REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS[*]

CEJA Report 8-I-10

Subject: Professionalism in the Use of Social Media

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Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Daniel B. Kimball, Jr., MD, Chair)

This report by the Council on Ethical and Judicial Affairs (CEJA) was developed in response to Policy D-478.985, "Supporting the Establishment of Guidelines Regarding Online Professionalism," (AMA Policy Database) which asks our American Medical Association (AMA) to address "online professionalism." D-478.983, "Physicians and Electronic Social Networking." introduced by the Medical Student Section, asks our American Medical Association (AMA) to address "online professionalism." Resolution 6-A-10, introduced by the American Congress of Obstetricians and Gynecologists, similarly asked that AMA study physicians' use of social networking. Though many physicians have been using the Internet for both clinical and social purposes for years, recently concerns have been raised regarding blurred boundaries of the patient-physician relationship and the impact of unprofessional behavior by physicians online to the profession as a whole. In both the news media and medical literature, physicians have noted there are unanswered questions in these areas and that professional self regulation is needed in this area.[1,2] This report discusses the ethical implications of physicians' nonclinical use of the Internet, including use of social networking sites, blogs, and other means to post content online. It does not address clinical use of the Internet, such as telemedicine, e-prescribing, online clinical consultations, health-related Web sites, use of electronic media for clinical collaboration, and emailing patients (some of which are already covered in the AMA's *Code of Medical Ethics*).

BACKGROUND

As Americans have moved online, so have American physicians. A recent study by Google indicated that 86 percent of U.S. physicians use the Internet to gather health and medical information.[3] It is likely that most if not all of these physicians also use the Internet for nonclinical purposes. Several online tools exist to facilitate fast and far-reaching communication and information exchange. One such means for online interaction and communication is through the use of social networking sites (e.g. MySpace, Facebook, and LinkedIn), which allow registered users to create an electronic profile that includes personal information and to exchange messages and digital content (e.g. pictures and videos). Individual users can use privacy controls to limit who is able to view the content on their personal "pages."[4]

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A second means of online communication is through a Web log or "blog." A blog is the most basic form of digital media—a noninteractive Web-based journal in which individuals post opinions regarding any topic.[4] Microblogs, such as Twitter, are similar to blogs except that users are limited to a certain number of characters per communication. Media-sharing sites (e.g,. for music: Napster; LimeWire; for video: YouTube, GoogleVideo; for photos: Snapfish) are another type of online tool that enables users to exchange digital files (i.e., video, audio, or photos), that are uploaded to the site by the user. Users then have access to the media that have been uploaded by other users.[4] Two additional tools used for communicating online are podcasts, which are individual files with prerecorded (audio or video) content and wikis, which are Web sites that allow for the easy creation and editing of interlinked Web pages via a Web browser and are often used to create collaborative Web sites.

The Internet and tools such as social networking sites and blogs provide a medium for communication that is faster and farther reaching than other media; these tools also create searchable, enduring records of exchanges. At the same time, the Internet fosters disinhibition and feelings of anonymity and invisibility, which can promote either bad behavior or behavior that an individual would not engage in offline.[5] Actions taken online may affect physicians' reputations among their colleagues and their patients and may also affect the public's vision of and trust in the medical profession. Whereas in the past a physician may have been concerned about a conversation being overheard in an elevator by a handful of people, now a post on a social networking site may reach millions of people within a matter of minutes. The new environment opens opportunities for a variety of challenging scenarios, such as a medical student's blog post about a difficult patient to which the patient's family member has access, a medical resident who asks for a date with a clinical patient after he learns she is single via a social networking site, and a physician whose medical judgment is questioned after photographs posted online show him in "prospective stages of inebriation at a party."[2] Furthermore, something as seemingly innocuous as humor, when taken out of context, could reach and be misinterpreted by an unintended audience (patients, superiors, future employers) and lead to a tarnished reputation. Though these are just hypothetical cases, recently a number of examples of both questionable behavior and ethical and legal violations have popped up in the news media and medical literature. Violations of confidentiality were noted in a study of the content of physicians' blogs that provided sufficient information to identify patients.[6] Privacy and confidentially were also violated when photos of patients in the midst of operations were posted a social networking site.[7]

The online behavior of medical students has often been studied as this group is more likely than more senior physicians to use social networking sites (though increasingly less so). One study examined medical students who have posted unprofessional content (e.g., sexually suggestive pictures or comments, profanity, discriminatory language, pictures of themselves or peers engaging in drug use).[8] The study uncovered some lapses in professionalism, including violations of patient privacy and pictures of students engaging in drug use, and other instances of conduct deemed unprofessional that were more ambiguous, such as photos of sexually suggestive content and the use of profanity in messages or posts that could be seen publicly. The line separating freedom of speech and inappropriate posting may be unclear.[8] Another study examined the case of a class of medical students who participated in creating a video parody of an anatomy lab experience set to music for a school talent show that was subsequently posted online to YouTube. The video depicted students dancing in the anatomy lab, lying inside of body bags, and drinking "blood" (actually chocolate) from plastic skulls and also included identifying information (name of medical school, university emblems). Though the video was well received by students and potential students, alumni and some faculty reacted with "shock and disgust."[8] The study noted that although critics accepted that private

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viewing of such a video, in a closed setting (such as a school talent show), might be appropriate, the content of the video was believed not to be appropriate for public consumption. Critics expressed concern that the general public, with little knowledge of the experience of undergraduate medical education and residency training, would find the content offensive and unprofessional. Studies note that medical students may not be aware of how online posting can reflect negatively on medical professionalism or jeopardize their careers, in that unprofessional behavior in medical school has been shown to be associated with future state board disciplinary action and the posting of unprofessional content online may have similar prognostic significance.[8] Moreover, unprofessional behavior online or otherwise by medical students or physicians may negatively affect the public's trust in the medical profession as a whole.

AMA POLICY

The AMA's *Code of Medical Ethics* already contains an abundance of guidance for physicians regarding professional interaction with their patients that applies to communication in all settings, including online. Principle II of the Principles of Medical Ethics states that "[a] physician shall uphold the standards of professionalism [and] be honest in all professional interactions,…" while Principle IV holds that "[a] physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law."[9] Opinion E-8.02, "Ethical Guidelines for Physicians in Administrative or Other Non-Clinical Roles," focuses on the role of trust in medicine, stating that "[t]hroughout their formal education and their practice of medicine, physicians profess and are therefore held to standards of medical ethics and professionalism.... Complying with these standards enables physicians to earn the trust of their patients and the general public. Trust is essential to successful healing relationships and, therefore, to the practice of medicine. The ethical obligations of physicians are not suspended when a physician assumes a position that does not directly involve patient care."[10] Opinion E-10.015, "The Patient-Physician Relationship" similarly states that "[t]he relationship between patient and physician is based on trust and gives rise to physicians' ethical obligations to place patients' welfare above their own self-interest and above obligations to other groups…."[11]

Opinion E-5.05, "Confidentiality," states that "The information disclosed to a physician by a patient should be held in confidence…. The patient should be able to make this disclosure with the knowledge that the physician will respect the confidential nature of the communication. The physician should not reveal confidential information without the express consent of the patient…"[12] Further, Opinion E-5.059, "Privacy in the Context of Health Care," affirms that "physicians also should be mindful of patient privacy, which encompasses information that is concealed from others outside of the patient-physician relationship…. Physicians must seek to protect patient privacy in all of its forms, including (1) physical, which focuses on individuals and their personal spaces, (2) informational, which involves specific personal data, (3) decisional, which focuses on personal choices, and (4) associational, which refers to family or other intimate relations. Such respect for patient privacy is a fundamental expression of patient autonomy and is a prerequisite to building the trust that is at the core of the patient-physician relationship."[12] Finally, Opinion E-8.14, "Sexual Misconduct in the Practice of Medicine," describes one aspect of the boundary that must be maintained between physicians and their patients. The opinion states that "[s]exual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. Sexual or romantic interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well-being."[14]

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ETHICAL ANALYSIS

Though there is much guidance regarding the patient-physician relationship, there are aspects of the Internet, including speed of communication, reach, searchability, and the capacity for content to endure, that alter the scope of communication between physicians and patients as well as its consequences. Potential positive uses of the Internet for clinical purposes abound (e.g., e-prescribing, online consultation, clinical collaboration); in the nonclinical setting there are also benefits to be gained from an online presence. The Internet and social networking are new ways to disseminate public health messages and content. For physicians, sharing patient stories that are de-identified and respectful, on personal blogs or social networking sites, can encourage reflection, empathy, and understanding.[8] For medical students, watching videos of colleagues' skits (like the one previously mentioned) that bring humor into a serious and high-pressure experience may serve coping and stress-relief functions.[8] Moreover, social networking can be used as a tool for the empowerment of the profession. For example, during the 2008 presidential campaign the group Doctors for Obama "used Facebook to rapidly mobilize thousands of doctors to communicate their views on health policy to the Obama headquarters."[2]

Despite the range of positive uses of Internet communication media for both individual physicians and the profession as a whole, there are also a number of areas of ethical concern that should be considered, notably boundary issues in the patient-physician relationship, privacy and confidentiality, the implications of the nature and scope of information available online, and physicians' self-presentation online. The boundary that exists in the patient-physician relationship is something to consider when physicians take part in social networks and post content online. This boundary is the defining characteristic of the professional relationship, in which respect, trust, and the patient's well-being are paramount. Patients are inherently vulnerable and dependent, and physicians must not exploit their professional relationship with patients for personal purposes (e.g., sexual advantage or financial gain). Violations of this boundary often occur when a physician allows a personal interest to take precedence over his or her primary obligation to the patient in a way that harms—or appears to harm—the patient or the patient-physician relationship.[15] Accordingly, there should be no difference when interactions move online.[1] Online friendships with patients are particularly problematic because they may open the door to interactions (online or in person, romantic or otherwise) that are outside of the patient-physician relationship and lead to potentially problematic self-disclosure by both patients and physicians due to the disinhibition, belief of anonymity, and asynchrony of interactions online.[1]

Physicians who use online social networking sites and who interact with patients may uncover content not intended for them that might have implications for patient care (e.g., seeing a photo of a patient smoking a cigarette when the individual has denied being a smoker). Likewise, physicians who allow patients access to personal information online (by either accepting a patient's request to connect, extending a request to connect to a patient, or keeping privacy settings such that others may view personal content without making a formal connection) may risk a variety of repercussions if patients view this information, including loss of trust or respect if patients believe depictions show irresponsible conduct on the part of the physician; potential conflict or disagreement if they learn that their physician holds religious or political views opposed to their own; or uncover other personal information about the physician that they find offensive.

More than just individual patient-physician relationships are at issue; as one observer notes, "Medical students, nurses, residents, fellows, attending physicians, and service chiefs can all be found linked to one another as active members of social-networking sites."[2] Like patients,

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colleagues, employers, employees, and others with whom physicians have professional relationships may be critical of content posted online and may not be able to separate the personality portrayed online from the one displayed in the workplace. As members of a self-regulating profession, physicians who observe unprofessional content posted by colleagues have an ethical obligation to address the situation. Ultimately, this responsibility derives from physicians' professional commitment to protect the welfare and trust of the public, as well as to protect the interests and well-being of patients and underlies physicians' obligation to report colleagues who are impaired or incompetent or who fail to live up to the standards of professionalism.[9,16] Physicians similarly have an obligation to take action when they observe behavior by colleagues that adversely affects patient safety.[17] Physicians who observe clearly inappropriate online behavior by a colleague should bring their concern to the individual's attention. If the behavior significantly violates professional norms—for example, posting identifiable patient information or disrespectful, degrading comments about a fellow professional—and the individual does not take appropriate action to resolve the situation, physicians should report the conduct to appropriate authorities.

Though there are some clear-cut lapses in professionalism that can and have been made online by physicians (such as violations of patient privacy or confidentiality, or photos of illegal drug use), there are many more situations that fall into a grey area. Examples include photographs posted online of an inebriated physician, or sexually suggestive material, or the use of offensive language in a blog. Any of these actions or behaviors would be considered inappropriate in the hospital, clinic, office, or other setting in which a physician is interacting with patients or other health care professionals in a professional manner. However, whether physicians must maintain the same standards of conduct in how they present themselves outside the work environment is a more open question. Physicians certainly have the right to have private lives and relationships in which they can express themselves freely, but they must also be mindful that their patients and the public see them first and foremost as professionals rather than private individuals and view physician conduct through the lens of their expectations about how an esteemed member of the community should behave. Thus physicians must weigh the potential harms that may arise from presenting anything other than a professional presence on the Internet against the benefits of social interactions online.

Some other professional groups have set standards regarding whom their members may connect with online. For example, Florida judges may not "friend" lawyers who appear before them due to concerns of conflicts of interest or simply the appearance of impropriety.[18] Physicians can similarly protect their professional relationship with patients, colleagues, and others by not engaging in social relationships or connections online and keeping personal social networking accounts, blogs, and other Web content separate from professional content online. A physician who receives a "friend request" or other appeal from a patient to connect online can direct the patient to their professional site.

Concerns about the potential for breaches of confidentiality and privacy are also paramount in the activity of physicians online. Blatant violations of patient privacy and confidentiality have occurred when physicians have posted photos of patients or described situations with enough identifying information that others may decipher the patient's identify. It seems that many of these violations take place because the Internet is widely perceived to be different from other public environments, like hospital corridors, in which physicians interact and because Internet users often experience a lack of inhibition and feeling of anonymity. However, physicians' obligations to protect patient privacy and confidentiality extend to all environments and modes of communication. Given the mistaken perception that social networking sites are private spaces, a breach of confidentiality may come from simply interacting with patients on such sites (e.g., discussing aspects of treatment) could

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unwittingly compromise either the physician's or the patients' privacy and the confidentiality of personal health information.[1] Further, although the use of privacy settings may help protect personal information, the complexity of such settings, often changing privacy agreements (in which sites often own information posted, unbeknownst to users), and the potential for privacy breaches means that most information exchanged online should not be thought of as private.[19] Inappropriate posting of patients' protected health information also could violate the Health Insurance Portability and Accountability Act (HIPAA) or other privacy laws.[20]

The context and breath of information online are also cause for concern for physicians. Whether or not physicians participate in online social networks or maintain blogs, a wealth of information exists online about most physicians. In terms of professional information, states now routinely publish information online about a physician's education, training, board certification, and publications and such sites may contain information about disciplinary actions against a physician by a state's licensing and registration authorities.[21, 22] Moreover, information about lawsuits and malpractice claims filed against physicians are often available online and increasingly data about physician performance are being made available. Personal information is also readily available including mortgage deed registries and personal contact information.[21] Physicians who maintain a more robust online presence by participating in online social networks offer up a much greater wealth of information about themselves, information that is often easily accessible and remains permanently online.

RECOMMENDATION

The Council on Ethical and Judicial Affairs recommends that the following be adopted and that the remainder of this report be filed:

> The Internet has created the ability for medical students and physicians to communicate and share information quickly and to reach millions of people easily. Participating in social networking and other similar Internet opportunities can support physicians' personal expression, enable individual physicians to have a professional presence online, foster collegiality and camaraderie within the profession, provide opportunity to widely disseminate public health messages and other health communication. Social networks, blogs, and other forms of communication online also create new challenges to the patient-physician relationship. Physicians should weigh a number of considerations when maintaining a presence online:
>
> (a) Physicians should be cognizant of standards of patient privacy and confidentiality that must be maintained in all environments, including online, and must refrain from posting identifiable patient information online.
>
> (b) When using the Internet for social networking, physicians should use privacy settings to safeguard personal information and content to the extent possible, but should realize that privacy settings are not absolute and that once on the Internet, content is likely there permanently. Thus, physicians should routinely monitor their own Internet presence to ensure that the personal and professional information on their own sites and, to the extent possible, content posted about them by others, is accurate and appropriate.
>
> (c) If they interact with patients on the Internet, physicians must maintain appropriate boundaries of the patient-physician relationship in accordance with professional ethical guidelines just, as they would in any other context.

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(d) To maintain appropriate professional boundaries physicians should consider separating personal and professional content online.

(e) When physicians see content posted by colleagues that appears unprofessional they have a responsibility to bring that content to the attention of the individual, so that he or she can remove it and/or take other appropriate actions. If the behavior significantly violates professional norms and the individual does not take appropriate action to resolve the situation, the physician should report the matter to appropriate authorities.

(f) Physicians must recognize that actions online and content posted may negatively affect their reputations among patients and colleagues, may have consequences for their medical careers (particularly for physicians-in-training and medical students), and can undermine public trust in the medical profession.

(New HOD/CEJA Policy)

Fiscal Note: Staff cost estimated at less than $500 to implement.

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