

Secure Communication in the electronic age , Protect Your Practice and Your Clients, Understanding [Health Insurance Portability and Accountability Act \(HIPAA\)](#) regulations.





It's called 'reading'. It's how people install new software into their brains.

Common Mistakes

- Facebook postings
- Listserv conversations
- Texting to /from patients
- Texting to other providers
- Not using secure communication methods
 - Email
 - Texting
 - Not using patient portals
 - Postings on webpages

ACNM HIT SURVEY

- Looked at how members are using their Electronic Health Records
- Also looked at different ways members used electronic communication.

Who responded

- 1/3 of responders were in combined practice
- 1/4 independent midwife lead practice.
- 666 responders 76 % hospital based practice
- 6 % homebirth
- 5% birth centers

HIPPA VIOLATIONS

- TEXTING, NOT SECURE
 - 28 % responders using text
- Personal email NOT SECURE
 - 20 percent using
- Secure messages
 - 31 %
- FACEBOOK ☹ ☹ ☹ 11 percent !!

Communication with other providers

- 50 percent fax (? Secure)
- 42 percent text NOT SECURE (one comment texting has been wonderful for our physician consulting relationship)
- 24 % personal email NOT SECURE
- 48-58 percent Secure email or encrypted methods
- FACEBOOK ☹ ☹ 3 %

HIPPA

The HIPAA Privacy Rule provides federal protections for individually identifiable health information held by covered entities and their business associates and gives patients an array of rights with respect to that information. At the same time, the Privacy Rule is balanced so that it permits the disclosure of health information needed for patient care and other important purposes.

Email: Sending PHI without encryption must be assumed to be a breach in many cases. Email systems that use "opt in" for encryption are probably a bad idea now, as it is all too easy to accidentally cause reportable breaches just through inaction. LuxSci, for example, has always taken the opposite tact — *all email is encrypted unless you explicitly say that encryption is not needed.* This is a little more work in some cases, but *very much safer in terms of HIPAA.*

Web: Having public web sites or file shares where ePHI may be posted or exposed accidentally must be avoided at all costs. Even if you are moderating and take things down very quickly, a breach must be assumed. *All web design decisions must be carefully made.*

FAX: Faxes that contain PHI must be protected and you must avoid the possibility that someone unauthorized might see a FAX laying around. *We would recommend ending use of FAX and switching to secure email instead.*

Skype: It is known that Microsoft logs all Skype chats ... so any PHI going over Skype is probably an automatic breach. What really happens to Skype audio and video is not so clear — and since clarity must win over assumptions with the Omnibus rule ... you probably should not use Skype for PHI transmissions at all.

Does the HIPAA Privacy Rule permit health care providers to use e-mail to discuss health issues and treatment with their patients?

Answer:

Yes. The Privacy Rule allows covered health care providers to communicate electronically, such as through e-mail, with their patients, provided they apply reasonable safeguards when doing so. See 45 C.F.R. § 164.530(c). For example, certain precautions may need to be taken when using e-mail to avoid unintentional disclosures, such as checking the e-mail address for accuracy before sending, or sending an e-mail alert to the patient for address confirmation prior to sending the message. Further, while the Privacy Rule does not prohibit the use of unencrypted e-mail for treatment-related communications between health care providers and patients, other safeguards should be applied to reasonably protect privacy, such as limiting the amount or type of information disclosed through the unencrypted e-mail. In addition, covered entities will want to ensure that any transmission of electronic protected health information is in compliance with the HIPAA Security Rule requirements at 45 C.F.R. Part 164, Subpart C.

Note that an individual has the right under the Privacy Rule to request and have a covered health care provider communicate with him or her by alternative means or at alternative locations, if reasonable. See 45 C.F.R. § 164.522(b). For example, a health care provider should accommodate an individual's request to receive appointment reminders via e-mail, rather than on a postcard, if e-mail is a reasonable, alternative means for that provider to communicate with the patient. By the same token, however, if the use of unencrypted e-mail is unacceptable to a patient who requests confidential communications, other means of communicating with the patient, such as by more secure electronic methods, or by mail or telephone, should be offered and accommodated.

Patients may initiate communications with a provider using e-mail. If this situation occurs, the health care provider can assume (unless the patient has explicitly stated otherwise) that e-mail communications are acceptable to the individual. If the provider feels the patient may not be aware of the possible risks of using unencrypted e-mail, or has concerns about potential liability, the provider can alert the patient of those risks, and let the patient decide whether to continue e-mail communications.



TEXT MESSAGES

Unfortunately, traditional SMS messaging is inherently nonsecure and noncompliant with safety and privacy regulations under the Health Information Portability and Accountability Act (HIPAA). Messages containing electronic protected health information (ePHI) can be read by anyone, forwarded to anyone, remain unencrypted on telecommunication providers' servers, and stay forever on sender's and receiver's phones.

In addition, senders cannot authenticate the recipient of SMS messages (ie, senders cannot be certain that the message has been sent to and opened by the right person). Studies have shown that 38 percent of people who text—including me—have sent a text message to the wrong person.

As a result, The Joint Commission has effectively banned physicians from using traditional SMS for any communication that contains ePHI data or includes an order for a patient to a hospital or other healthcare setting. A single violation for an unsecured communication can result in a fine of \$50,000; repeated violations can lead to \$1.5 million in fines in a single year, not to mention the reputational damage done to an organization and its ability to attract patients.

SECURE TEXT MESSAGES

- **Secure text messaging solutions** By using a private, secure texting network, doctors, nurses, and staff can not only send and receive patient information, but also potentially achieve the following goals:
 - Shorten response times
 - Improve the accuracy of decision making by having better information
 - Allow multiple parties involved with clinical decision making to be looped in on the same message
 - Allow for quicker interventions and improve patient outcome
 - Securely communicate lab results, imaging results, patient procedures, and medical histories, allowing the physician to have more information readily available.
 - Speed up on-call notifications
 - Eliminate the hassle of callbacks
 - Integrate with scheduling systems to create automatic notifications of pending events
- In today's increasingly mobile world, technology will undoubtedly continue to be a massive driver of greater efficiency. Physicians are typically eager to embrace and adapt new technologies. Used properly, texting technology has the potential to revolutionize the quality of how health care is delivered to patients.

WOULD YOU TEXT YOUR DOCTOR?

Jay Parkinson is the co-founder of Sherpa, a company that redefines health benefits for employers and employees. "To me, health care delivery is a process. And the process can be convoluted or it can be nice and simple. So we're designing a process that makes health care elegantly simple." —Jay Parkinson

WHAT'S UP, DOC?
Redefining House Calls
Inspired by the Physicians' Relationship

There was a time we called the doctor when we weren't feeling well and he came to see us. He house calls. Now we call the doctor (or his assistant), and can be pretty sure the next step is scheduling an appointment. Or, if we don't have a primary doctor, we go to a community clinic or emergency room and wait 15 or more hours to see someone.

Is that really the best we can do in an age where the world is at our fingertips?

Are patients and doctors alike ready to benefit from a new kind of house call?
Here is one way that might work...

1 You call or text the doctor	2 Actually, you text a doctor - Doctor asks a few questions	3 You send him pictures via your phone
4 80% of the time, the doctor sends a prescription, makes a diagnosis and prescribes an emergency plan.	5 80% of the time, the doctor or his team makes a diagnosis and prescribes an emergency plan.	6 80% of the time, the doctor or his team prescribes a specific, or general, or emergency care center or 24-hour clinic.

Imagine a health care system where you are directed to the right place, for the right care—effortless every time you have health issues. You save precious time and money and the doctors have more time for people who absolutely need to see them.

Do you think this is a good call? Join the conversation at #What'sUpDoc

IS THIS OUR
 FUTURE?
 WHERE IS THE
 TOUCH AND TIME WE
 SPEND WITH OUR
 PATIENTS?

Use social media
 safely/wisely

- **Even vague posts may violate privacy.** You may have followers or mutual friends with your couple that you are not aware of. If you post that you are headed to a birth, and others know a couple have hired you and are due around then, you could be alerting family and friends of the arrival of a baby before your clients are ready. I have been able to easily figure out when my students or friends have birthed based on very vague details from other birth professionals. So even if you are just snapping a quick pic of the entrance of your favorite birth center, you may be revealing a lot more than your clients are comfortable with. In a society that puts everything on the internet for display it can be easy to forget that birth work needs to remain sacred.
- **Your experience may not be your client's experience.** Maybe for you this was an amazing birth to attend and you are buzzing on an early morning birth high, but that might not be how your client feels. Maybe she is mourning an aspect of her birth that didn't go as she imagined, but she isn't ready to talk to you about it. This birth could have been harder or faster or in some way, not what she expected. Seeing her trusted midwife, doula, or photographer post that her birth was wonderful may cause her to doubt her feelings about her birth. She deserves time and privacy to process her birth.
- **Tragic outcomes sometimes happen.** The doula that I had this conversation with is a military spouse. She shared with me several instances where because of social media, military spouses found out their loved one had died overseas before they could be formally contacted. I don't like comparing birth to war, but in both tragedies do sometimes happen. This is not for the couple to dwell on, but it is an aspect of birth that birth workers should always keep in mind. So if you post that you are off to a birth that ultimately ends in loss, not only is there is issue of possibly violating the privacy of a couple as I covered above, but if people ask how the birth went then you are put in the awkward position of trying to not reveal more than you should. You also deserve this time to process and heal in privacy.
- **It can be boastful.** Birth work is humbling, and I admit the vast majority of birth posts I see show the birth worker's humility and gratitude to be doing the work that they do. I love those posts, so that is one reason I had a hard time with my friend's perspective. But there are times when a birth worker seems to be posting every time they are at a birth to show how popular and busy they are. Sharing how many births you have that month or that every couple who attended a recent event hired you may cross the line between sharing your life and bragging. I admit this is a very fine line and I need to assess whether I do it too often as well. I want to see childbirth education, midwifery, and doula work talked about and promoted, but consider your true intentions before you share.

We can't control yelp

- I cannot recommend this birth center as their staff are not very familiar with HIPPA and privacy and... I cannot recommend this birth center as their staff are not very familiar with HIPPA and privacy and they do violate patient privacy not to mention that they have very negligent staff. You can do a lot better at any other location than this, they are anti-men and are overly into your business. We had the displeasure of using this facility and Rosanne was a very lazy woman who would often leave the room and I did not find her to be very attentive. In a time such as your child's birth, you expect the physician or midwife to be present, and Rosanne seemed to have her head elsewhere. They informed my mother who instinctively arrived at the birth center prior to us that we were arriving and my baby's mother was so angry that she starting beating me because she thought that I had told my mother when in fact it was the staff at Women's Health & Birth Center who informed her of our arrival. They have been reported to the California Medical Board for this violation. [Read more](#)

SOCIAL MEDIA

- RECENT FACEBOOK THREAD
- I stopped counting at 150 responses!!!
- What would you do? Primip with accurate dates to within a few days who has reassuring NST at 42.1 weeks, as well as reassuring placenta and baby on BPP, but absolutely zero fluid seen. 42.2 re-do of BPP and again, mom has hydrated well, but no fluid seen. Baby's kidneys visualized and normal, and baby's bladder contained normal amount of urine. We're in a state with full autonomy for midwives and no transfer of care regulations past 42 weeks. Absolutely no fluid seen...what do we truly feel are the risks compared to a woman whose water has been broken and so baby/cord has no cushion there either. Cord compression only? True possibility of placenta being done although it looks good? Can anyone share stories/opinions? Technology isn't perfect and I like Gloria Lemay's visualization of a glass tub above you...how much water will you actually see below someone in the bathtub? But, my hands feel nothing but baby (who again...is doing well and recovers well after spordic contractions). Mom feels everything is fine and wants to leave things alone.

CNM response

- I am a CNM. I have seen many, many high risk births when I was a nurse in a high risk OB unit. I have learned over the years that I am a low interventional midwife, I believe that home birth is safe, but, I have clear limits in my practice, as to when I am out of my scope. I feel that there are times when my care is not appropriate. I also feel that if I make a decision to seek further testing, or consult with an OB or perinatologist, I am going to abide by what they suggest. I personally have never heard of a BPP being ok, if there is no fluid. I can only judge myself, and know what I would do. I posted on this earlier. I would discuss this in totally clear terms, being brutally honest about what can happen, and if a mother does not accept my advice, she is free to seek care elsewhere. I feel very strongly about this. Not just care for the Momma, but for the baby as well. There may be other information about this case that I don't know about. Although, I am so sorry for this poor babe, and his parents, I will only say, this is what I would do.

EXCELLENT BLOG POST !!

- I've done it myself for sure. So if you aren't revealing anything about the couple, or you have permission, then what is the problem?
- **Even vague posts may violate privacy.** You may have followers or mutual friends with your couple that you are not aware of. If you post that you are headed to a birth, and others know a couple have hired you and are due around then you could be alerting family and friends of the arrival of a baby before your clients are ready. I have been able to easily figure out when my students or friends have birthed based on very vague details from other birth professionals. So even if you are just snapping a quick pic of the entrance of your favorite birth center, you may be revealing a lot more than your clients are comfortable with. In a society that puts everything on the internet for display it can be easy to forget that birth work needs to remain sacred.
- **Your experience may not be your client's experience.** Maybe for you this was an amazing birth to attend and you are buzzing on an early morning birth high, but that might not be how your client feels. Maybe she is mourning an aspect of her birth that didn't go as she imagined, but she isn't ready to talk to you about it. This birth could have been harder or faster or in some way, not what she expected. Seeing her trusted midwife, doula, or photographer post that her birth was wonderful may cause her to doubt her feelings about her birth. She deserves time and privacy to process her birth.
- **Tragic outcomes sometimes happen.** The doula that I had this conversation with is a military spouse. She shared with me several instances where because of social media, military spouses found out their their loved one had died overseas before they could be formally contacted. I don't like comparing birth to war, but in both tragedies do sometimes happen. This is not for the couple to dwell on, but it is an aspect of birth that birth workers should always keep in mind. So if you post that you are off to a birth that ultimately ends in loss, not only is there an issue of possibly violating the privacy of a couple as I covered above, but if people ask how the birth went then you are put in the awkward position of trying to not reveal more than you should. You *do* deserve the time to process and heal in privacy.
- **It can be boastful.** Birth work is humbling, and I admit the vast majority of birth posts I see show the birth worker's humility and gratitude to be doing the work that they do. I love those posts, so that is one reason I had a hard time with my friend's perspective. But there are times when a birth worker seems to be posting every time they are at a birth to show how popular and busy they are. Sharing how many births you have that month or that every couple who attended a recent event hired you may cross the line between sharing your life and bragging. I admit this is a very fine line and I need to assess whether I do it too often as well. I want to see childbirth education, midwifery, and doula work talked about and promoted, but consider your true intentions before you share.
- I hope that like me, these points will make you think and consider what you, or more importantly, what your clients feel is an appropriate way to share your birth work on social media. What is right will likely look different for different professionals. This is a great dialogue to keep going in our community, so what do you think as a birth professional? Moms, how would you feel about your birth being posted about? I'd love to hear from you.
- **Cori Gentry, BCCP**
- <http://class.birthbootcamp.com/corigentry/2014/03/should-i-post-my-birth-work-on-social-media/>

Ideas for positive use of social media

- **Using the Internet in your practice**
- **PART 1: WHY SOCIAL MEDIA ARE IMPORTANT AND HOW TO GET STARTED**
- A few free or low-cost strategies can help you add new patients every day
- **Neil H. Baum, MD, and Ron Romano**
- obgmanagement.com
- Vol. 26 No. 2 | February 2014 | OBG Management

More positive use

- **USING THE INTERNET IN YOUR PRACTICE**
- **Part 2: Generating new patients using social media**
- While no one denies the usefulness of social media, very few medical practices know exactly how to harness its power. Here, we focus on the top three social media heavyweights: Facebook, YouTube, and Twitter.
- **Ron Romano, and Neil H. Baum, MD**
- obgmanagement.com Vol. 26 No. 4 | April 2014 | OBG Management

FACEBOOKS DOS AND DON'TS

- Apparently lots of us are misbehaving online and need our hands slapped and correctional discipline administered.
- I don't know how widespread this online physician misbehavior is, but most of the examples I read about are simply online extensions of HIPAA violations.
- **For example, an emergency room doctor in Rhode Island [discussed a patient's case on Facebook. The text contained enough detail to allow the patient involved to be identified. This doctor was fired.](#)**
- I don't post to my personal Facebook account very often — maybe once a month. I do skim through friends' posts every couple of weeks, and I'm amazed at the in-depth personal information some people share.
- Most of the harm being done by doctors in the world of social media can be prevented with heavy doses of common sense.
- Frankly, if you need a guideline from some regulatory board to tell you how to use Facebook, you've got bigger professional problems to deal with than crafting a benign social media strategy.
- My question for you is: How can you use social media profitably, but efficiently?
- To avoid legal and regulatory entanglements, the safest role to play is that of *patient educator*. Once you expand beyond this role to direct patient interaction, giving specific medical advice, publicly discussing specific cases, things get a whole lot messier — I don't advise it.
- There are three primary roles you can play when contributing your expertise on social media.

Let's take a 30,000-foot look at these three social media roles and how you can adopt one or all of these when you promote your practice and start getting engaged online.

Role 1: Information Creator

You write about any topic within your area of expertise; produce videos, podcasts, blog articles. Then spread links to that information in social media outlets like Facebook, Twitter, and even Pinterest.

This is the most time-intensive role you can play. It requires pre-existing knowledge, expertise, or the time to perform research. You are the author of original content.

Creating something de novo is always the slowest way to establish credibility, expertise, and stake your claim in a local market before your competitors. But it may be the most long-lasting and effective technique. If you're the first physician in your local market to produce online guides, videos, and a comprehensive website on your topic of expertise, it's unlikely you will be de-throned from that position; you've created a barrier to entry for other competitors.

Role 2: Information Curator

- Most of us are familiar with the concept of curation from the museum industry. A [curator collects, organizes, and helps people understand some body of knowledge or information.](#)
- As an information curator, you collect, sift, and sort through the avalanche of medical news, research, and articles published each month in your field of interest or specialization.
- Your readers, viewers, current patients, and potential patients will see you as a trusted gatekeeper, making sure that only the most vital and relevant information gets to the people who need it.
- They'll start to rely on you to filter the nonsense, clarify muddy media reports, and show them where to find truth.
- Whether deserved or not, each day, a portion of the American public sees network news anchors in this way. They serve as filters through which vital pieces of information pass.
- As an information curator, you need to have your finger on the pulse of the latest news or research in your field. It's time-consuming, but there are shortcuts like setting up [Google Alerts, that will help.](#)

Role 3: Conversation Contributor

- This one is different in many ways than the first two. It's external to your own website or social media channel.
- As a contributor, you are adding your two cents or linking to your existing helpful information, articles, or content as a part of an existing online conversation.
- Adding your expertise to a conversation could involve making comments in an online forum for physicians, like [Sermo, or commenting on a blog post on a relevant clinical topic.](#)
- This strategy is usually very quick, can generate website traffic or help establish professional connections with other physicians online, and is a great way to get started exploring medical social media.
- **Combining Roles — Creation, Curation, and Contributor**
- The best approach is to apply all of these strategies when promoting your practice online and elsewhere.
- For example, on my website, I have static web pages that serve as evergreen patient education articles on the most common things I treat.
- My blog section lets me quickly comment on a recent news item or put together a short article on a trending topic.
- Finally, I leave comments throughout the internet on relevant blogs and other social media sites (like YouTube channels) to add to conversations and point others to my website for more information.
- It's easy to see that you'll have your hands full producing and finding great content and information using just these three strategies — you won't have time to violate social media guidelines.
- - See more at: <http://www.physicianspractice.com/blog/safe-ways-use-social-media-your-medical-practice#sthash.hpA84K4G.dpuf>

The 10 Pros and Cons for Medical Practices using Social Media web sites

- <http://www.medicalwebtimes.com/thetimes/medical-headlines/top-10-pros-cons-for-medical-practices-using-social-networking-web-sites/>
- 2) **IMPORTANT NOTE:** Understand the difference between a Facebook PAGE (with public access by those without a Facebook profile or being logged in), Profile Page (for "people" where you control the information that is accessible and you must accept or be accepted by other Facebook users "friends"), and the Facebook Group (users with profiles can create groups that attract other members with common interests to join).

AUTSIN AREA BIRTH CENTER

- WEBSITES AND SOCIAL MEDIA CAN BE DONE RIGHT
- ITS ALL ABOUT SECURITY, PRIVACY
- (MORE OF SLIDE TO BE DEVELOPED)

- **There are lots of references on how to do this right**
- **Protect your patients, protect your practice, protect your self.**
- **ITS TAKES TIME BUT ITS ESSENTIAL**

LOTS OF ADVISE ON THE INTERNET

- [PATIENT-DOCTOR TEXTING EACH OTHER: SHOULD THEY DO IT?](#)
Bioethics Discussion Blog
- Navigating The Compliance Maze of Secure Text Messaging in Healthcare
 - *Understanding the impact of secure text messaging in healthcare and the potential risks of privacy that come into play when a doctor texts a patient.*

REFERENCES

- http://www.hhs.gov/ocr/privacy/hipaa/faq/health_infor_mation_technology/570.html
- Int J Med Inform. 2007 May-Jun;76(5-6):471-9. Epub 2007 Jan 3.
- <http://www.physicianspractice.com/blog/safe-ways-use-social-media-your-medical-practice>
- obgmanagement.com Vol. 26 No. 4 | April 2014 | OBG Management
- <http://www.medicalwebtimes.com/thetimes/medical-headlines/top-10-pros-cons-for-medical-practices-using-social-networking-web-sites/>
- <http://www.hitconsultant.net/2013/10/23/navigating-compliance-maze-secure-text-messaging-healthcare/>
- <http://www.bioethics.net/2013/03/patient-doctor-texting-each-other-should-they-do-it/>

REFERENCES

- J Leg Med. 2005 Dec;26(4):491-506. Electronic medical records. Privacy, confidentiality, liability. Steward M. Author information: Southern Illinois University School of Law, Law Journal Office, Carbondale 62901 USA. PMID: 16303736 [PubMed - indexed for MEDLINE]
- Meyer M. Physician use of e-mail: the telephone of the 21st century? J Med Pract Manage. 2004 Mar-Apr;19(5):247-51. Pub Med PMID: 15152908. Brocato L, Emery S, McDavid J. Keeping compliant. Managing rising risk in physician practices. J AHIMA. 2011 Nov- Dec;82(11);
- Troxel DB. Electronic medical record and social media malpractice risks. Mich Med. 2012 Mar-Apr;111(2):8, 10. PubMed PMID: 22594155.
- Brocato L, Emery S, McDavid J. Keeping compliant. Managing rising risk in physician practices. J AHIMA. 2011 Nov- Dec;82(11):32-5; quiz 36. PubMed PMID:22184824.
- Mich Med. 2012 Mar-Apr;111(2):8, 10. Electronic medical record and social media malpractice risks. Troxel DB. Author information: The Doctors Company, USA. PMID: 2259



A BIG THANKS

DIANA JOLLES CNM

AND

MELINDA HOPKINS CNM

SENT ME LOTS AND LOTS OF IDEAS AND POSTINGS TO
HELP MAKE THIS PRESENTATION WORK
