

How is social media being utilized by health care professionals, and what issues does it raise for compliance officers?

- Privacy and Security
- Professionalism
- Other considerations, i.e., endorsement, harassment and discrimination, reputational harm, quality of care

Social media: Internet-based tools that allow individuals and communities to gather and communicate*

- Patient and public health information;
- Communication;
- Marketing efforts;
- Professional networking;
- Research and collaboration;
- Research study recruitment;
- Trainee and medical student education.

Ventola, C. Lee, "Social Medical and Health Care Professionals: Benefits, Risks and Best Practices", P&T, 7/2014; 491.

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Featured topics

- Photos and videos
- · Communicating with patients through social media
- Doctor networking sites
- Online patient reviews
- HR/med staff office considerations
- What's next
- Recommendations for compliance officers

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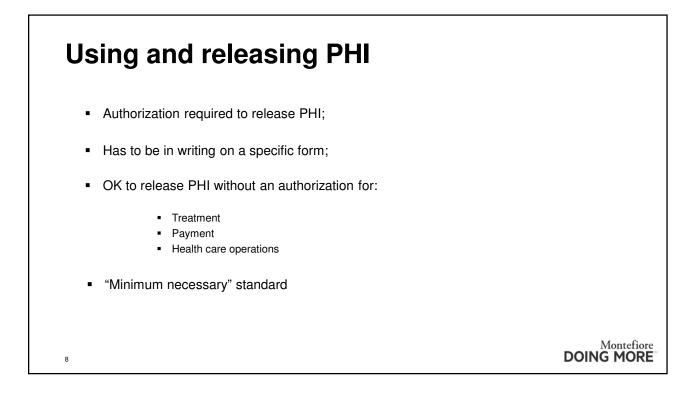
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Considerations for professionals utilizing social media

- Maintaining privacy and security—both for patient and professional;
- Upholding professional standards;
- Preserving the physician/patient relationship;
- Complying with employer/hospital policies and law;
- Becoming an educated user—understand risks/benefits and limitations.

Privacy and security and social media
 Protected health information ("PHI") is broadly defined.
 Any information created or received by provider; That relates to the health or condition of an individual or which potentially can be used to
identify the individual
 That is transmitted by or maintained in electronic media or other form.
 Examples: demographic info, photos, email address, unique identifying characteristics
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Professionalism in use of social media AMA report discussing ethical implications of physicians' nonclinical use of the internet.* Notes "searchable, enduring records of exchanges; fostering of "disinhibition and feelings of anonymity and invisibility"; "post on networking site may reach millions of people in a matter of minutes." **Recommendations:** Maintain physician patient boundaries; Maintain patient confidentiality; Recognize that online self presentation affects reputation and may have consequence;s Physicians' self presentation online; When physicians see content posted online by colleagues that appears unprofessional, they have an ethical responsibility to act. *Rebecca Shore, Julia Halsey, Kavita Shah, Bett-Jane Crigger, and Sharon P. Douglas, "Report of the AMA Council on Ethical and Judicial Affairs: Professionalism in the Use of Social Media", The Journal of Clinical Ethics 22, no. 2 (Summer 2011): 165-72. See also AMA Code of Ethics. See also parallel guidelines issued by Federation of State Medical Boards (FASB); National Council of State Boards of Nursing (NCSBN). Montefiore **DOING MORE** 9

Photos - Guidance for Professionals

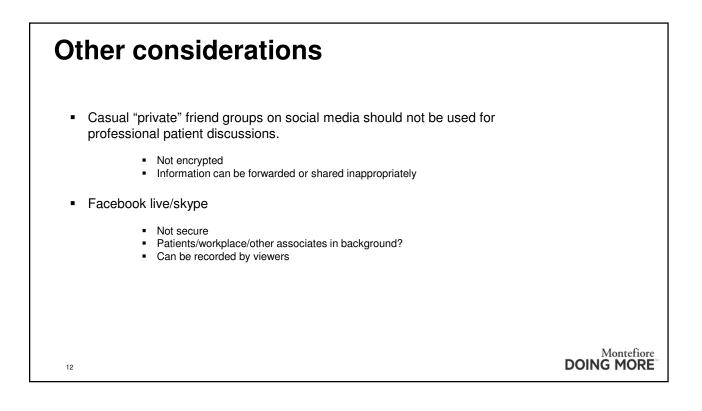
- Never take pictures of patients on unencrypted mobile devices;
- Even if pictures are taken with appropriate consent on encrypted device, if forwarded to unencrypted device, data is not secure;
- Recommend adoption of policies requiring review and confirmation of <u>appropriate</u> <u>consent</u> prior to any potential posting of patient picture/video to social media.

Search engines amplify ability to identify individuals

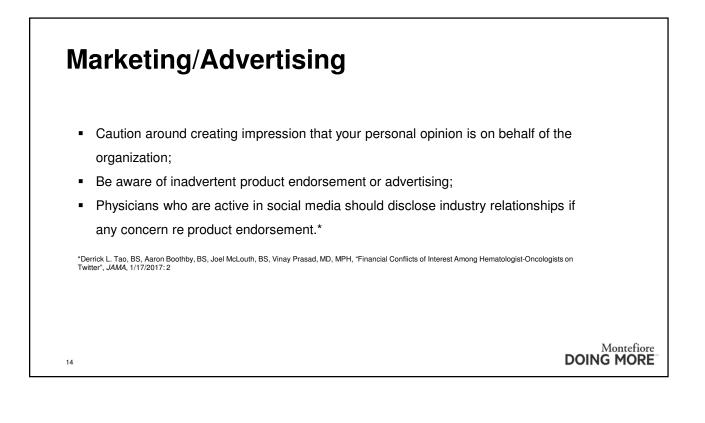
- Inputting small amount of info into search term will generate potentially relevant "hits";
- Increases potential for inadvertent privacy violations;

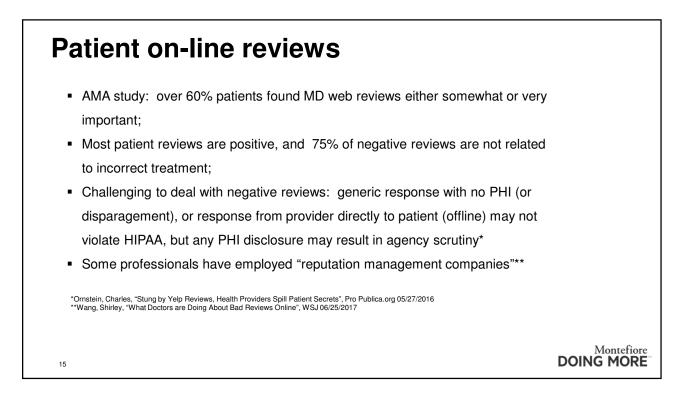
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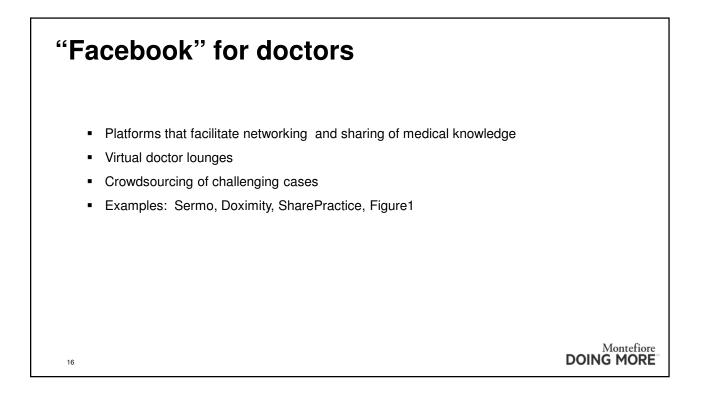
- Example: RI ED physician posted on Facebook about trauma patient identifying nature of injury; patient identified by 3rd parties, MD fired.
- Example: "#man vs. 6 train": NY ER nurse posted photo of blood stained trauma room.



Pa	Patient "friending" & "following"	
•	Keep personal and professional social media accounts separate, make personal accounts "private"	
•	Generally discouraged	
	 Possibility of blurred patient/doctor relationship Don't provide medical advice to patient on nonclinical social media Suggest patients who want to connect to professional secure patient portal or make appointments Make appropriate disclosures and disclaimers on any information that could be construed as medical device 	
•	Can be difficult to avoid entirely	
	 Always assume everyone may see profile Ex. political/social activism, alumni groups 	
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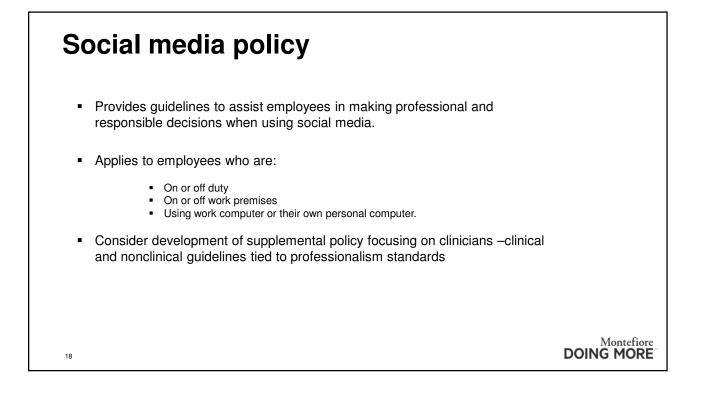




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- 800,000+ reported users, international
- Limited to physicians only—platform validation
- Promises anonymity
- Onus on physicians posting cases to de-identify data
- Market research component, industry advertisement



Other potentially related policies governing workplace behavior

- Non-Discrimination and Anti-Harassment
- **Disruptive Conduct**
- Medical Staff bylaws or Rules and Regulations
- Drug and Alcohol Policy
- Non-Violent Workplace

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When can an employer discipline or discharge employee for social media activity?

Violates HIPAA

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- Disloyal, reckless, or maliciously untrue
 - employee knew the information to be untrue
- Disparagement of employer, its services, or employees, which is not tied to any term or condition of employment.
- Discriminatory or offensive comments, photos on jokes based on a person's protected classification, such as race, religion, sex, age
- If posting while on duty and on the employment site:
 - Involves threats of violence or physical harm
 - So grossly insubordinate, as long as insubordination is not tied or provoked by an Employer's Unfair Labor Practice. **DOING MORE**

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