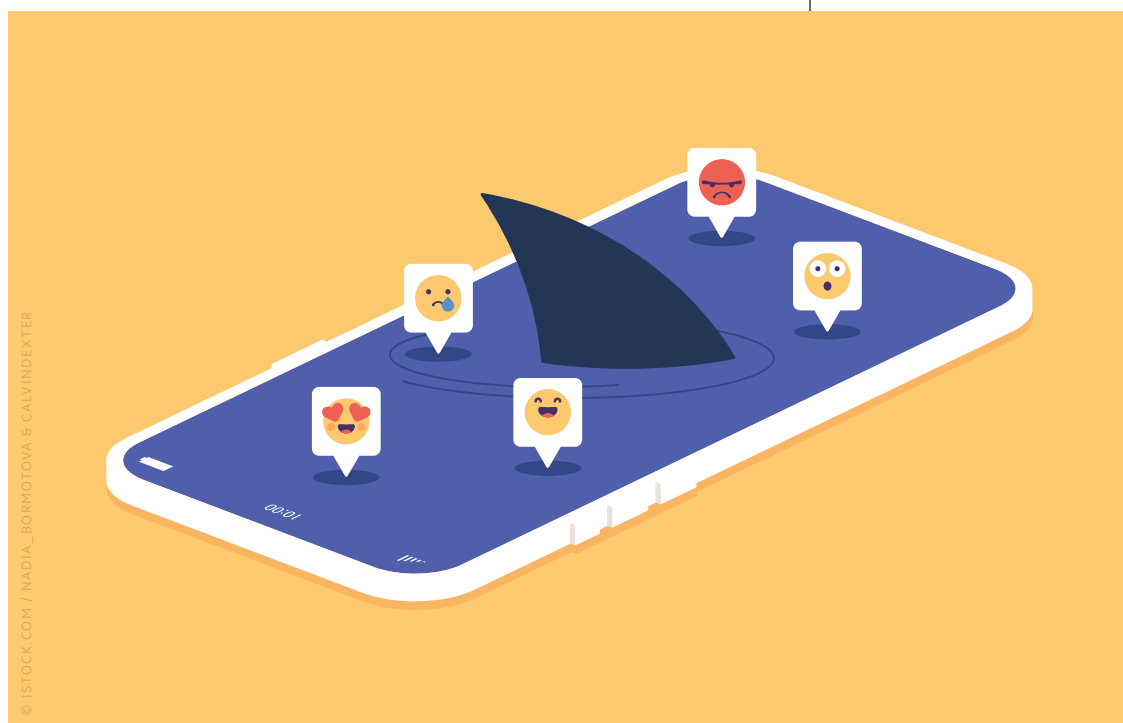


# Navigating the Hazards of Social Media

Physicians face unique challenges and scrutiny when using social media, but certain safeguards can help limit risk.



Over the past decade, social media has become a vital element of both professional and social life. Physicians use a wide variety of social media tools, including networking platforms, blogs, wikis, media-sharing sites, professional information sites, and virtual reality/gaming environments. While these evolving tools can be beneficial, social media does have a dark side and increasingly poses hazards, personally and professionally.

All social media users risk receiving false or misleading information and becoming targets of financial scams and personal attacks, but physicians also face ethical, licensing, and legal risks. Multiple physician organizations have warned that social media activity can

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influence the public's perception of clinicians, their organizations, and their specialties.<sup>1-3</sup> Additionally, some online activities may jeopardize physicians' employment and ability to practice medicine.

In this article, we discuss specific hazard areas for physicians, problems that can arise from social media misuse, and personal and legal protections that are available.

## FIVE HAZARDS TO AVOID

When using social media, physicians should be aware of the following hazards and use caution in these areas.

### 1. Reputation-damaging information.

Physicians' reputations affect their ability to practice medicine in their community. Their reputations can be aided or dam-

aged by information they post online, or by what others post about them. Online information is widely available and perpetually present; it can never be fully deleted.

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aged by information they post online, or by what others post about them. Online information is widely available and perpetually present; it can never be fully deleted. Physicians' individual social media profile data, such as photos, posts, comments, and "likes," may provide unintended and incomplete insights into their qualifications, personality, values, and priorities.<sup>4</sup> For example, old posts may contain outdated medical advice or outdated professional information. Physicians often apply for many positions and credentials during their professional lives, so this enduring

digital footprint may cause lasting and sometimes irreparable damage to their reputations or careers.<sup>5</sup> Posting negative comments can be particularly damaging to a physician's reputation. According to a 2020 survey, physicians who post even one negative comment on Facebook, especially related to race or gender, lose credibility among potential patients.<sup>6</sup> Negative commenting includes using profanity or discriminatory language to describe others and "venting" about patients, colleagues, trainees, or health care institutions.<sup>5,7</sup> Other, more obvious types of unprofessional behavior include posting images of sexual suggestiveness or intoxication, taking digital photographs during surgery, posing with weapons or alcohol, and other activities considered harmful to an individual or the profession.<sup>5</sup> While users may think they are posting online privately or anonymously, their identity can often be discovered.<sup>8</sup>

**2. False or misleading information.** On social media platforms, salacious, startling, and sensational posts tend to generate the most "likes" and spread the fastest. Such posts often include false or misleading information designed to inflame segments of the online community.<sup>9</sup> Falsified social media posts are now so common that multiple websites (e.g., Snopes.com, FactCheck.org, and Leadstories.com) are devoted to deciphering the truth about dubious stories. Much unreliable health information on social media is posted by individuals who purport to be experts yet are not affiliated with government agencies, professional organizations, peer-reviewed scientific journals, or major universities.<sup>10,11</sup> Physicians are not immune to posting false information, knowingly or unknowingly, and their posts may be scrutinized more than others because they are expected to be professional and knowledgeable.

### 3. Patient-identifying information.

Although HIPAA privacy and confidentiality rules prohibit the disclosure of patients' protected health information (PHI), health care professionals routinely violate these rules on social media. In one study of 271 medical blogs, 114 described individual patients and 45 contained enough information for patients to identify themselves.<sup>12</sup> Another study found that when

## KEY POINTS

- While social media tools can be beneficial to physicians, they increasingly pose hazards, both personally and professionally.
- Physicians should avoid posts that contain reputation-damaging information, false or misleading information, patient-identifying information, sponsored information, or copyrighted information.
- Misuse of social media has resulted in physicians being sanctioned by professional societies or boards as well as dismissed or suspended by employers.

physicians and nurses shared stories about patient care on Twitter, 13% included the timeframe of the clinical encounter and 2% included patient names.<sup>13</sup> The authors estimated that, based on the information included in the post, friends or family could likely identify the patient nearly one-third of the time and patients could identify themselves nearly half the time. While nearly 7% of the tweets were deleted, possibly due to HIPAA concerns, they were still discoverable online. Breaching confidentiality can result in legal or disciplinary action even when a post is made without the intention of revealing PHI.

**4. Sponsored information.** Physicians are sometimes asked to endorse or provide testimonials for products, services, or institutions. This can be an opportunity to increase their income, expand their patient base, or improve their reputation. However, failure to follow ethical guidelines and legal rules governing such public recommendations can result in warnings from the Food and Drug Administration, the Federal Trade Commission (FTC), or state regulators.

According to FTC guidelines, product endorsers may have a conflict of interest (COI) if they receive payment (or other items or services of value) from the company that makes the product they endorse, are employed by the company (or related to an employee), or have significant stock ownership or other business relationship. If the endorsement is unpaid or voluntary, or if the physician receives offers generally available to the public, it is not considered a COI.<sup>14,15</sup>

Both the American College of Physicians (ACP) and the Federation of State Medical Boards (FSMB) guidelines for ethical social media use state that physicians must disclose any COI when discussing their professional experiences online. This is often done by adding the label “sponsored post.” However, character limits on some platforms and the possibility of posts being shared without the disclosure may make following these guidelines challenging.

**5. Copyrighted information.** Posts may violate copyright laws if they use content from another source without permission and attribution. Images, text, software, videos, and music on the internet are often copyrighted, even if they do not include

the copyright symbol. Using copyrighted material may require getting a license (usually for a fee) or permission from the author or legal representative (often a publisher). The use of some copyrighted material falls under “fair use,” such as brief quotations of the material or research or educational use; however, this is interpreted on a case-by-case basis. Materials labeled “Creative Commons” may be used without license or permission if the rules listed with the materials are followed (e.g., rules requiring attribution or prohibiting sale of the material).

## PROBLEMS THAT CAN ARISE FROM MISUSE

Physicians may face significant complications stemming from ill-considered social media use.

**Professional society and licensing board actions.** Professional societies and medical boards can sanction physicians, impose practice restrictions, or suspend or revoke physician licenses for unprofessional behavior, including inappropriate social media use. This includes posting scientifically unsound information (e.g., making misleading or false claims about medical issues, medications, or equipment), especially if physicians receive undisclosed compensation for the comments; breaching patient confidentiality and privacy; misrep-

**Professional societies and medical boards can sanction physicians for inappropriate social media use.**

resenting credentials; disparaging patients, colleagues, or employers; and engaging in other unprofessional conduct online.<sup>5,16</sup>

Recently, two California physicians used YouTube to post results of COVID-19 testing at their urgent care clinic and suggested the disease was not as serious as the Centers for Disease Control and Prevention and others had reported. Their post went “viral” and led their two main professional societies to publicly censure them for promoting biased and unscientific information.<sup>17</sup>

In another example, the Rhode Island state medical board reprimanded and fined

a physician for “unprofessional conduct” for making comments about a patient on Facebook. While the physician did not include the patient’s name, the board thought that the physician posted enough information to potentially identify the patient.<sup>16,18</sup>

**School and employer actions.** When screening candidates, it is common practice for medical schools, training programs, and employers to search candidates’ social media profiles. Questionable posts can reflect negatively on their professionalism,<sup>19</sup> and inappropriate posts may disqualify them during the hiring process, or later be grounds for dismissal or suspension.<sup>11,16</sup>

Once in training or employed, students, residents, and physicians put themselves at risk if they use social media to spread divisive messages, disclose proprietary information, or post misinformation. Institutions have fired or suspended employees for posting controversial, unprofessional, or unlawful material, even when it was seemingly inadvertent.<sup>7,20</sup> For example, a Michigan physician was fired after making a vague Facebook post that her employer felt revealed patient information.<sup>21</sup>

In other cases, the behavior is more overt. A British resident physician’s employer suspended him from work for six weeks for describing a senior colleague with a vile epithet on a social networking forum.<sup>22</sup> In another case, a Cleveland physician was fired for anti-Semitic posts, after which the state of Ohio withdrew her

result in termination.<sup>25</sup>

### **Personal or professional attacks.**

Physicians who are active on social media or prominent in their communities may be at increased risk for online harassment. Cyberbullying has been described as “content that is published online by an individual and that is aggressive or hurtful against a victim.”<sup>26</sup> This often presents as coordinated criticism, scathing comments, or persecution directed at individuals via social media. Physician cyberbullying victims are commonly those involved in politically charged issues (e.g., diversity and inclusion, gun control, LGBTQ issues, or physician-assisted deaths) or public health stances (e.g., vaccinations, social distancing, sex education, or mask wearing). Typically, the physician makes a post online to which someone vehemently objects. Users (including “influencers”) repost the objection, and soon a rapid social media backlash develops as the “internet outrage machine” amplifies the backlash.<sup>27</sup> Even clinicians who do not participate in social media discussions can become cyberbullying targets if attackers share their cellphone videos, emails, and other online information. It is vital to have a plan to respond to these attacks. It may require engaging social media professionals as part of a crisis team, notifying the team immediately of any cyberbullying attack, and refraining from responding to attacks unless directed to do so by the crisis team.

## **PERSONAL AND LEGAL PROTECTIONS**

To protect themselves in the social media landscape, physicians should first employ commonsense measures, such as the following:

- Have an active social media presence to counteract negative publicity.
- Keep your profile on each site current, and remove old posts that could be questionable (this makes them less visible and harder to access but, as mentioned, it is nearly impossible to fully delete something once it has been published online).
- Consider using separate accounts for personal and professional purposes, and make personal accounts private.
- Monitor online mentions (by checking

**It is common practice for medical schools, training programs, and employers to search candidates’ social media profiles.**

permission to practice medicine.<sup>23</sup> A similar case based on online posts a resident made while a medical student is pending in a New York court.<sup>24</sup>

While individuals can express their views, posts that damage reputations or do not conform to the employer’s social media policy could result in reprimand, termination, or even the loss of a license. Even posting concerns that are well founded may

notifications on each social media platform and setting up Google Alerts for your name, practice name, etc.; see <https://www.google.com/alerts/>,

- Respond in a positive manner to each comment or review if possible, even negative ones (e.g., “Thank you for your feedback. We are looking into your concern and will follow up with you personally”),
- Discuss issues with negative commenters or reviewers offline if possible,
- Maintain patient privacy and confidentiality; avoid posting patient photos, videos, or information, even with their permission, unless these items have been clearly de-identified,
- Maintain appropriate boundaries for patient-physician relationships as guided by professional ethics,<sup>3</sup>
- Avoid use of copyrighted material unless you have permission from the copyright holder.

Beyond these basic social media safeguards, legal protections are limited. Social media posts are generally protected from government restrictions under the First Amendment, which protects freedom of speech. Additionally, social media platforms have uniformly failed, or not even attempted, to prevent unwanted disclosure of personal or false information from being widely published.<sup>27</sup> Companies such as Facebook and Twitter have the legal authority to monitor postings but are not required to, and policing content is often detrimental to their business interests. Controversial posts (including demonstrably false information) generate more comments and, as a result, a greater opportunity for associated advertising. In 1996, digital technology companies obtained protection from the usual legal remedies for false speech and publication under Section 230 of the 1996 Communications Decency Act. It specifies that “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”<sup>28</sup> Some members of Congress are trying to modify Section 230 “to make social-media companies accountable for enabling cyberstalking, targeted harassment, and discrimination.”<sup>29</sup> It is unclear, however, how their proposal would be implemented and how long it would take courts to test its provisions. Moreover, there are practical challenges in monitoring the myriad information posted on these sites; Facebook alone receives four petabytes (10<sup>6</sup> gigabytes) of new data each day.

While the free speech of physicians, like all U.S. citizens, is protected from legal penalties by the First Amendment, it does not protect physicians from discipline by regulatory bodies, professional associations, or employers.<sup>18,20</sup> Also, anything physicians post on social

media, whether it be on a personal or a professional account, can be used as evidence in legal proceedings; a disclaimer may not protect them.<sup>30</sup> Another often-unrecognized danger is that clinicians who provide even general professional advice on social media can be legally construed as dispensing medical advice without

**Beyond these basic social media safeguards, legal protections are limited.**

an established patient-physician relationship. Legal liability might ensue.<sup>31</sup>

## THE BOTTOM LINE

Physicians face unique challenges and increased scrutiny around social media use. Although social media offers many rewards, it also comes with many dangers, and few protections exist for physicians who increasingly must use these online tools. For now, following commonsense guidelines offers the best protection. **FPM**

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