



Canadian Nurses
Protective Society

infoLAW®

Social Media

Vol. 19, No. 3,
July 2012
Revision of
December 2010

Social media websites such as Facebook, Twitter, Google+, MySpace, YouTube and blogs allow us to communicate in real-time with “friends” or the public. Nurses use these sites as research and educational tools, for information sharing and as a way to network. Understanding the risks involved in using social media may prevent potential adverse personal and professional consequences.

Confidentiality and Other Professional Obligations

Nurses, like other health care professionals, are held to a high standard of confidentiality with respect to all patient information.¹ Professional practice standards regarding confidentiality, therapeutic boundaries and professional image are engaged when nurses use social media in connection with their professional activities. Nurses are required to conduct themselves with a professional manner towards patients and colleagues. Failure to abide by these standards can lead to serious legal consequences. For example, a nurse was found guilty of unprofessional conduct by her professional licensing body because she posted a patient’s first name and the patient’s personal health information on a co-worker’s Facebook page.² Another example is the termination of employment of a personal care giver because of the postings on her blog. She posted personally-identifying information about residents without their consent and made derogatory comments about residents, colleagues and management.³ If this person had been a regulated health professional, such as an RN, LPN or RPN she could have also faced disciplinary action by her professional licensing body.

The breach of professional standards could also result in a prosecution against the nurse for breach of privacy legislation.⁴ Additionally, if defamatory comments are made by a nurse about another person or institution on a social media site, a civil action alleging defamation could be commenced against the nurse. A nurse who is found liable by the court could be required to pay damages.⁵

Social Media Risks

Scope of distribution

Because information in electronic form is easily distributed, archived and downloaded, the person posting the information may have very little control over who sees it and its use.

Permanence of information

Postings to social media sites are generally permanent records that cannot easily be deleted. Copies of deleted information may still exist on search engines or in friends’ (or others’) electronic files. During sentencing of a young man who had posted explicit photos of his teenage ex-girlfriend on Facebook, the judge stated: “What you chose to do is unfortunately something that cannot be undone.... There’s no delete button on the internet. Those things float forever on the internet.”⁶

Misapprehension of the extent of privacy controls

Although these sites have privacy controls, be aware that the default for many of them allows others to see some of the posted information. Even information on a social media website that is not normally publicly available may have to be disclosed in court if relevant to the issues in a proceeding.

“Twitter is a great place to tell the world what you’re thinking before you’ve had a chance to think about it.”

- Chris Pirillo



**More than
liability
protection**

Pseudonyms

Posting anonymously or under a pseudonym does not protect against the possible consequences of a breach of confidentiality or defamation.⁷

Reputation damage

Postings may come back to haunt you on a personal or professional level. Many employers check social networking profiles of current and prospective employees looking for misconduct or inappropriate behaviour.

Risk Management

To decrease your professional and personal risks, consider adopting the following best practices:

- avoid posting/sharing confidential information: an unnamed patient or person may be identifiable from posted information;
- avoid using social media to vent or discuss work-related events or to comment on similar postings by others;
- avoid posting negative comments about your colleagues, supervisors and other health care professionals; disclosing information obtained at work could be considered unprofessional and, if erroneous, could lead to a defamation claim;
- respect and enforce professional boundaries: becoming a patient's electronic "friend" or communicating with them through social media sites may extend the scope of professional responsibility;
- be aware that it is difficult to ascertain whether individuals providing or seeking information through a social media account are who they say they are;
- avoid offering health-related advice in response to comments or questions posted on social media sites; if relied upon, such advice could lead to professional liability;
- make your personal profile private and accessible only by people you know and trust;
- create strong passwords, change them frequently and keep them private; and
- present yourself in a professional manner in photos, videos and postings.

Before communicating on a social media website, always consider what is said, who might read it and the impact it may have, if viewed by an employer, a patient or licensing body. Please contact CNPS at **1-800-267-3390** if you have further questions regarding the professional implications of using social media and visit our website at **www.cnps.ca**.

-
1. *infoLAW*[®], Confidentiality of Health Information (Vol. 1, No. 2, October 2008, Revision of September 1993).
 2. *Alberta RN* 64, 6 (July 2008): 25.
 3. *Chatham-Kent (Municipality) v National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Local 127 (Clarke Grievance)* (2007), 159 LAC (4th) 321, [2007] OLA no 135 (QL).
 4. Most provinces have enacted legislation to protect the confidentiality of personal health information.
 5. *infoLAW*[®], Defamation (Vol. 12, No. 3, September 2003). See also *Hunter Dickinson Inc v Butler*, 2010 BCSC 939, [2010] BCJ no 1332 (QL) and 2011 BCSC 1504, [2011] BCJ no 2099 (QL). In this case, the defendant was ordered to pay \$425,000 in general, aggravated and punitive damages for defamatory postings on a website.
 6. James Turner, "Facebook revenge plot nets 6-month sentence," CBC News, August 22, 2010, 12:40 pm CST, online: <http://www.cbc.ca/canada/manitoba/story/2010/08/22/man-facebook-revenge-child-porn.html>.
 7. Individuals anonymously posted alleged defamatory comments on a newspaper's website. A judge ordered the newspaper to disclose information to assist in identifying those individuals. The Court did not condone the conduct of anonymous internet users who made defamatory comments and found they had to be accountable for their actions like other people. *Mosher v Coast Publishing Ltd*, 2010 NSSC 153, [2010] NSJ no 211 (QL).

N.B. In this document, the feminine pronoun includes the masculine and vice versa except where referring to a participant in a legal proceeding.

THIS PUBLICATION IS FOR INFORMATION PURPOSES ONLY. NOTHING IN THIS PUBLICATION SHOULD BE CONSTRUED AS LEGAL ADVICE FROM ANY LAWYER, CONTRIBUTOR OR THE CNPS[®]. READERS SHOULD CONSULT LEGAL COUNSEL FOR SPECIFIC ADVICE.