

the Med/Mal Survival Guide

Anything you tweet can, and will, be used against you

By Ilene Brenner, MD

Just as you were getting comfortable with Facebook, detailing every moment of your life through status updates and photos, Twitter came to town. If you don't already know, Twitter is a "micro-blogging" social media site which allows users to "tweet" – or post – short status updates. Thousands of docs have signed up, raising an interesting risk management question: Can my tweets come back to bite me?

The short answer is Yes. Take the example of a personal diary that details your life experience, or a medical diary that lists the patients you've seen and their medical problems. These diaries are dangerous because anything that has dares can be used as evidence against you. Let's say you log in your diary going out for drinks with friends. Then, years later you are sued, and the plaintiff's attorney discovers your "drinking orgy" the night before you treated their client. They will use this information to paint you as a physician just steps from requiring the Talbott Recovery Campus. If you are an EP who likes to keep detailed logs of your patients, you can't anticipate how your innocent log can be twisted out of context to hurt you.

When it comes to the Internet, everything you do is stored somewhere. In essence, the Internet is an electronic diary. Some Internet services are more private, such as email and Facebook. Others, such as blogs and twitter, are public. Anything you say publicly,

whether through a comment feed or a tweet, is searchable and can theoretically be used against you in court. Also, sites like Sermo and Ozmosis are not peer-review protected (in states that have those laws) and those "innocent" evaluations of case studies could be used against you if your lawsuit happens to be on one of those topics.

Some states have more liberal rules of discovery and permit plaintiff's attorneys to dig up anything and everything they can get their hands on to use against you in court. They can request your login and passwords for all blogs you write and all twitter accounts you have. They could even try to subpoena your hospital to get records of your Internet use while at work. Have you used the Internet to look up terms inbetween patients? If found, this information can be used against you.

I'm not trying to scare you into not using the Internet. I myself have a Facebook account, a blog and a twitter account (@irb123). The key is to use common sense. Be professional. Be cognizant of potential HIPAA violations when discussing patients you saw in the ED. Try not to give medical opinions online. Imagine anything you blog or tweet being read aloud to a jury.

Regarding old-fashioned media, if you have any kind of diary, throw it away now. Ideally you should not keep a patient log, but if you insist for purposes of follow-up, do not keep one for more than a few months. If you insist on keeping a log of your interesting patients for future use in a book, then elimi-

nate the use of names and dates, and stick to generalities. Be cognizant of your electronic footprint. Be professional. When at work and needing a reference, preferentially use books and quality PDA-based references that can't log your use. If you do use the Internet, stick to evidenced-based medicine sources like UpToDate or Medline. My advice may seem weird now, perhaps even extreme, but in two or three years from now when a doc is sued, these issues will likely be more commonplace as plaintiff's attorneys get more familiar with social media. Physicians need to be warned of the future or else the mistakes they make now could perhaps be used against them when that lawsuit comes to pass.

RULEBOOK Social Media for Physicians

- 1 Use social media as a communication tool, not a diagnostic tool
- 2 Be very careful about commenting on case presentations on sites like Sermo and Ozmosis. Your opinion can be used against you in court.
- 3 Imagine everything you write as being read aloud to a jury.
- 4 Don't assume anonymity. In some jurisdictions you can be requested to give you IDs and passwords for public social media accounts.

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