

Study shows doctors make missteps



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The *New England Journal of Medicine* recently sounded the alarm regarding doctors distracted during patient care by the lures of the Internet and electronic communication devices. A recent survey in the *Journal of the American Medical Association* (JAMA), however, says the Internet is apparently dangerous for doctors even when they are not on duty.

The survey, conducted by Dr. Ryan Greysen of the University of California, San Francisco, (UCSF) revealed that 92 percent of state medical boards received reports of violations of online professionalism by doctors.

Greysen finds that doctors are supposed to put society's interests before their own. They are granted a high degree of autonomy and allowed to regulate themselves.

Doctors are expected to exhibit a high level of professionalism not only in the hospital but also at home or in the community. The Internet has provided the ability to communicate instantaneously with a wide audience. As Greysen states, the findings of his study challenge the assumption that doctors are always making a clear distinction between a professional and private life online.

Concerns about online violations of professional ethics prompted organizations like the American Medical Association (AMA) to draft guidelines on how and how not to use social media or to issue opinions interpreting the application of existing rules to online behavior.

One of the most common violations reported by the JAMA study was the online violation of patient confidentiality. The AMA says information revealed to the physician should be held in confidence:

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.

On UCSF's website, Greysen gives an example of how online behavior can easily run afoul of this requirement when an emergency room staff member in Rhode Island posted information about an incident on Facebook. Unfortunately, the staff member provided just enough detail for someone to identify the patient.

The AMA states when using the Internet for social networking, health-care providers should use privacy settings to safeguard personal information and content to the extent possible but should also be aware that such settings are not foolproof and that information they post on the Internet will likely be there forever.

Another common violation reported in the study was inappropriate patient communication online, including sexual misconduct. The AMA states that physicians must maintain an appropriate boundary between themselves and their patients.

Sexual contact that occurs during the physician-patient relationship is sexual misconduct. Sexual or romantic relationships between physicians and patients can harm the patient by exploiting the patients' vulnerability or warping the physicians' objective judgment. Therefore, if they interact with patients online, physicians must maintain appropriate boundaries of the physician-patient relationship as they would in a face-to-face setting.

Other common online violations include physicians prescribing medications without an appropriate and established clinical rela-

tionship and misrepresenting their professional credentials.

Of the state medical boards that responded to the survey, 71 percent reported that they had disciplinary hearings for online violations.

Of those hearings, half were formal hearings and 40 percent were informally settled by a consent order in which a doctor agreed to a sanction. Fifty-six percent of the reporting boards had taken at least one serious disciplinary action, including restricting a license to practice, suspending a license and revoking a license.

As Greysen's emergency room example illustrates, online communication about a patient or an incident is a ripe area for discovery. In many cases of adverse medical outcome, the people involved discuss the incident informally, and frankly, word gets around in the hospital.

The delivery of a brain-damaged baby may be described immediately as a train wreck with 45 minutes of late decelerations. By the time discovery depositions are taken years later, however, these frank descriptions often change to routine delivery with a reassuring strip until right before delivery. Discovery of information posted or e-mailed by participants or their colleagues is thus fair game.

Lawyers will likely be inquiring of doctors, nurses, respiratory therapists and other allied care professionals as to anything they read or heard about the incident or any rumors of online discussions. Once there is reason to believe that a specific e-mail or Facebook account may contain relevant evidence, a trial court will likely allow the other side access to it, at least after an in-camera inspection. ■

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