

A Nurse's Guide to the Use of Social Media



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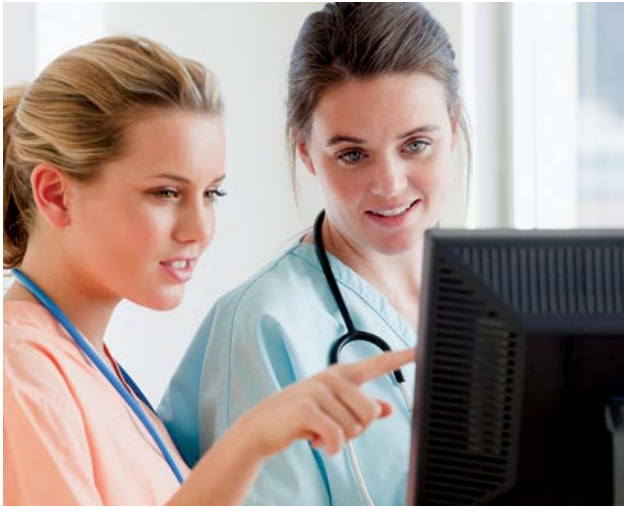
National Council of State Boards of Nursing

A Nurse's Guide to the Use of Social Media

A nurse must understand
and apply these
guidelines for the use
of social media.

The use of social media and other electronic communication is expanding exponentially as the number of social media outlets, platforms and applications available continue to increase. Individuals use blogs, social networking sites, video sites, online chat rooms and forums to communicate both personally and professionally with others. Social media is an exciting and valuable tool when used wisely. The very nature of this medium, however, can pose a risk as it offers instantaneous posting opportunities that allow little time for reflective thought and carries the added burden that what is posted on the Internet is discoverable by a court of law even when it is long deleted.

Nurses are welcome to use social media in their personal lives. This may include having a Facebook page, a Twitter feed or blogging on various websites. Nurses can positively use electronic media to share workplace experiences, particularly those events that are challenging or emotionally charged, but it is imperative not to mention patients by name or provide any information or details that could possibly identify them in order to protect patients' right to privacy.



Social Media in the Workplace

Social media can benefit health care in a variety of ways, including fostering professional connections, promoting timely communication with patients and family members, and educating and informing consumers and health care professionals. Social media provides nurses with a way to express their feelings, and reflect or seek support from friends, colleagues, peers or virtually anyone on the Internet. Journaling and reflective practice are recognized as effective tools in nursing practice, and the Internet provides an alternative media for nurses to engage in these helpful activities. Without a sense of caution, however, these understandable needs and potential benefits may result in the nurse disclosing too much information, and violating patient privacy and confidentiality.

Health care organizations that utilize electronic and social media typically have policies governing employee use of such media in the workplace. Components of these policies often address personal use of employer computers and equipment, personal computing during work hours, and the types of websites that can be accessed from employer computers. Health care organizations also maintain careful control of websites maintained by or associated with the organization, limiting what may be posted to the site and by whom.

The employer's policies, however, typically do not address the nurse's use of social media to discuss workplace issues outside of work on home computers, personally-owned phones and other hand-held electronic devices. It is in this context that the nurse may face potentially serious consequences for the inappropriate use of social media.

Jamie has been working in hospice care for the last six years and one of her patients, Maria, maintained a hospital-sponsored communication page to keep friends and family updated on her battle with cancer. One day, Maria posted about her depression. As her nurse, Jamie wanted to provide support, so she posted, "I know the last week has been difficult. Hopefully the new happy pill will help, along with the increased dose of morphine. I will see you on Wednesday." The site automatically listed the user's name with each comment. The next day, Jamie was shopping at the local grocery store when a friend stopped her to ask about Maria's condition. "I saw your post yesterday. I didn't know you were taking care of Maria," the friend said. "I hope that new medication helps with her pain."

This is an example of a violation of confidentiality through social media. While Jamie had Maria's best intentions at heart by trying to offer her words of support, she inadvertently disclosed information about a patient on a social media site. Everyone who read that post now knows about Maria's medication and increase in morphine, violating her right to privacy and confidentiality. Instances of inappropriate use of electronic media by nurses such as this have been reported to boards of nursing (BONs) and, in some cases, reported in nursing literature and to the media.

Confidentiality and Privacy

To understand the limits of appropriate use of social media, it is important to have an understanding of confidentiality and privacy in the health care context.

Confidentiality and privacy are related, but distinct concepts:

- Any patient information learned by the nurse during the course of treatment must be safeguarded by that nurse.
- Such information may only be disclosed to other members of the health care team for the purpose of providing care for the patient.
- Confidential information should be shared only with the patient's informed consent, when legally required or where failure to disclose the information could result in significant harm. Beyond these very limited exceptions, a nurse is obligated to safeguard confidential information.

As a licensed practical nurse for more than 20 years, Bob knew the importance of safeguarding a patient's privacy and confidentiality. One day, he used his personal cell phone to take photos of Claire, a resident in the group home where he worked. Bob received permission from Claire's brother to take the photo since she was unable to give consent due to her mental and physical condition. That evening, Bob ran into William, a former employee of the group home. While catching up, he showed William the photo of Claire and discussed her condition with him. The administrator of the group home later learned of Bob's actions and terminated his employment for breach of confidentiality.

Bob thought it was okay for him to take Claire's photo because he had the consent of a family member. He also thought it was acceptable for him to discuss Claire's condition because William previously worked with Claire. So why was this behavior wrong? Because, first, merely asking Claire's brother for permission is not obtaining a valid consent. Second, confidential information should not be disclosed to persons no longer involved in the care of a patient. Even though Bob made an honest mistake, confidentiality rules must be strictly enforced to protect a patient's right to privacy.

Privacy relates to the patient's expectation and right to be treated with dignity and respect. Effective nurse/patient relationships are built on trust. Patients need to be confident that their most personal information and their basic dignity will be protected by the nurse. Patients will be hesitant to disclose personal information if they fear it will be disseminated beyond those who have a legitimate "need to know." Any breach of this trust, even inadvertent, damages the nurse/patient relationship and the general trustworthiness of the profession of nursing.

Federal law reinforces and further defines privacy through the Health Insurance Portability and Accountability Act (HIPAA). HIPAA regulations are intended to protect patient privacy and confidentiality by defining individually identifiable information and establishing how this information may be used, by whom and under what circumstances. The definition of individually identifiable information includes any information that relates to the past, present or future physical or mental health of an individual, or provides enough information that leads someone to believe the information could be used to identify an individual.

Breaches of patient confidentiality or privacy can be intentional or inadvertent and can occur in a variety of ways. Nurses may breach confidentiality or privacy with information they post via social media sites. Examples may include comments in which patients are described with enough sufficient detail to be identified, referring to patients in a degrading or demeaning manner, or posting videos or photos of patients.



Privacy is the patient's expectation to be treated with dignity and respect.

Confidentiality is safeguarding patient information.

Emily, a 20-year-old junior nursing student, wasn't aware of the potential repercussions that could occur when she took a photo of Tommy, a 3-year-old leukemia patient in a pediatric unit, on her personal cell phone. When Tommy's mom went to the cafeteria, Emily asked him if she could take his picture, which Tommy immediately consented to. Emily took his picture as she wheeled him into his room. She posted Tommy's photo on her Facebook page with this caption: "This is my 3-year-old leukemia patient who is bravely receiving chemotherapy! He is the reason I am so proud to be a nurse!" In the photo, Room 324 of the pediatric unit was visible. Days later, the dean of the nursing program called Emily into her office. A nurse from the hospital found the photo Emily posted of Tommy on Facebook and reported it to hospital officials who also contacted Emily's nursing program.

While Emily never intended to breach the patient's confidentiality, the hospital faced a HIPAA violation. From Emily's post, people were able to identify Tommy as a cancer patient and the hospital where he was receiving treatment. School officials expelled Emily from the nursing program for breaching patient confidentiality and HIPAA violations. The nursing program was also barred from using the pediatric unit for their students. Emily's innocent, yet inappropriate action of posting a patient's photo had repercussions for her, the nursing program and the hospital.

But what if Emily removed the photo hours later? If it's taken down, no harm, no foul, right? No. Anything that exists on a server is there forever and could be retrieved later, even after deletion; therefore, it would still be discoverable in a court of law. Further, someone could have taken a screen shot of her Facebook page and posted it on a public website. Patient information and photos should never be posted on social media websites. Even after being deleted, the photo is still on a server and possibly posted somewhere else on the Internet.

Potential Consequences

As we've seen with Jamie, Bob and Emily, potential consequences for inappropriate use of social and electronic media by nurses vary. Consequences depend, in part, on the particular nature of the nurse's conduct.

Instances of inappropriate use of social and electronic media may be reported to the BON. Laws outlining the basis for disciplinary action by a BON vary between jurisdictions. Depending on the laws of a jurisdiction, a BON may investigate reports of inappropriate disclosures on social media sites by a nurse on the grounds of:

- Unprofessional conduct;
- Unethical conduct;
- Moral turpitude (defined as conduct that is considered contrary to community standards of justice, honesty or good morals);
- Mismanagement of patient records;
- Revealing a privileged communication; and
- Breach of confidentiality.

If the allegations are found to be true, the nurse may face disciplinary action by the BON, including a reprimand or sanction, assessment of a monetary fine, or temporary or permanent loss of licensure.

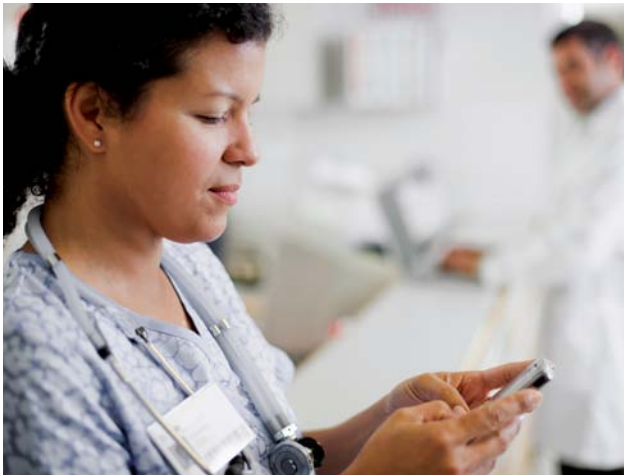
Improper use of social media by nurses may violate state and federal laws established to protect patient privacy and confidentiality. Such violations may result in both civil and criminal penalties, including fines and possible jail time. A nurse may face personal liability and be individually sued for defamation, invasion of privacy or harassment. Particularly flagrant misconduct on social media websites may also raise liability under state or federal regulations focused on preventing patient abuse or exploitation.

If the nurse's conduct violates the policies of the employer, the nurse may face employment consequences, including termination. Additionally, the actions of the nurse may damage the reputation of the health care organization, or subject the organization to a lawsuit or regulatory consequences.

Social Media's Impact on Patient Safety and Care

Another concern arising from social media misuse is its effect on team-based patient care. Online comments by a nurse regarding co-workers, even if posted from home during nonwork hours, may constitute lateral violence. Lateral violence includes disruptive behaviors of intimidation and bullying, which may be perpetuated in person or via the Internet. This is sometimes referred to as "cyber bullying." Such activity is a cause for concern for current and future employers, and regulators because they negatively affect team-based care, thus creating patient-safety ramifications. The line between speech protected by labor laws, the First Amendment and the ability of an employer to impose expectations on employees outside of work is still being determined.

Nonetheless, negative comments can be detrimental to a cohesive health care delivery team and may result in sanctions against the nurse.



Common Myths and Misunderstandings of Social Media

While instances of intentional or malicious misuse of social media have occurred, in most cases, inappropriate disclosure is unintentional. A number of factors may contribute to a nurse inadvertently violating patient privacy and confidentiality while using social media, including:

- A mistaken belief that the communication or post is private and accessible only to the intended recipient. The nurse may fail to recognize that content once posted or sent can be disseminated to others.
- A mistaken belief that content deleted from a site is no longer accessible. The moment something is posted, it lives on a server that can always be discoverable in a court of law.
- A mistaken belief that it is harmless if private information about patients is disclosed if the communication is accessed only by the intended recipient. This is still a breach of confidentiality.
- A mistaken belief that it is acceptable to discuss or refer to patients if they are not identified by name, but referred to by a nickname, room number, diagnosis or condition. This too is a breach of confidentiality and demonstrates disrespect for patient privacy.
- Confusion between a patient's right to disclose personal information about himself or herself (or a health care organization's right to disclose otherwise protected information with a patient's consent) and the need for health care providers to refrain from disclosing patient information without a care-related need for the disclosure.

The ease of posting and the commonplace nature of sharing information via social media may appear to blur the line between one's personal and professional lives. The quick, easy and efficient technology enabling use of social media reduces not only the time it takes to post, but also the time to consider whether the post is appropriate and what ramifications may come from posting inappropriate content.

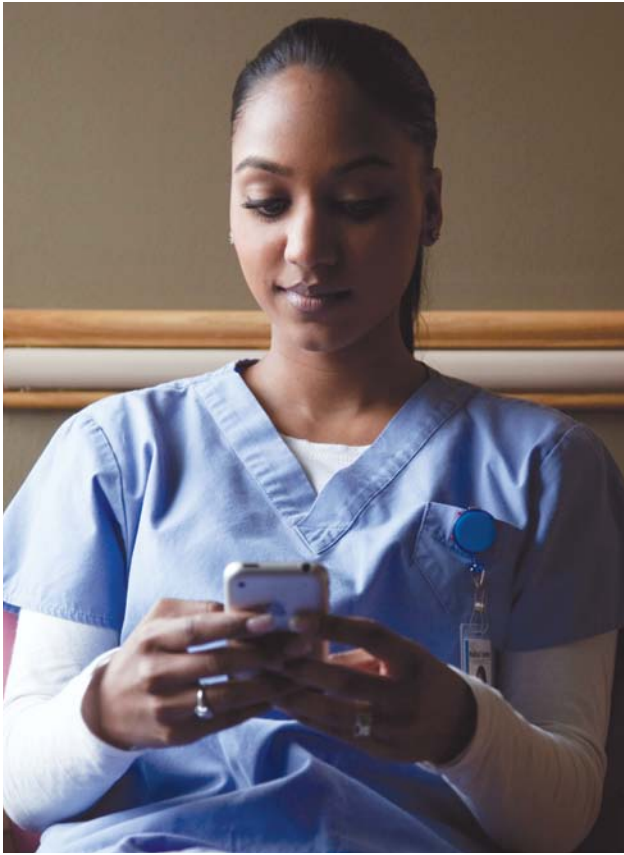
How to Avoid Disclosing Confidential Patient Information

With awareness and caution, nurses can avoid inadvertently disclosing confidential or private information about patients. The following guidelines are intended to minimize the risks of using social media:

- Nurses must recognize that they have an ethical and legal obligation to maintain patient privacy and confidentiality at all times.
- Nurses are strictly prohibited from transmitting by way of any electronic media any patient-related image. In addition, nurses are restricted from transmitting any information that may be reasonably anticipated to violate patient rights to confidentiality or privacy, or otherwise degrade or embarrass the patient.
- Nurses must not share, post or otherwise disseminate any information or images about a patient or information gained in the nurse/patient relationship with anyone unless there is a patient-care-related need to disclose the information or other legal obligations to do so.
- Nurses must not identify patients by name, or post or publish information that may lead to the identification of a patient. Limiting access to postings through privacy settings is not sufficient to ensure privacy.
- Nurses must not refer to patients in a disparaging manner, even if the patient is not identified.
- Nurses must not take photos or videos of patients on personal devices, including cell phones. Nurses should follow employer policies for taking photographs or videos of patients for treatment or other legitimate purposes using employer-provided devices.

- Nurses must maintain professional boundaries in the use of electronic media. Like in-person relationships, the nurse has an obligation to establish, communicate and enforce professional boundaries with patients in the online environment. Use caution when having online social contact with patients or former patients. Online contact with patients or former patients blurs the distinction between a professional and personal relationship. The fact that a patient may initiate contact with the nurse does not permit the nurse to engage in a personal relationship with the patient.¹ Nurses must consult employer policies or an appropriate leader within the organization for guidance regarding work related postings.
- Nurses must promptly report any identified breach of confidentiality or privacy.
- Nurses must be aware of and comply with employer policies regarding use of employer-owned computers, cameras and other electronic devices, and use of personal devices in the workplace.
- Nurses must not make disparaging remarks about employers or co-workers. Do not make threatening, harassing, profane, obscene, sexually explicit, racially derogatory, homophobic or other offensive comments.
- Nurses must not post content or otherwise speak on behalf of the employer unless authorized to do so and must follow all applicable policies of the employer.

¹ Nurses may want to consult NCSBN's "A Nurse's Guide to Professional Boundaries" for more information on this issue.



Conclusion

Social and electronic media have tremendous potential for strengthening personal relationships and providing valuable information to health care consumers, as well as affording nurses a valuable opportunity to interface with colleagues from around the world. Nurses need to be aware of the potential consequences of disclosing patient-related information via social media, and mindful of employer policies, relevant state and federal laws, and professional standards regarding patient privacy and confidentiality and its application to social and electronic media. By being careful and conscientious, nurses may enjoy the personal and professional benefits of social and electronic media without violating patient privacy and confidentiality.

THE NURSE'S CHALLENGE

- Be aware.
 - Be cognizant of feelings and behavior.
 - Be observant of the behavior of other professionals.
 - Always act in the best interest of the patient.
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