.C § 157. Generally speaking, Section 7 protects employees who act in a concerted fashion with respect to wages, hours or other working conditions.

It is very important to understand that the NLRB construes Section 7 rights very broadly. In other words, when deciding whether an employee's conduct constitutes "protected concerted activity" the NLRB seems inclined to resolve questions in favor of the employee. By contrast, the NLRB applies exceptions to Section 7 protections very narrowly. The NLRB appears to have applied the law of the factory, the mine and the lumber yard to the professional workplace. For example, the NLRB has found acceptable a professional's references to her supervisor as a "psych patient." Even if such behavior is acceptable to the

NLRB, any medical professional would be smart to understand that such behavior is not conducive to meaningful career advancement.

4. *Education*

In addition to warning professionals, it would behoove employers and the educators of professionals to teach employees how to use social networking in a responsible and productive way. Education and regular reminders are keys to the successful use of social media and the avoidance of problematic behavior. It is important to reject the false assumption that people “know better by now.” As a lawyer, I am consistently amazed at what people write in electronic communications. Depending on what side I am on, I either cringe or celebrate.

Here a few bits of information to impart to professionals and employees:

- Employees with professional licenses should be reminded that licensing boards may have the general authority to discipline professionals for conduct deemed unprofessional regardless of where that behavior occurs. This is particularly true if a professional reveals any confidential information on the Internet.
- At a minimum, employees should be educated about the ability to control privacy settings to prevent viewing of their site content by people whom they would prefer not see it.
- Employees should be advised to select and share their photos, including their profile photo, wisely. While a formal headshot can be considered geeky, an old college photo capturing a bong hit is entirely out of bounds. Most people opt for a casual shot that often includes children or pets.
- Employees should be cautioned against taking quizzes to discover which president or member of the Brady Bunch they are most like. Such postings can be not only annoying to the recipients, but they can also be counterproductive to the image you hope your employee will seek to foster. In other words, the repetitive taking of silly quizzes and the constant posting of the results, while seemingly fun, can lead the recipient of the posts to conclude that the person is not someone to be taken seriously and is not someone thate they would pay money to handle important business. As with so many things in life, moderation and thought before action is important.
- Employees should be careful about the information they use to populate their profiles. If an employee wants their personal life to be personal, they should lock down their privacy settings and not identify who they work for in their profile.
- Employees may be reminded that it is possible to have more than one Facebook page, one for the personal side of life and one for the professional side. They must also be reminded, however, that having separate personal and professional Facebook pages does not give them free reign to be unprofessional on their personal page.

5. *Pay Attention to Organization's Social Media Sites*

The ability to easily provide current information and the love of instant access and communication lure businesses and consumers alike to social networking sites, but businesses risk losing the

benefits of being present in the cyber world if they do not monitor their sites regularly. A Facebook page that is not updated regularly becomes irrelevant and people forget about the business. At worst, the rant of a patient could stay on a hospital's Facebook page for days if not weeks and go viral. A medical professional or a hospital with a presence on the Internet must be organized to receive and deal with negative situations. The organization should have a team of people including a public relations person and an attorney, trained and ready to deal with crises when they arise. Being ready requires the development of a plan before the crisis occurs. While plans may vary with the philosophy of the organization, most situations involve removal of the complaint from the site and contact with the complainer to determine if there is anything that can be done to rectify the situation. In short, pay attention and monitor your social media sites because not knowing about a situation ensures a failure to respond.

6. *Don't Friend Everybody*

In one survey, two thirds of 600 employees polled stated that they thought their colleagues shared too much information on Facebook. Even with appropriate policies and proper education we are all human and mistakes can be made. Even an innocent post can result in unfortunate results because while people can control the content of their posts, they do not have the same level of control over others who might post information to another's wall and who might comment on another's posts. Therefore, it is advisable for employers to prevent managers from being social networking friends with supervised employees.

Similarly, in the health care field, employees should be discouraged, if not prohibited, from friending patients. There are differences of opinion on this issue because some believe that interaction with patients through social media can humanize doctors, nurses and staff, making patients more comfortable with the care they receive. Interactions with patients are risky because apart from significant concerns over the blurring of professional boundaries, it is not difficult to imagine ways that a patient's privacy rights can be violated. For example, an employee cannot control a patient's post and the patient may not fully realize that others can see the post on an employee's wall. Likewise, an employee could respond to a patient's post with a seemingly innocent word of encouragement about the effectiveness of a new medication, thus breaching a patient's privacy rights.

People who do not or would not socialize in the real world socialize without restraint in the virtual world. Such socializing can compromise the level of respect and the line of authority that must exist for business to be productive and for patients to have confidence in the quality of their health care. Although many leadership models foster contributions from all employees and strive for consensus building, there are times when someone has to be the boss. Likewise, although patients should participate in their own care and although it can be beneficial for them to know and like their care givers, it can be detrimental for a patient to be too familiar with their care givers. Even when people are careful, the kind of information that gets shared online can seriously interfere with the ability to be the boss when it is necessary as well as the ability to be trusted to handle serious matters. Simply put, it is usually better to be safe than sorry.

7. *Be Careful About Checking Social Media for Applicants*

Many employers are regularly checking the Internet when making employment decisions. An employer should probably not use the Internet to check out every applicant. Rather, employers should reserve the use of the Internet for a final check on the person or a small group of people

the employer intends to hire, any such search should be done with the applicant's knowledge and consent, but without the acquisition of any passwords. Searching the Internet, including social media sites, for applicants can provide information about an applicant that the employer should not know, such as the applicant's race or sexual orientation. The bikini-clad applicant in a tight job market might want to claim religious discrimination if he was not hired after someone looked at his Facebook profile photo. On the other hand, an employer who completely ignores the ability to conduct such a search runs the risk of a negligent hiring claim if an Internet search would have revealed information that your new employee, who assaulted a minority customer, had a propensity for racist violence.

8. *Never Forget That What One Writes Is Written*

Despite the fact that lawyers, HR professionals and educators constantly remind people about the hazards of electronic communication, people continue to use electronic communication like they use the telephone. They continue to ignore the fact that they are creating a written record of their communication. Nurses and nursing students, like all medical professionals, must be reminded that their written electronic communication does not lose its memory, does not get erased and can be sent in the blink of an eye around the world.

In summary, there is an inherent tension between the use of social media in the professional world and the use of that same media as a personal sharing space. The melding of the professional and the personal is one reason that social media has been successful in reaching large and diverse audiences, but a lack of restraint and discretion can undermine its value as a business tool. It is not necessary to abandon one for the other, but we must be mindful of the best ways to interact in this new space.

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