

## **FSPS Guideline document on Social Media Use & Professionalism**

Thomas Fiala, MD, MBA, FACS, FRCSC

Social Media is a rapidly developing area. Like any tool, it has potential for great benefit, but also has pitfalls. Many surgeons are looking for guidelines to follow. If we consider online media to be an online extension of traditional media and other forms of communication, our national plastic surgery societies already give quite a bit of relevant guidance on the topic. Let's examine this in more detail.

### Definition of Social Media:

The term "Social Media" encompasses a wide variety of web-based and mobile technologies for sharing content among users. These include text, video- or picture-sharing software, websites, forums, blogs, discussion groups and accounts on various social networking sites and social media platforms like Facebook, Twitter, Youtube, LinkedIn, Instagram, Pinterest, Doximity, and others<sup>1,2</sup>. For the purposes of this document, any text, video or photo-sharing capabilities of mobile and other electronic devices are included.

Social media should be considered as "online public spaces, used by millions and accessible by all"<sup>1,3</sup>. Thus, consideration is warranted in how professionals, such as plastic surgeons, approach their use.

In this document, all references to physician(s) or plastic surgeon(s) shall equally apply to physician(s)-in-training.

### Basis of Social Media Policy:

General rule: When engaging in the use of social media or other content-sharing technologies, plastic surgeons are *expected to comply with all existing professional expectations*, including those set out in existing relevant laws, regulations, rules, or other codes of conduct. In particular, both ASPS and ASAPS have carefully written Codes of Ethics<sup>4,5</sup>, which apply equally to social media as they do to other forms of communication.

While social media can be highly effective for connecting with other professional colleagues, educating patients, and advancing professional knowledge<sup>6</sup>, other uses may be less appropriate for physicians. Under no account shall any texts, photos or videos be sent, forwarded, or posted by the physician, or a third-party on behalf of the physician, that are deemed to be:

- Offensive, lewd, defamatory, or of a sexual nature,
- Discriminatory on the basis of color, sex or sexual preference, race, national origin, religion, disability,
- Unprofessional to yourself or any other physician,

- Demeaning to the profession
- Proprietary, without express permission of the authors
- Dishonest, manipulative or fraudulent

Similarly, physicians shall be proactive in promptly deleting such texts, photos or videos from their accounts.

#### Patient Privacy and Confidentiality:

Patient privacy is of the highest importance. Keep in mind that the identity of an unnamed patient can be deduced through a variety of other information, such as a description of their unique clinical condition, or area of residence<sup>1</sup>. Avoid posting personal or private information about a patient on a social media site.

Physicians must comply at all times with state and federal laws regarding the release of potentially identifiable patient information, including, without limitation, the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”) and the Security Standards for the Protection of Electronic Protected Health Information (“Security Rule”) established by the U.S. Department of Health and Human Services to implement the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), all as applicable and as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health (“HITECH”) Act (Title XIII of the American Recovery and Reinvestment Act of 2009) and as clarified by any and all amendments, regulations, and guidance thereto<sup>2,7</sup>.

In addition, general waivers and consents for releasing patient images or information online are insufficient, and are not to be relied upon. The physician must obtain a written waiver or consent that explicitly includes the name of the website, online forum, or social media platform where the patient information or images will be used prior to posting such information or images<sup>7</sup>. Similarly, photo & video consents should be obtained for any staff members or anesthesia providers that may appear in the images.

Cell phone photography and videography is still considered a form of photography, and always requires obtaining formal written consent from the patient to both obtain the images and to use them for any specific purpose<sup>7</sup>. *Verbal consent is insufficient*. Further, physicians who use cell phone photography accept all responsibility to protect this information, and accept the liability for the use, misuse and storage thereof. Physicians will not informally share or show these photos or videos to anyone else, without prior express patient consent.

Digital devices must be designed to protect patient information should the device be misplaced, lost or stolen. The use of public, unsecured wireless networks and cellular device networks is strongly discouraged, due to their potential for patient information to be compromised. Unsecured cloud-based storage of patient images or information is similarly discouraged.

### Professional Conduct:

Standards for professional interactions must be consistent across all forms of communication between the patient and physician, whether in person or via social media.

**Maintain professional decorum at all times.** Physicians shall protect their own reputation, the reputation of the profession and the public trust by not posting content that could potentially be viewed as unprofessional. Furthermore, physicians shall be proactive in removing content posted by themselves or others, which may be viewed, as unprofessional.

For the purposes of this document, the comprehensive definition of professionalism described by Lesser et al, shall be used<sup>8</sup>. Professionalism involves “compassionate, respectful, and collaborative care of all patients”. Furthermore, it mandates integrity, honesty, accountability, and the continued pursuit of excellence. Conduct of physicians should merit the respect of the community.

Worrisome examples of questionable conduct include, but are not limited to, photos or videos showing the physician with alcohol or drugs, weapons, surgical specimens, minors, engaging in unprofessional physical contact or conversations with patients, or in other potentially compromising positions.

Physicians are strongly suggested to maintain separate online accounts for their personal and professional digital identities. Physicians are not to disparage past or current patients or colleagues through social media. Communication between the physician and past or current patients through *personal* social media sites is discouraged<sup>9</sup>. Online interactions with patients should remain within the appropriate and ethical boundaries of the patient-physician relationship, just as they would in person<sup>6</sup>.

Physicians should exercise significant caution when using search engines or social media sites to gather patients’ personal information unrelated to the medical practice (“patient-targeted Googling”). Baker and associates offer some useful guidelines, showing specific examples of the rare times when Google research on a patient or patient’s family is ethical and needed to discharge professional obligations<sup>10</sup>.

E-mail and other electronic means of communication can supplement, but not replace, face-to-face encounters<sup>4</sup>. Documentation of patient care communications should be included in the patient’s medical record.

### Advertising and self-promotion:

Marketing on social media must also be consistent with all existing standards of professional behavior related to marketing and advertising in traditional media.

General rules: Be 100% truthful and transparent<sup>11</sup>. Remain professional. We are plastic surgeons and physicians, *not entertainers or game show hosts*. Our focus should remain on patient education and the advancement of our specialty, rather than self-promotion. Our patients put their trust in us, and we must honor that commitment fully, particularly when the patient is in the operating room or recovery room, or if the patient is under the influence of medications administered as part of their treatment.

Err on the side of caution- if you wouldn't show the post during the Board exams of the American Board of Plastic Surgery, don't post it. If you would be embarrassed by the post being reviewed by the Ethics Committee of ASPS, your state Board of Medicine, or shown in court – don't post it. Remember, images posted to the web may persist indefinitely, despite attempts to “take down” the post.

Do not engage in social media posts that are in poor taste, vulgar, undignified, potentially harmful to the person(s) shown or described in the post, or demeaning to patients or the profession, as judged by a representative group of unaffiliated plastic surgeons. Under no circumstance should the recording of photos or videos in the operating room interfere with the prompt, efficient, and safe performance of the planned procedure(s), or increase the risk of complications to the patient.

#### Unethical online publishing:

A number of types of social media content are specifically forbidden by the ASAPS Code of Ethics, as they fall into the area of unethical publishing<sup>5</sup>. “A physician, whether personally or through affiliated intermediaries, and whether by act or omission, shall not publish, which term includes all activities and forms of communication, anything which is *false, fraudulent, deceptive or misleading*, whether or not such publishing is for personal, commercial or practice-related purposes.”

The ASAPS Code of Ethics gives specific examples of unethical publishing, which are reproduced here for convenience, with slight modifications<sup>5</sup>. These include, but are not limited to:

1. Advertising prices when all costs are not revealed.
2. Manipulating photographs, whether by lighting, posing, timing, make-up, posture, image software applications or any other means so as to misrepresent the appearance of the preoperative condition or the medical outcome.

3. Publishing photographs of patients upon whom you did not perform the advertised procedure, or of procedures not performed by you, except with the prior written consent of the patient and the doctor who performed the procedures, with a clear and conspicuous notice affixed thereto.

4. Publishing research not your own except with the prior written consent of the entity or individual who owns the rights to such research, with a clear and conspicuous notice affixed thereto.

5. Publishing material not your own, including intellectual property, without adhering to all requirements and/or limitations contained in the owner's license.

6. Utilizing "black hat" techniques, whether or not such techniques in fact positively influence a member's website, negatively influence a third-party's website, or divert web traffic. Such techniques include but are not limited to:

a. Incorporating false, fraudulent, deceptive or misleading website data, terms, metadata, links or automatically generated back links;

b. Forging or misrepresenting message headers to mask the originator of the message;

c. Plagiarizing the content of another;

d. Accessing illegally or without authorization computers, accounts, or networks belonging to another, or attempting to penetrate security measures of another's system, or engaging in any information gathering activity that might be used as a precursor to an attempted system penetration;

e. Disrupting or interfering with the ability of another to effectively use his/her own network, system, service, or equipment.

7. Any activity which has the self-evident purpose of obstructing any other physician's legitimate right to contact or be contacted by patients.

8. Practicing under a trade name, or marketing a procedure under a new name, that is false, fraudulent, deceptive or misleading.

9. Marketing services, products or procedures, whether or not trademarked, using descriptors of uniqueness, such as groundbreaking, novel or revolutionary, or increased safety, or lessened pain or discomfort, or efficacy, unless such claims can be easily and factually substantiated.

10. Publishing atypical patient outcomes without clearly and conspicuously disclosing that fact.
11. Publishing images, reviews or testimonials of atypical experiences without clearly and conspicuously disclosing that fact.
12. Publishing images, reviews or testimonials of individuals posing as patients when they are not.
13. Publishing images, reviews or testimonials by employees, associates or family members without clearly and accurately stating the identity of the reviewer and the relationship of the reviewer to the physician.
14. Publishing a testimonial or endorsement pertaining to the quality of the physician's medical care or the member's qualifications if the endorser has been compensated or has received any services of value by the physician in exchange for the endorsement.
14. Claiming superiority in skills or services, including superiority due to the physician's gender or ethnicity, which claims cannot be easily and factually substantiated by patients.
15. Exaggerated claims to fame, including the use of superlatives in the descriptions of the practice, the physician or his/her experience, or the quality of procedures performed. Puffery is to be avoided.
16. Appealing to a patient's fears, anxieties or emotional vulnerabilities.
17. Advertising a specialty board certification when doing so is prohibited by the jurisdiction in which the member practices.
18. Participating in illegal transactions.
19. Failing to include in a paid appearance, promotion, article or advertorial a clear and conspicuous notice that such content has been purchased and is not editorial.
20. Failing to clearly and conspicuously identify as a model any individual appearing in advertising who has not in fact received from the member the services suggested by the advertising.
21. Displaying any organization's logo in a manner that suggests membership by a non-member.
22. Publishing a guarantee that satisfaction or a cure will result from the performance of the physician's services.

23. Claiming as a trade secret any method or process for performing a surgical procedure.

### **Medical Board Sanctions and Disciplinary Findings**

Many State medical boards now have the authority to discipline physicians for unprofessional behavior relating to the inappropriate use of social media<sup>9</sup>, such as:

- Inappropriate communication with patients online
- Use of the Internet for unprofessional behavior
- Online misrepresentation of credentials
- Online violations of patient confidentiality
- Failure to reveal conflicts of interest online
- Online derogatory remarks regarding a patient
- Online depiction of intoxication
- Discriminatory language or practices online

The level of discipline may potentially range from a letter of reprimand to the revocation of a license.

### **Position of the Florida Society of Plastic Surgeons**

When social media content of a questionable nature posted by, or on behalf of, a member of the FSPS is brought to the attention of the FSPS Board of Directors, the Board will:

- a) Discuss the material during the next regularly scheduled Board meeting. Board members with any business ties to the organization or person who generated the post will recuse themselves from the discussion and voting.
- b) If the content is found to be objectionable and/or outside the scope of ethical and professional practice standards by a simple majority vote of the Board, the complaint will be referred to the Ethics Committee(s) of the national plastic surgery societies that the member who made the post belongs to, for further evaluation and possible disciplinary action.
- c) The Board may, at its sole discretion, also forward the complaint to the disciplinary committee of the Florida Board of Medicine.

- d) A letter summarizing these decisions will be sent to the involved FSPS member.
- e) The FSPS Board also reserves the right of permanent revocation of membership for serious infractions of this policy, following due process.

*Members should govern themselves accordingly.*

**Summary:**

Posting on social media as a medical professional requires care and thoughtfulness. Keep in mind that the same expectations and guidelines apply online as they do to other forms of media. Monitor your own postings with these concepts in mind, and proactively edit the content of any third parties that post on your behalf. Make sure detailed photo and video consents are always utilized. Don't engage in puffery and exaggeration. Carefully protect the reputation of our field, your colleagues and yourself. Protect your patients and their confidentiality. Finally, think twice before posting – remember, materials published online last forever.

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## References:

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