

Case 3: Free Speech vs. Professionalism

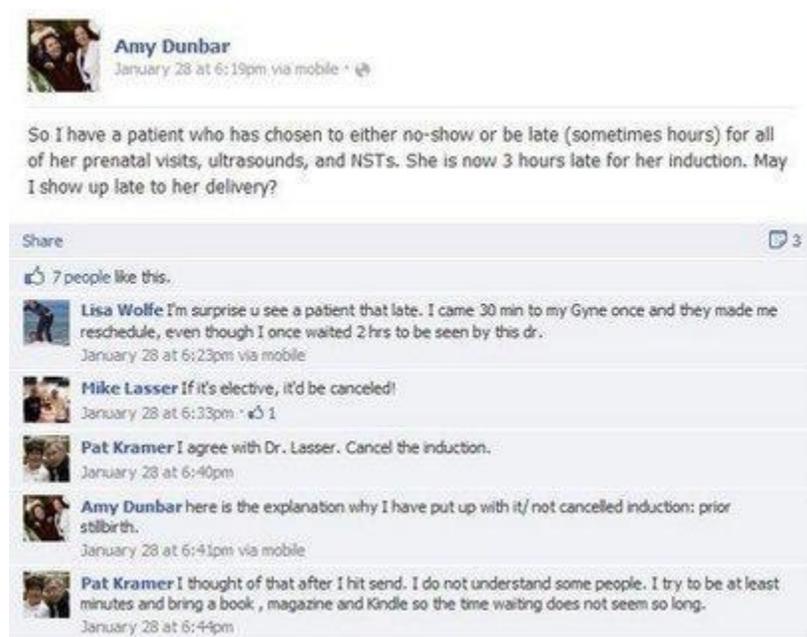


A mortuary student posted several messages about a cadaver she was working on in anatomy lab on Facebook. Examples include: nicknaming the cadaver 'Bernie', "Hmm, perhaps I will spend the evening updating my 'Death List #5,' " and that she would soon stop seeing "my best friend, Bernie," "Bye, bye Bernie. Lock of hair in my pocket." The University of Minnesota filed a formal complaint that alleged the student engaged in "threatening, harassing or assaultive conduct." However, they were sued for infringing on the student's free speech. The Minnesota Supreme Court ruled in favor of the University on 6/20/12, stating that censure was justified by "narrowly tailored" rules directly related to "established professional conduct standards."

Source: http://www.twincities.com/localnews/ci_20899170/university-minnesota-could-punish-mortuary-grad-facebook-comments

Amy Dunbar, an OB-gyn in St. Louis at Mercy Hospital, posted on Facebook after becoming frustrated with one of her patients. Controversy erupted after a screenshot was posted to a Facebook group called "Mercy Moms to Be". Though she was not fired, the hospital posted a response: "Our physician leadership has already called Dr. Dunbar. Her comments were definitely inappropriate. We are also reviewing them to determine if they violated privacy issues, etc. That process requires a more thorough review, but we will determine the appropriate response as quickly as possible. In the meantime, know that our physician organization holds its members to the highest standards and strives to improve our service and clinical care through that process."

Source: http://www.huffingtonpost.com/2013/02/06/amy-dunbar-obgyn_n_2630823.html



Questions for dialog

1. Identify issues relating to professionalism

2. Discuss the following question/s and prepare a consensus/summary statement for your group
 - Do medical schools have the right to reprimand students about unprofessional conduct in social media? What about free speech?
 - Do hospitals have the same right to reprimand practicing physicians?
3. Imagine yourself mentoring a medical student or resident. What advice would you give him or her based on this case and your discussion?

Case Commentary

Both of these examples again bring up the issues of context and audience. If these discussions took place in person in a protected environment, they would likely not generate much controversy.

In the first example, the student admits to taking a lock of hair from their cadaver. While cadavers remain anonymous, how would the donor family feel about this admission? How is this perceived by all donor families or future donors?

Would there be a different perception of the first example if this student's interaction with her cadaver was submitted as a reflection piece for a Humanities in Medicine assignment? What if it was submitted to an online publication? How could this situation be modified to make it acceptable for sharing publicly?

In the second example, Dr. Dunbar implies that she can provide a lower standard of care because of the patient's noncompliance. Though this comment may only apply to this specific patient, does it affect others' perception of her clinical performance?

There is a balance between free speech and professionalism, the most institutions and employers have specific codes of conduct that their employees and students are meant to follow. Violating a specific contractual obligation likely has ramifications.

The second example is problematic in that any future medical complications for this patient, while under Dr. Dunbar's care, could be attributed to this "retaliatory" comment.

Educator Notes

Do medical schools have the right to reprimand students about unprofessional conduct in social media? What about free speech? Most schools have policies about unprofessional conduct for medical students and social media activities should fall under this policy. Medical schools have an obligation to the community to train physicians that will be competent practitioners who are respectful of patients' needs and privacy.

Do hospitals have the same right to reprimand practicing physicians? As physicians are held to a code of conduct, a hospital has an obligation to its patients to ensure a certain standard and care and confidentiality. A physician that demonstrates difficulty in maintaining that standard could be subject to disciplinary action.

Bottom Line

Physicians are expected to follow a code of conduct – this could be general guideline (public perception of how a physician should act), or institution-specific. If exercising your free speech could violate this code of conduct, you should consider the purpose and desired goal of your actions.

Bibliography and Summaries

“Online Posting of Unprofessional Content by Medical Students”

Chretien, Katherine C, S. Ryan Greysen, Jean-Paul Chretien, and Terry Kind. JAMA: The Journal of the American Medical Association 302, no. 12 (September 23, 2009): 1309–1315. doi:10.1001/jama.2009.1387.

This was a large anonymous survey of all Deans of Student Affairs. Definitely has responder bias. Few respondents reported having professionalism policies that could apply to student online postings and very few of these explicitly mentioned Internet use.

“Commentary: The Relationship Status of Digital Media and Professionalism: It’s Complicated.”

Farnan, Jeanne M., John A.M. Paro, Jennifer T. Higa, Shalini T. Reddy, Holly J. Humphrey, and Vineet M. Arora. Academic Medicine 84, no. 11 (November 2009): 1479–1481. doi:10.1097/ACM.0b013e3181bb17af.

Examples given for discussion of professionalism – posting a med student sketch on YouTube, cites example of surgeon posting video of removing foreign body from patient’s rectum, patient’s family requesting a different resident after seeing questionable content on resident’s MySpace

“The Intersection of Online Social Networking with Medical Professionalism.” Thompson, Lindsay A., Kara Dawson, Richard Ferdig, Erik W. Black, J. Boyer, Jade Coutts, and Nicole Paradise Black. Journal of General Internal Medicine 23, no. 7 (July 10, 2008): 954–957. doi:10.1007/s11606-008-0538-8.

Unique case study that looked at all medical trainees at a single institution and showed that 37.5% of users posted potentially unprofessional material.

“Social media and clinical care: ethical, professional, and social implications.” Chretien KC, Kind T. Circulation. 2013 Apr 2; 127(13):1413-1421. doi: 10.1161/CIRCULATIONAHA.112.128017.

This is a comprehensive overview that places our guidance in the context of current uses of social media for clinical care, and gives a framework to help better understand the ethical and professional implications. Also explores legal issues of giving medical advice, discoverability, and permanence.

Toolkit Considerations

- ***There is no right answer*** – discussions about professionalism rarely have clear answers, and social media is no exception. The toolkit serves as a starting point for discussion.
- ***This is not a social media usage policy*** – while these cases illustrate important considerations for social media usage, this is not intended to be a usage policy. For help with a usage policy, we have included a link to policy guidelines from the Federation of State Medical Boards.
- ***This toolkit is designed to be flexible*** – this toolkit can be used in small or large groups and by students and faculty of all comfort levels.
- ***No expertise needed*** – though the focus of this toolkit is on social media, the discussions are rooted in professionalism. The toolkit was written to provide enough context for the casual user to facilitate a discussion.
- ***Contribute forward*** – as you moderate these discussions, consider taking the students' discussion points, incorporating them back into the toolkit, and sharing the toolkit with your colleagues.