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Julie H. Schiavo

LSU Health Sciences Center- New Orleans, JSchia@lsuhsc.edu

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Legal Aspects of Student Social Media Behavior in Health Sciences Education

Julie H. Schiavo, EdD, MLIS, AHIP
LSU Health Sciences Center, New Orleans
jschia@lsuhsc.edu

The Realities of Social Media

- ▶ Student social media behavior can result in academic, disciplinary, and legal issues without clear guidance
- ▶ Research has found that students will interact on social media in ways they wouldn't in person
 - ▶ *“These media seem to remove filters to conversational constraints (whether the filters are conscious or subconscious) that developed over years as acceptable social convention and good manners”* (Parkinson & Turner, 2014, pg. 1559)
- ▶ Defining inappropriate or unprofessional is difficult
- ▶ Students in the health sciences are held to a higher ethical standard than students in many other fields of study as they will be providing care to the public
- ▶ Health sciences students are bound by ethical codes of their discipline, schools, and the institutions in which they are training

Student vs. Institution Perspectives

Faculty and students have different views of what is an “appropriate” post

Students' Perspectives

- ▶ Students agree posts about patients are not appropriate
- ▶ Students disagree about other topics and regularly report posting on topics such as alcohol consumption, profanity, political views, and sexual suggestive content
- ▶ Students see their peers' posts as inappropriate but not their own
- ▶ They see monitoring the social media as an invasion of privacy - believe they are private conversations between themselves and a trusted group of friends
- ▶ Often aren't aware of or understand institutions' policies
- ▶ They want guidance but believe they don't get it and must use their own "common sense"
- ▶ They will strengthen their privacy settings after receiving training

Institutions' Perspectives

- ▶ 60% of US med schools reported incidents of unprofessional conduct on social media
- ▶ 54% of residents reported seeing inappropriate posts concerning patients & program directors
- ▶ Program directors will view applicants' social media
 - ▶ 11% have lowered an applicants' ranking or removed them completely
- ▶ Many consider social media a liability rather than an asset and would consider banning students from its use if they were legally allowed to do so

Legal Precedents

Student conduct on social media and the institution's response center on a student's first amendment right to freedom of speech.

Legal Precedents

- ▶ Supreme court rulings:
 - ▶ *Packingham v. North Carolina* (2017) that prohibiting someone from accessing social media is a violation of their First Amendment Rights.
 - ▶ *Tinker v. Des Moines* (1968) that students have the right to freedom of speech both inside and outside of school, but the administration has the right to restrict that speech if such conduct “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.”

Legal Precedents

- ▶ Federal judges ruling states, in part, “colleges and universities have a duty and obligation to protect the educational mission of their institutions.”
 - ▶ However, determining if the speech “materially and substantially” interferes with the mission of a school is not a simple matter especially if the speech is in cyberspace
- ▶ A university will have more standing in a court of law if there is a social media policy which reflects the standards established by health science professional organization standards.
 - ▶ This can be seen in court judgements such as *Tatro v. Univ. of Minn.* (2012) and *Yoder v. Univ. of Louisville* (2013)

Social Media Code of Conduct

An explicitly worded social media policy signed by a student can be an asset for administration.

Social Media Code of Conduct

- ▶ An infraction of the honor code or code of conduct can be viewed as an academic matter rather than a disciplinary one
- ▶ Courts have ruled against the disciplinary actions of school administration when the speech occurs on the internet in cases such as Layshock v. Hermitage Sch. Dist. (2011).
- ▶ Code of Conduct should mirror the discipline's professional code of conduct

Social Media Code of Conduct

- ▶ Effective social media policies and recommend should contain at least the following elements:
 - ▶ Definition & examples of social media
 - ▶ The discipline's governing body ethical and legal obligations
 - ▶ Respect for their patients and patients' privacy
 - ▶ Students should not attempt to speak for the institutions
 - ▶ Connection to the school's honor code
 - ▶ Consequences of breaking the code of conduct

In Conclusion

Social media has made the world seem smaller, more personable, and private. These relationships are far reaching and not at all private.

In Conclusion

- ▶ Social media has changed education across the world.
- ▶ Social media platforms can provide opportunities for collaborations with colleagues that may have never connected otherwise
- ▶ The use of social media has opened students and universities to new liabilities, ethical violations, and public relations incidents that did not exist prior to the advent of social media.
- ▶ Administrators should write a strong, focused policy concerning social media use and provide students with education and guidance on the ethical use of social media as future healthcare professionals.

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