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Responding to Negative Social Media Postings

We are often asked how to respond to negative, untrue, or even false postings on Facebook, Twitter, YELP or other social media. The question is not only *how* but whether the healthcare entity *should* respond. The healthcare entity is in a quandary: responding to the patient/family could be a violation of patient privacy, even though the patient or family posted their own protected health information, but ignoring the issue could be perceived as a tacit agreement with the complaints or lack of concern with the feedback. The desire to “correct the record” or give the other side of the story when faced with the negative online posting is natural. However, doing so may lead to an allegation of breach of confidentiality or other legal consequences.

Healthcare providers are bound by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and state privacy laws, which strongly restrict what personal health information of the patient can be shared, unless the disclosure is necessary for treatment, payment, or healthcare operations. Thus HIPAA restricts what a hospital or other covered entity can publicly say about a patient.

Be aware that something as simple as a response that acknowledges that a patient is or was a patient may violate privacy laws. The mere acknowledgment of the patient-physician relationship or that someone is receiving care from your hospital/clinical setting without patient consent can be a HIPAA violation and could potentially result in the patient reporting the physician or healthcare organization to the Board of Medicine or the state Department of Health and/or filing a lawsuit claiming breach of privacy.

Unlike complaints that are made by a patient directly to your organization, many complaints made online are anonymous. You may think you know who made the complaint and want to

reach out directly to the patient but consider how the patient may feel if he or she believes that their desire for anonymity and privacy has not been respected.

There are basically four alternative responses to a patient/family's negative online posting:

1. Ignore the post if the comments are generally benign.
2. Respond to significantly negative or blatantly untruthful comments with a generic statement that explains your privacy rules and your process for receiving complaints. The statement should never identify that the individual is or was a patient but only confirm that your organization was named in the posting.

Consider a statement similar to the following:

"[Hospital/healthcare entity] is proud to provide comprehensive and compassionate care to our community since [add year established] and takes treatment of our patients and their privacy seriously. Because federal and state privacy laws govern patients' protected health information, it is not our policy to substantively respond to negative reviews on social media websites. We welcome all of our patients and their families to address any concerns or requests for information about their care with us directly via our [Customer Service/Patient Relations/Administration] contact number _____ as we strive to continue to provide individualized and excellent care in our community."

3. Contact local law enforcement immediately if the posting is a threat against a specific healthcare provider, staff member or other individual. These comments should be taken seriously and require immediate action. Make a hard copy of the postings to provide to law enforcement as the posting could be deleted by the individual making the threats.
4. Notify Allied World's Claims Department through a Notice of Potential Loss if any comments indicate that a medical malpractice or other claim against the healthcare organization is likely.

To reduce the risks and challenges with responding to an online complaint, take proactive steps to limit potential postings of negative online comments.

- Post your organization's social media guidelines on each of your social networks so the users understand the parameters for use.
- Develop a policy which addresses the organization's position on responding to social media comments, including who can speak on behalf of the organization and what can and cannot be posted on social media.
- Ensure that everyone in the organization knows and understands why not responding directly to online comments is a best practice.

- Strengthen the organization’s service recovery program by implementing effective systems that invite/encourage patients and families to express their complaints and concerns directly to the healthcare provider or organization. Regularly conducted Administrative and Patient Safety Rounds are encouraged Provide an opportunity to ask patients if they had any concerns regarding their care and treatment.
- Inform patients and families of the organization’s internal resources to address their concerns, such as providing the clinical manager’s name and contact information, the Patient Relations Department, and even the Chief Executive Officer.
- Do not delete negative comments from your website unless they violate your organization’s social media guidelines. Deleting comments can be perceived as your organization restricting access or “covering up” negative feedback.
- Learn from these comments. Treat customer feedback, whether negative or positive, as an opportunity to improve the patient experience.

Should you have questions about these issues, contact your AWAC Services Risk Management Consultant or legal counsel for advice.

Authors:

Anne Huben-Kearney, RN, BSN, MPA, CPHQ, CPHRM

Assistant Vice President, Healthcare & Psychiatry Risk Management Group

AWAC Services Company, a member company of *Allied World*

Pauline Barry, BSN, MPS, CPHRM, CPPS, DFASHRM

Assistant Vice President, Healthcare Risk Management Group

AWAC Services Company, a member company of *Allied World*

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