
2012 Clinical Congress Presenter Disclosure Slide

American College of Surgeons ♦ Division of Education

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Nothing To Disclose



AMERICAN COLLEGE OF SURGEONS

Inspiring Quality:

Highest Standards, Better Outcomes

Oper@ting Safely on Social Networks: Legal Do's and Dont's 2.0

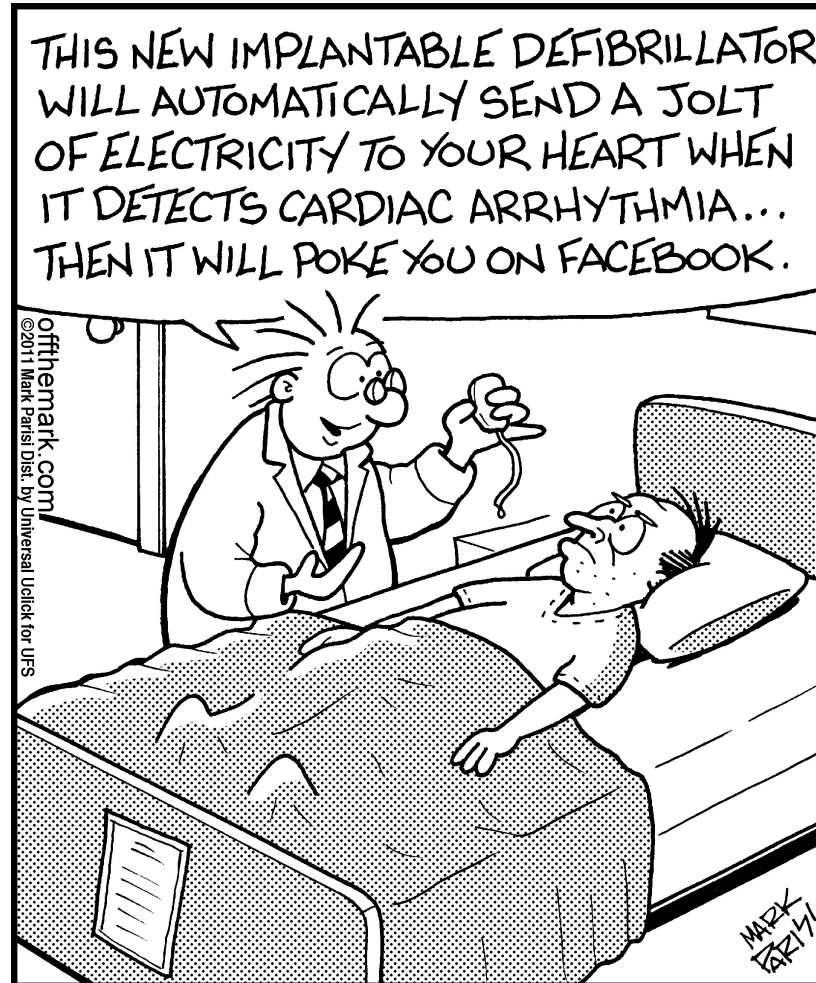


Henry C. Fader, Esq. | October 1, 2012

98th Annual Clinical Congress
American College of Surgeons
#ACSCC12

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off the mark.com by Mark Parisi





- **Benefits**

- improve patient care
- information sharing
- transparency
- education
- community building
- marketing/networking
- speed and reach

- **Risks and Challenges**

- breaches of privacy of patient information
- liability exposure
- establishing physician-patient relationships
- maintain appropriate professional boundaries
- misinformation
- speed and reach



- HIPAA and HITECH
 - Requirements on safeguarding protected health information (PHI)
 - HITECH Act
 - Breach notification requirements
 - Increased penalties
 - De-identifying PHI
- State laws on patient privacy
- Liability under privacy torts for breaches



- Tips
 - Never disclose patient identifiable information
 - Consider how much information is too much?
 - Consider public forum v. physician-only forum
 - Use notice and disclaimers
 - Use HIPAA Notice of Privacy Practices to address use of social media with patients
 - Obtain patient consent when necessary



"Nurse, get on the internet, go to **SURGERY.COM**, scroll down and click on the 'Are you totally lost?' icon."



- Practice of medicine
 - Licensure issues
 - Establishing physician patient relationship
 - Managing existing patient relationships
- Online surgeon-to-surgeon consultation
- Standard of care
- Impact on litigation
 - discoverability of online communications
 - Example: Boston physician blogging during trial

Liability Concerns (con't)



- Tips
 - Limit risks with patient consent, disclaimers, notices and policies
 - Surgeon/patient
 - Don't respond to personal medical questions from current patients in public forum
 - Do use personal phone call or office visit, or encrypted email or secured messaging (as appropriate)
 - Take care in establishing patient relationships
 - Surgeon/surgeon
 - Consider the forum
 - Exercise professional judgment



"Well, you appear to be free of infection,
but your colonoscopy video has gone viral."



- JAMA Study (2012) on state medical boards
 - 92% received reports of violation of online professionalism
 - 71% had disciplinary proceeding
 - 56% had serious disciplinary actions (license restriction, suspension or revocation)
- 2011 JAMA Study on “tweets”
- Examples
 - Rhode Island Board of Medicine disciplinary matter (*In the Matter of Alexandra Thran, M.D. (2011)*)
 - Texas case – *Blevins v. Tyler Cardiovascular Consultants (2011)*



- AMA Policy: Professionalism in the Use of Social Media (November 2010)
- Federation of State Medical Boards (FSMB) Model Policy Guidelines for Appropriate Use of Social Media and Social Networking in Medical Practice (April 2012)
- Associations, hospitals, medical schools, medical practices developing codes of conduct



- Privacy rules apply online: Never post or disclose identifying information about patients (either on public networks or physician-only forums)
- Use appropriate disclaimers, consents and notices
- Confirm networking activities are compliant with:
 - Employer policies
 - Hospital/medical staff codes and policies
 - Professional society codes
 - Malpractice/insurance carrier policies
- Develop (or participate in development) of social media policies



- Understand and use privacy and networking safeguards/settings
 - recognize privacy settings are not absolute
- Carefully consider what of your personal information to disclose
 - Assume posts, tweets etc. are public
 - Assume posts, tweets etc. continue to exist . . forever
 - Consider separate personal and professional profiles/pages
- Exercise good judgment
- Proceed, . . . but with caution!



Questions?

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