

Title: Managing the Risks of Social Media and Technology in Psychology

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Moderator: Hello, everyone, and welcome to today's webinar, Managing the Risks of Social Media and Technology in Psychology. This webinar is paid for by the American Professional Agency, an official corporate supporter of APA. The American Professional Agency offers psychologists professional liability insurance, risk management services, and general guidance. Some important points before we get started. APA does not endorse any products or services. The content is created by the risk management experts, Allied World, underwriter for the American Professional Agency. Please email advertising@apa.org if you would like to learn more.

Next, this program does not offer CE, however, we will email everyone watching live today a certificate of attendance. Certificates will only be issued to those who stay on the line for a minimum of 45 minutes. A recording of this presentation will be emailed to everyone in two weeks' time. That email will also include a copy of the presentation slides. During our time together, you will be on mute. You can communicate with us using the Q&A box located on your webinar screen. If you have a question for our presenters, please type them into that Q&A box on your webinar screen. A link to the presentation slides will also be posted in the chat box.

If you miss it, don't worry, we will email a copy of the slides along with the recording. With that, I would like to introduce today's presenters. We have Allison Funicelli, the Assistant Vice President Risk Management Group, AWAC Services Company, a member company of Allied World. We also have Cara H. Staus, also an Assistant Vice President Risk Management Group, AWAC services company, a member company of Allied World. Welcome, Allison and Cara.

Cara Staus: Thank you. All right, good afternoon, everybody. I am going to read to you our disclaimer. Content in this presentation is intended solely to provide general information concerning the developments in the area of risk management. It is not intended as legal or medical advice, nor does it offer or solicit for offers with respect to any insurance product. Legal or medical advice should be obtained from qualified legal counsel or other professionals to address specific facts and circumstances and to ensure compliance with applicable laws and standards. Listeners should consult their own insurance advisors for information pertinent to the purchase of any insurance product.

This content may not be reproduced or redistributed in whole or in part without the prior written consent of Allied World. Allison and I are happy to be presenting this topic to you today. Our program objectives are going to be to explain patient confidentiality and boundary issues related to the use of social media, describe the psychologist's duty of professionalism when engaging in social media, discuss case examples with social media as the central issue, and explore risk management and liability exposures pertaining to confidentiality, boundary issues, and general standards of care as they apply to social media, online reviews, and technology. Social media. It seems that it is ever present in our world today.

This graphic that we see, I'm sure many of you are familiar with all of the social media platforms. Social media is really designed as an exchange of information in a virtual community or network. Users can easily find information using social media. It's one of those mechanisms that can easily spread information, both good and bad, fast and furiously. I'm sure technology is invaluable and has become so easy for all of us to gain access to information really at our fingertips using our smartphones. Social media can be used in these three areas, personally, professionally, and sometimes blending both of personal and professional.

Today we're going to be focusing on how to avoid these pitfalls of avoiding the blurring of that personal and professional in the social media realm. Social media uses. Most of you may have your own social media pages to use with communicating with friends and family on your private personal social media page, whether it's through Facebook or Instagram. You may even have a TikTok page that you frequent. YouTube is also known as a social media page. You might engage in hobby-related chat groups or sport chat groups or school alumni, faith-based, spirituality, or other wellness or other activities for your personal use.

Professional. The most common social media page from a professional standpoint is LinkedIn. LinkedIn is used as a platform from a marketing standpoint. You can job search, you can network, you can also look for content-related articles. Professional podcasts is another professional use of social media. Professional blogs. Then obviously if you have your own professional page on social media exclusively for the promotion of what you do professionally. There are times where personal and professional have been mixed. What that means is if you're using a personal page, but also marketing or using it as your professional page.

That same site content would contain both personal information and professional information. What that would do, it would make you, I say vulnerable to opening up comments on your personal and professional to people commenting on that page. In addition to that, when personal and professional lines can get blurred, is the friending of patients on social media. The slide mentions after discharge. It's important for us to note at any time, current and even after discharge, we don't ever recommend that you friend or accept an invite to engage with former patients on social media. The reason behind that is that it can at times-- there could be conflicts with that.

It's best practice to avoid engaging in those types of situations. In the event you do get a request for a friend request on social media, it's best to decline. If it's from somebody that you're currently in a professional relationship with, you can simply just tell them as part of your practice policies and procedures, you do not engage in social media with patients, that that's just part of your practice.

Again, you don't ever want to get into a circumstance, even if the person has not been in your practice for several years and maybe you had similar interests, you just don't know when that can resurface and information can appear on your page. It's always best to just keep the two separate to avoid any potential conflicts down the road. I'm going to turn the presentation to Allison.

Allison Funicelli: Thanks, Cara. Let's talk a little bit about liability exposures. What are the things that you might have a licensing board complaint filed against you or a

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malpractice claim or another type of claim? One is we have to be careful about privacy and disclosure. We're going to talk in more detail on some of these areas as well. One thing is obviously right, we have to comply with HIPAA. You need to make sure that anything that you're doing is in compliance with that federal regulation. Be aware that some states have privacy and disclosure laws that are more strict than HIPAA.

You want to make sure that at a minimum, you're following HIPAA, but if your state has more strict regulations, that you follow them as well. Liability concerns. I put this in here. This seems like a little bit outside of what we think of as professional services, but we have to be aware of when we are creating, in particular, our own web pages or blogs or any of these things that Cara just talked about, is who is the owner of the content, are you the owner of it? Is somebody else? We have to be aware of false advertising.

It's interesting, I had on our helpline recently a provider, a mental health provider call me and she was creating a new practice in New York and she came up with a name that sounded pretty benign to me, but the state came back and said that sounds almost like your-- the name of your company is going to guarantee an outcome. It didn't sound like that to me, but again, we need to be aware of these things that when we create names of organizations, if we're advertising our organizations, that we're not making any guarantees or false advertising.

We have to be aware of intellectual property infringement. You'll see in our presentation, we have used photos from time to time on some of our slides, and you will see that we grabbed it from the creative commons section of PowerPoint because those are allowed to be used without having to get permission. A lot of times we just see pictures and expressions and all sorts of information on the internet that we think, "Oh, if it's on the internet, it must be for public use."

That is not true. Just because you might see a photo or something on the internet and then it has that disclaimer or they pixelate or they do something so that they discourage people from using it, even if it's a nice, clear photo or content, it doesn't mean that you can use it. I will tell you that we know that there's been an uptick in claims against professionals in particular when they're creating their websites, of using information that infringes on somebody else's work product. You have to be careful about that, because you could potentially get a fine or penalty.

Employee disclaimers. You want to make sure if you have staff, that in the paperwork, not only should they be signing confidentiality agreements and hopefully went through HIPAA training, but you should have office policy and procedure about what they can or can't do on social media as it relates to your practice. They really should be silent about anything related to your practice, unless it's with your permission. Then unprofessional conduct, we want to avoid anything that has the appearance of something that's unprofessional or unethical. Then certainly, we want to avoid anything that could be deemed libel or slanderous.

Next slide. We're going to talk a little bit about the legal and risk management considerations. These are the four areas that we're going to talk about next. I'm going to talk about confidentiality and professional-- and then reputation will be

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covered by Cara. Sorry. Confidentiality. Next slide please. Health data. We know that it has to be private. We know we have to follow HIPAA. It addresses not just communications between you and your patient, but it also addresses information that you may be sharing with others. Do you have permission to speak to others from your patient?

In general, if you looked up the HHS guidelines, it says that providers treating the same patient, even if you're not a formal collaboration, but say you're working with a psychiatrist who's doing med management for your patient or something like that, maybe your patient has an eating disorder, also goes to an eating disorder clinic, and you want to work with that provider just at least sharing information. Generally speaking, providers can share information without patient permission, but we certainly want to be sensitive to patients if they specifically say they don't give you permission to speak to others.

I caution you that if you have a patient that says, "I don't want you speaking to my psychiatrist or other providers," ask why, and you may be in a situation where if they tie your hands and you can't provide good care, then you need to think about, "Is this a relationship I'm going to continue with this patient?" Next slide. Communications with patients via email and text. This is a hot topic, especially in today's day and age, and especially in particular if you treat children, adolescents, young adults, they communicate a lot through emailing and texting. I'm going to do texting first. First of all, texting should really be limited to confirming appointments and that kind of stuff.

Because texting, anybody could potentially access that. Someone, especially a family member could pick up a phone and read someone's texts. We want to be careful because there is a difference between privacy and confidentiality. Email is private, generally. We're emailing back and forth. No one's generally probably seeing my email unless they have my password. However, confidentiality is a higher level of privacy because now you have to safeguard that information. Just like if you have physical records, you would have to have them in a locked cabinet. We're going to talk a little bit more about how to protect email and text through encryption.

That's another thing we want to do. You really should be using a HIPAA-compliant platform. You should be using a HIPAA-compliant platform for emailing if you're exchanging records with patients or any kind of HIPAA-protected information. I really discourage you from using texting for anything substantive. It's hard to understand or get the flavor of what you're texting back and forth, like the emotion behind it. It's hard to capture that information in a medical record. Remember, anything of substance in an email or a text should be part of the medical record. It's really hard to get texts in. Email is a little easier. Texts are very hard.

Then certainly informed consent. Patients should have the ability to opt in or out of communications through email or text at any time. If they opt in now, they always should have the right to opt out later. You can stay on that slide. Remember, whenever you're using any kind of platform, that you want to get a business associate agreement, because anything that you're doing that is under the HIPAA regs where you're communicating confidential information, you should have a business associate agreement with the platform, whether you're providing telehealth services with video, if you're using Doxy.me or if you have a video platform through

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SimplePractice or any of those types of platforms, if you're sharing information through patient portals and stuff, and we'll get into more detail later.

Everything that you do where you're using a vendor should have a business associate agreement where that vendor is agreeing to comply with HIPAA. Even if they can't see the data, they potentially could have access to it. That also applies to if you're using a billing service, collections agencies, any of those types of things, including if you have physical office space and you have a cleaning service that comes in, yes, everything should be locked up in cabinets when you leave so that a cleaning person can't see that stuff, but again, it's a good idea that if, God forbid, something got accidentally left out or whatever, that they're going to comply with HIPAA.

Next slide. Here are some of the risk considerations with email and text. Create policies and procedures, especially for your patients. You not only have an office practice policy and procedure if you have, especially for staff, but also for your patients, what are the expectations? When is it appropriate to use email and text? When is it not appropriate? Again, using that HIPAA-compliant software, by the way, regular Gmail is generally not HIPAA-compliant unless Google is willing to give you a business associate agreement. Some of the different things like Zoom and some of these other platforms have different versions. You want to make sure you're using the HIPAA-compliant version.

Make sure you're using out-of-office messaging. If someone texts or emails you, if you're not going to be available, there should be a message they get back. Set patient expectations. This is really important. What is the expected response time? I remember, I'm old enough, that back in the day, a lot of things would get faxed back and forth to my office.

People started having this expectation that when you fax something, someone's going to immediately respond to it. It's just a shorter and easier way than sending it through snail mail. The same is true for email and text. We use it all the time and we expect people to be, "Oh, they should see my email or my text right away." Set that expectation with your patients so that this way, if they text you now or email you now, they may not get a response till end of day, 24 hours, 48 hours. Whatever your policy and procedure is, you need to try to live by that. Don't pigeonhole yourself too much. Again, have that out-of-office messaging.

If you have the ability to have a read receipt, that's great. We use an email system where I work where I can check different boxes when I go to send the email. I could say, I want the platform to tell me when it's been successfully sent through to the other person. Then I have another box I could check in and it tells me if they've actually opened it. Whether they read it or not, I don't know, but within a reasonable expectation, if you've opened it, that tells me that you've seen it in some way. It's a good idea if you have read receipt.

That's especially true when you're communicating things that you want to make sure the patient gets, like, I'll digress for a little bit, if you're going to terminate a patient or a patient terminates with you and you want to send them a letter confirming the end of the relationship and you're going to do it through email and you have permission

to do that, and hopefully it's through a HIPAA compliant email, do you have a way to see if they've opened it and received it? Consider a patient portal. Every practice is different, size is different, everybody's means are different. If you have the ability to use a patient portal, that's a great way to go because those are typically HIPAA compliant.

A lot of the electronic health record systems out there have a patient portal option if you can use it. If not, then we talked about some other things you could do. Then proper documentation. Emailing and texting, again, needs to go, that information, maybe not, if they're just texting I'm canceling my appointment, you'll document that they just canceled their appointment, but you need to get that information into the medical record. Next slide. I'm going to turn it over to Cara. She's going to talk about professional reputation.

Cara: Thank you, Allison. Professional reputation. You've all worked so hard over the years to develop your professional reputation through the work that you do, the education, and credentials that you've earned. It's important to maintain that reputation, being held in a high esteem within your profession amongst colleagues and obviously, the patients and referrals that you may get. As we look at how that interacts with social media-- oops, my apologies here. You're held to a higher standard in the professional world, and what you do and what you say can impact you and your credibility.

It's important when we are using social platforms, whether it's making posts or comments, that we are reflecting and being mindful of the responsibilities in the ethics that we have within our profession. The APA has a great resource in their social media guidelines, which is a great resource for all of you to look at in how to maintain that professional balance between the use of social media and what is best practice. You are held to that higher standard, and the expectation is that when you are utilizing social media, it is done with the highest regard.

Your personal reputation may be at stake as well. It's important that when you're using personal pages as well, maintaining that level for your profession is also reflected on your personal page. A lot of organizations, if you are working for a clinic or a healthcare system, they might have a social media policy that talks about what you can and can't do. It's hard to enforce at times, but it is important to be mindful of that in the age of technology at our fingertips and knowing that everything stays permanent, that's the one thing that we know for sure, is that everything is forever out there in the cloud. What is the cloud?

It is important to be reflective in what we are posting, whether it is on public posts or on our personal pages, because that is both your personal and professional reputation. Again, when creating social media pages for your business, you want to make sure that the content that you are posting and responding to meets these standards within your profession. It is important that you would handle the same practice that you do within the four walls of your office or within the walls of the telehealth encounter, that you would also do that when you are engaging in any interaction online through social media posts related to your profession.

As I mentioned previously, the online reputation, follow APA's guidelines for the optimal use of social media in the professional psychological practice. Your professional organization has a great tool. Allison and I actually have looked at it and it provides so many guidelines and resources. A lot of the questions that we received prior to this webinar did ask what's the best way to do it. The tool is right available on APA's website. I encourage you all, if you have not accessed it, to take a look at that document because I believe it'll answer a lot of your questions and provide you with some best practices on how you can use it within your own personal office practice.

What happens in the event you do have a social media page, or there's a Google review? A lot of times you might have access to your practice through Google and those reviews individuals can post whether or not they had a good encounter or experience with you. What happens? At first, you might be very upset and offended by the fact that an individual took to social media to potentially harm that professional reputation. Allison mentioned that we do answer calls on a helpline, and we have had several calls that have come into our helpline. I want to respond. How do I get rid of that review online?

Our recommendation is always going to be take pause. We know that it hits hard when somebody says something negatively, especially if there's no truth to the matter. It's important to not react and get on that keyboard and respond, because by doing so, that might create a HIPAA violation. You don't want to be faced with someone accusing you of violating their privacy through HIPAA. Even though they were the ones to initiate it, by you acknowledging the fact that that individual may have been a patient in your practice, there could be a violation under HIPAA, and that's the last thing that you want to be faced with.

Should you ignore it? It probably is best to ignore in a lot of circumstances, because with every negative post, take a look at how many positive posts there might be. If you do have a social media page or a website that affords Google reviews or any Facebook reviews, chances are that if that one negative post filters down and is muffled by the positive posts, ignoring it might be okay. If you feel compelled to respond, our risk management advice is going to be to post a very generic statement to say, "We take all complaints, or I take complaints very seriously. Please contact our office immediately to discuss this matter."

That way you're not acknowledging, either way, whether the person is a patient or was a patient in the practice. You are addressing it so you're not avoiding it. Someone can't say, "Well, they're just ignoring it, so it must be true." You've then resolved the matter by posting that comment. You could also contact the patient offline. If you had a relationship with them, and it took you off guard as to why they took to social media to post something or online through the web, contact them if you feel it's appropriate. Again, you're going to know these individuals best and know if you want to pick up the phone and contact them, but maybe it's something you can resolve and maybe they might be able to remove that comment for you.

If you can come to terms with why, why are they unhappy? Why did they do that? Sometimes it might not be worth contacting them and you have to make that determination. In the event there's something that is of a threat of nature and you feel concerned, then obviously you could contact law enforcement because again,

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there are certain regulations that go into the law and cyberbullying when individuals engage in online threats. Monitor those sites as closely as possible. Allison.

Allison: Also, if you do approach your patient, know they may not want to talk about it, so we have to respect that too. Also just to let you know, just because someone writes something you don't like, doesn't mean that the platform will take that down because the platforms like the Yelps and the Googles and all those places where people put reviews, health grades, and whatever, people have the right to freedom of speech, even if it's not technically true. Usually, they won't take the post down unless it's something that falls within the law of whether it's discriminatory or threatening or something like that.

Here's three examples that I grabbed. You'll get a copy of these slides, and you'll see the links at the bottom if you wanted to read more about the details of each of these. I plucked out three examples of online reviews that did not go well in responding for the provider. The first one, it's HHS, hhs.gov. They post the fines and penalties when these things happen. They fined a New Jersey psychiatrist, and this just happened in June of this year, fined a New Jersey psychologist \$30,000 because of an impermissible disclosure of protected health information online.

What happened was the patient wrote something negative and the provider wrote something negative back about the patient, including their diagnosis and treatment and stuff. That certainly did not go well for that provider. You can see it's expensive. \$30,000 is not a cheap fine to get. In Rhode Island, this was a little older, but in Rhode Island, a physician was reprimanded by the Board of Medicine in that state and they lost their hospital privileges, because again, they responded to a post. She thought that it was safe to respond and say all sorts of information, but just leave the patient's name out. In that case, because it's a small community, Rhode Island is a small state, people knew exactly who she was talking about.

Just by removing a name doesn't mean that you've protected someone's anonymity. People knew who she was talking about because she gave at least sufficient information about the person. Again, serious reprimand for that provider. In North Carolina, a dental practice was fined \$50,000, this was last year, for disclosing patient identifying information in response to a negative online review. That one was a little steeper because OCR, the Office of Civil Rights, contacted them that the patient sent a complaint and the dental practice decided to ignore OCR's subpoena for information. They got an extra slap on their wrist for not only just posting the information, but then on top of it, not complying with OCR.

If you have one of these situations where someone files a complaint, you want to address it right away, see if there's coverage under your insurance carrier, professional carrier or whatever. If you don't have any coverage available to you for the situation, then get personal counsel, because you want to make sure you comply with the law. Next slide. Next we're going to talk about boundaries. We can go to the next slide. Let's talk about some boundary issues. We want to consider how professional boundaries may be affected by communications between the clinician and then friends or followers on social media.

If you have a site where people can post information, if it's just professional and colleagues are writing stuff, that's one thing, but if patients have access to that or it's open to the public domain and patients find it, we have to be careful. Then if a patient wants to friend or follow us, again, we're going to talk a little bit more on the next slide about what happens when we accept or decline a friend request. We want to maintain that professional boundary. Then we want a record of electronic communications that may support the existence-- It may record or create electronic communication of a patient-provider relationship.

If you're engaging in some conversation back and forth with folks, especially if you're providing any sort of advice, that now may create that doctor-patient relationship. We want to be careful, especially when we're limited to communicating with patients if they are considered a patient in a state where we're licensed. Luckily for psychologists, there's PSYPACT out there. If you live in a PSYPACT state and you go through the PSYPACT credentialing, then you can practice and see patients in other PSYPACT states. If it's an open domain and somebody deems your conversation with somebody on social media as creating that relationship and you're either not in a PSYPACT state or you don't qualify under PSYPACT or you don't know where the person is or whatever, we got to be very careful about that.

We don't want to get into licensing problems. You work very hard for your license, we don't want to be in a position where we might lose it. Thank you, Cara. Here you can see what happens when we accept or decline. If we accept a patient or former patient's request, the patient may feel like that's alliance building. "Oh, they like me, we're going to be friends, this is going to be great." Then it does blur that boundary in that relationship. It now changes the relationship from doctor-patient to maybe more friendly. We want to avoid that. We want to stay within that treatment setting. Then it invites potential breach of confidentiality which we've already talked about.

Declining the request. Some patients may take it as an insult. Unfortunately, social media, a lot of people feel this way. You send out a request and then someone chooses not to friend you back. Patients just need to understand and you just need to explain to your patient, "Hey, I saw you asked to friend me. Here's why I have to decline. I have an ethics obligation. I have to follow the ethics guidelines, and I have to follow what my license requirements are," and hopefully they'll respect that. It has nothing to do with them personally. Again, it confirms your professional reputation and it makes a commitment to the patient's best interests.

Cara: One thing I'll just add, Allison, as we're talking about these social networking sites. It's important to note that from a professional standpoint, if you have a professional page of social media, often you might have patients and families that might follow if it's strictly informational or you're posting general topics out there. A lot of times offices do have pages to post general information. If there's something going on that you feel is important or you want to share from a, I say marketing standpoint, then individuals have the opportunity to follow these professional pages.

It's really your personal page that is where we are discouraging. If you have a solely professional business page, obviously you want to make sure that the patient knows that no patient information would be discussed. It's strictly for business purposes. It's just like a website, so to speak, you're not going to be talking about related stuff. It is

important to have it outlined as Allison said. Just make sure it's clear in your practice policies. Thanks.

Allison: Thank you, Cara. We're going to talk about risk management implications when Googling patients. We may feel as a provider that we want to google a patient and see what they're doing. We may think it's a good thing therapeutically, but again, we don't want to have a boundary violation. Patients are allowed to enjoy privacy as well. Just because they have social media pages or they're on Instagram and Facebook and all these other things, that doesn't mean that we should violate their boundary. If we see information about a patient that may not jive with what they tell us in sessions, then what do we do? Are we going to disclose, "Hey, I see you say the opposite on your social media pages."

We don't want them to feel like you're stalking them. We have to be very careful about that. Then how are you going to naturally respond when they're saying things that may not match with other things that you're seeing online about them? Again, we want to have that as a mutual respect both ways. They should respect your privacy and boundaries, you should be respecting theirs. Then if there is a reason that you want to access a patient's social media pages and stuff, ask them permission, talk about why therapeutically you think that's a good way to go. If they give you permission, fine. If they don't, then you need to respect that.

I know that we had talked about that social media guidelines because there's a lot talked about in the APA guidelines that Cara and I have already mentioned and somebody I know had-- I just glanced over the questions. At the end of this presentation you'll see some resources on the slides and the link to that is in the slides. I'm going to turn it over to Cara. She's going to talk a little bit about standard of care.

Cara: The standard of care. Obviously you know what the standard of care is in your practice, but the reason why we're talking about this is in the event you encounter, my fingers are moving too fast, a scenario such as this. I'm going to read this scenario. You have a social media page where a patient posts public comments about their treatment and they're seeking advice. What is the best way to handle this?

This is a situation where you have that professional page set up and they're now posting a public comment. This is a patient that's active in your practice, you're seeing them regularly and they decide to share with everybody else who's following your page about their treatment and they're looking for advice in that forum. How do you handle that? Best practice is going to be to contact them offline and not engage in that comment. I would also make recommendations to delete that comment and maybe put in a feature in your site that doesn't allow for comments in certain circumstances, because again, you don't want to engage in conversation which could result in a HIPAA violation.

It would be best to contact that patient offline and communicate with them. The next time that they are in or even at that conversation, talk about the appropriateness or inappropriateness of them posting something like that on a social media page. Find out the why. What was the reason, what prompted them to post in a circumstance

like that? Were they not getting the response they wanted from you or were they looking for something else? Again, we never know what the reason is behind individuals that do post on social media. A lot of it, as we know, given the effects and all the research that's out there, we do know that social media does sometimes solicit a lot of responses or likes.

Likes and having followers is something that usually garners a lot of, I say, fame for people. Sometimes that is what people are looking for. They're looking for that validation and acknowledgement. You might have to have a conversation with them as to why. Again, if you do have a social media page that you are using and you're giving information and there's nothing that can prohibit you from having that and marketing and giving valuable information, make sure that you have appropriate disclaimers that say that this site is for informational purposes only and it does not establish a doctor-patient relationship.

If you do have mental health needs, please contact, you can contact our office or any other mental health provider for services. We also recommend if you do have a page, if they're in crisis or having an emergency, make sure that you have the national suicide number, 988, out there. Have crisis information on there. Let them know that this site is not monitored routinely. You don't ever want to get into a situation where somebody feels like they're going to get a live response when managing or posting to social media. It's important, again, when you have or create these pages that you have the appropriate safeguards in place to protect you and protect your professional license to make sure that there isn't information that's out there that could lead one to believe that this is being managed and monitored routinely for advice. Again, for informational purposes only, you might need to engage legal counsel to help you draft appropriate language with safeguards in place for a website or a social media page where you are giving routine general Psychology information to individuals who are followers.

Social media implications consistent with the standard of care. Again, we talk about access to private information. What information could be out there that could be private in posting? That's why we pause, and we caution about sharing of information in the public setting. It's always best to have neutral responses so that, as Allison mentioned in one of those fines that were reported, that in the small state of Rhode Island, it was easily identified who the individual was, even without the name. Again, there are keyboard warriors and investigators out there who are looking to try to find who it is.

Everybody has a need to know, and they want to know the gossip. Again, it's important to try to avoid putting yourself and your patients in that circumstance and talk to them about that, putting information out there that make you or them vulnerable. Access by Others to Individual's PHI. Again, that is commonplace information for those of us in healthcare that having information out there in the public space could be easily accessed. We don't ever want to do that. Then, posting false information, make sure that there's credible information that you are posting.

If you are managing your own social media site and providing information, have information that you want your patients or those that seek guidance from you to send them to reputable sites. Again, we all know, with the ease and access of technology,

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the way social media works and the algorithms that are out there and artificial intelligence, how it can steer individuals to certain pages. I know if I'm talking about something, my phone will listen to it. If I'm talking about pool filters, all of a sudden, I'll see advertisements for pool filters.

Again, if you want to steer individuals to the right places, then post that information. Make sure you're posting credible information on your sites. Then, obviously, with social media, you want to make sure that you are adhering to those standards of practice and those ethical responsibilities that you have in your profession as well.

Allison: Cara, when you talk about now patient portals, could you just explain to the folks what a patient portal is, because I know somebody asked that question.

Cara: Sure. Patient Portals. Patient portals have been around for quite a few years now, and they serve a wide variety of purposes. A patient portal is the ability for the patient to have access to their information so they can log in. They have their own user ID. They can log in to either communicate privately with their healthcare provider, have access to either email or message for appointments, for prescriptions, for things like that in the healthcare world, or also read their medical record if they need to. In Psychology, for those of you that use Simple Practice, I believe Simple Practice might have a modified portal.

Some of the smaller platforms that might not be as robust as some of the major healthcare patient portals. Again, each electronic record system has modifications, but, really, that's what a patient portal is. It's encrypted, it's HIPAA compliant. It serves as a safeguard for the sharing of information between a provider and their patient. Here, we're talking about for the patient appointment scheduling, they might be able to schedule appointments or reschedule appointments. They might be able to access their billing statements, really grab their own information instead of having to contact the office.

It's an opportunity to complete intake forms. They can update their information if they have new insurance or if they move, phone number changes, email communications between the provider and the patient, and then obviously, there are medical records. They might have access to a limited set of medical records in that it would be obviously just their progress notes and not your personal psychotherapy notes. For you, the psychologist, it could have appointment reminders in there. You could push electronic invoices, you can email communications.

Then, obviously, that communication that you are having between the patient is then captured together. Keep in mind, with technology, even though we're focused on social media here, we talk about texting and emailing, any text exchange or email exchange with patients if it's regarding care, has to be captured in the medical record. Again, if you do have this portal, it's ideal to have that communication filtered through there because it would be captured for you.

Some of the considerations with that is in the patient portal is that you would have the ability to restrict access to those Psychotherapy notes, which are your personal notes not for disclosure to the patient. Those are your notes that you take for your own personal use and reminders from session to session about the patients that

you're treating. The patient's only viewing what you feel is pertinent for them to review in that setting.

You can develop the parameters for what the need is in your office. Your progress **[inaudible 00:46:42]** your notes that are in there are going to maintain that HIPAA compliance. Keep in mind, a patient portal is going to have that kind of electronic gatekeeping. It's going to have that timestamp date stamp and credential stamp. It's going to have your credentials and your password, so every time you enter the system, it's going to be monitored and stamped, but also, every time another user enters it, it's going to be captured.

You have the safeguard of knowing who was in a record, when they were in the record, and what really they accessed if there was ever any question about the data and the integrity within the patient record. Informed consent, obviously your informed consent process can be captured in that patient portal and can be easily sent out. If you had a revision or needed to send out a new informed consent, you could send that out electronically. Your practice policies and procedures, they could be maintained in that as well and easily sent out through an electronic version to avoid having to have a paper process. Again, I talked about that unique secure sign-on with your login credentials is important.

Then, it also has that log off so it could time out after a certain period of time for an additional safety and security system. Then also with a patient portal and electronic system, it has the ability to maintain and back up those records. Again, not everybody-- we recognize that not everybody has the capability to have electronic communications. These are some of the benefits of it for you to consider with technology is that it is backed up for you in the event you did have some type of mechanical failure with your electronic records. Allison's going to talk about our emerging social media issues.

Allison: Quickly, we have a couple of minutes hopefully to answer a few questions. Live streaming, we know that that's an issue. We've heard stories out there and, in the media, where someone is live streaming doing self-harm or threats of self-harm or threatening other people. If you are aware that you have a patient that may be live streaming something, you need to immediately find out whether through risk management or an attorney, what your reporting requirements are. Maybe you can tell where the patient is located.

Maybe you have an emergency contact you can contact. If you're ever in these situations where you know you have a patient that is live streaming something harmful to reach out to somebody, including if there's an imminent threat to law enforcement. I'm going to skip a little bit over to the third box, talk about law enforcement. It is not a HIPAA violation, especially when there's safety is an issue, whether it's safety for the patient or for a threat to others. The key is you just give the minimum information necessary that the police would need in order to address the issue.

If you saw somebody doing something and you tell them, "Listen, I could tell. I know where they are," or, "Can you go get them? They're a patient of mine, I have a concern," et cetera. Again, given the minimum information the police would need,

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that is not a HIPAA violation. Certainly, it's always great if you can have at least one family member to talk to, or at a minimum, an emergency contact. Sometimes I get helpline calls where someone says I don't have an emergency contact because the patient doesn't want to give me one.

Again, we just got to think about it. It doesn't mean you may not treat that patient but are they tying your hands in the event there's thinking forward a potential safety issue for that patient. Then, if there's online threats, certainly, if there's online threats to you, then you have the right to contact law enforcement and protect yourself. If you see online threats, where you have a patient that's potentially threatening others, again, if time is not immediately of the essence, and you can consult with an attorney or a risk professional, that's ideal. If not, again, you may want to contact law enforcement.

Next slide. We talked about technology. We got the good, the bad, and the ugly. We know that technology helps improve access to care, it improves communication, it provides real-time information and support. It can increase professional networking and collaboration. It can also create unrealistic expectations like we were saying before, making sure that your patients are aware of what, when you may respond or not respond and setting those time expectations.

We want to be careful not exposing protected health information to unauthorized third parties or unauthorized access to others. It can sometimes inhibit care. Sometimes, there are some of these boundary issues that come into play. To sum up, we want to respect boundaries. We want to respect the patient's boundaries. Patients should be respecting our boundaries. We don't want to invite or accept friend requests with our patients.

We want to avoid those dual relationships. Patients don't equal friends online or generally in person. We want to respect that privacy. Do not Google your patients without their consent. What should happen to just find online doesn't necessarily belong in a patient's medical record. We want to use encryption. We want to follow HIPAA. We want to maintain that professional reputation. I always say, if you're going to do or say something, how would you feel if you were in front of a jury on the stand?

Would you be okay with what you're about to say or being asked about and how you're going to respond, and the actions you took or are you going to be embarrassed by that? If you're going to feel something other than not fully professional, then maybe not a good idea. Again, respect your privacy. Patients should be respecting your privacy, make your social media pages only to those people that they have to ask for your permission, and you have to accept them. You're not just out there to the public to post whatever you want.

Make sure you get those business associate agreements to protect you under HIPAA. We want to follow the ethical guidelines. Then, the next couple of slides have some resources. The first one is the APA guidelines on ethics and social media. There's a few here on HIPAA. Then, the next slide has a couple of other resources as well. I know somebody asked about those three HIPAA fines I happen to use as

examples before we were talking about online reviews. That slide does have the links to those three if you wanted to read more details. Thank you.

Moderator: Awesome, thank you both so much. Just a quick note here. If you do want to learn more about any of these topics, please feel free to contact the American Professional Agency. They are the preferred provider of professional liability insurance for APA members, and the best phone number is listed there on the screen. With that, I think I'm going to turn it back over to Cara for a little bit of-- we have about five minutes left for some Q&A. I'll let Cara take that away.

Cara: Okay, so we had a lot of questions that were submitted prior, which were great. We did take a handful that we'll address. One of them are, are there times where it's safe to text a client, and then also are there boundaries. I'll take that one and answer that. I also noticed it was in the Q&A. Texting should be limited. It should be limited to the scheduling of appointments and avoid at all possible containing PHI.

However, if you have individuals that that is the only mechanism that they choose to communicate with, texting, then your duty would be to have a consent that indicated that they are agreeing to texting. As long as you are making them aware that texting is not secure and that you can't control, obviously who could read it on the other end if somebody gets their phone, and they agree to those risks, then certainly you can text.

However, again, there's always caution to be used with that. In terms of a individual who's texting you after appointments, set boundaries. Set boundaries in your practice policies and procedures that talk about what the expectation is in your use of texting. How do you want texting to be used? Is it for emergencies or when will texting-- when will you be responding to it. Establish normal response times during business hours. You should not be available 24/7 just because you have a phone available 24/7.

Unless you know you have a individual who's dealing with an emergency that you've made a pre-arranged arrangement with them where they can text you, and you're going to respond. Again, caution that because you don't want to be stuck in a situation where you're on vacation, or you're somewhere and you don't respond immediately, and that person has sent a text to you expecting a response, and you don't respond for several hours or maybe a day.

Again, establish those boundaries. If the individual is not following them and adhering to them, then you have a conversation with them. You're going to have to determine whether or not the relationship can continue if that person is not able to follow what you set in your practice. Another question, and I'm going to let Allison answer this. How does the provider ensure that the client is in a safe place to protect their confidentiality, and how do we know for sure our telehealth sessions are HIPAA compliant across devices?

Allison: That's a great question. Number one, whenever you're starting a telehealth visit with a patient, you should ask them where they're located, because we want to confirm they're in a place where you are licensed or operating under SIPE Act. Number two is you can ask them the question, are you in a safe place? Are you

someplace where we could talk frankly where it's confidential? We want to make sure that people aren't driving in their cars during or sitting on the side of a highway where it's not safe, or that they're maybe in a conference room at work. Conference rooms, the walls are very thin.

Again, you can have that conversation with your patient and set that expectation upfront. "When we do our telehealth visits, this is how it's going to work, and what I need from you, and I'm going to confirm that with each session." Then, [crosstalk] oh, I'm sorry.

Cara: No, go ahead.

Allison: No, I was just going to say, if you think that there's something unsafe going on, then you're going to have to address that as well.

Cara: All right, so how do we leverage our clinical expertise to address the trend of inaccurate self-diagnosis on social media? I'm going to also couple this with, what do you do if you feel a client is participating in an unmonitored online support group that you think is harmful? They kind of go together, is how are you going to leverage your clinical expertise? The best thing to do is to provide resources, direct them to reputable sites.

We all know that, again, we're not going to shy people away from social media and technology. That's just not going to happen, because everything's going electronic. Find those sites, find that information, and provide that to individuals. Try to give them the data that supports the reasoning for why you are steering them that way to try to help and guide them. Again, engage them in the positive sites that can help them with their diagnosis or help them with what your treatment is for them.

Again, if they are participating in something unmonitored in a support group, do you have something that is better for them? Again, provide them with something you know better but again, talk about that with them in document. If you feel that it's unhealthy for them, then you want to make sure that you're providing them with something that is healthy and therapeutic. Allison, I'm going to have you answer this one, how do you handle a social media post about harm or suicide?

Allison: We talked about a little bit before, if you see that a patient has posted something about they may harm themselves, then as soon as you see it, you'd want to take immediate action. If a patient's posting something that you don't see, then there's nothing really you can do about that. I've had people's ask me like, "What if someone posts something and I didn't know about it, and then someone else tells me about it?"

As soon as you're aware that a patient may be acting out in some self-harm way, whether it's through they call you, they left you a message, whether it's on social media, whatever it is, then you should really take immediate action. Again, if time is of the essence and you want to contact law enforcement or a family person, just say, "Hey, I am concerned about the immediate safety of so and so. You can go that route, or again, if you think there's time to consult with a risk manager or an attorney, you can." Really, we want to put patient safety first. We want to comply with HIPAA,

and we don't want to take that loosely, but at the same time, if you're in a quandary between violating HIPAA and patient safety, patient safety wins. We'll deal with the HIPAA violation later, and we have a really good defense to that. Whether you win, hopefully you do, but let's not worry as much about that as we do about protecting the patient's safety. We want to always make that the first priority. I don't know if we have any more time for questions. I'm happy to answer more, but, oh, I guess not. [laughs]

Moderator: I was about to jump back in and say we are unfortunately out of time. I know this is a very large topic and there are lots of questions, but thank you both so much for joining us, and thank you to everyone on the line for your participation and your questions and thank you to the American Professional Agency for making this webinar possible. We did record the presentation, and we will be emailing that recording to everyone in about two weeks.

That email will also include a copy of the presentation slides, so if you had any questions about the resources or the phone number for the American Professional Agency, all of that will be included in that email. As soon as the webinar has ended, a short survey will appear on your screen. We ask that you please take that and give us your feedback, and with that, we thank you for your attention on this fine Friday, and hope you have a wonderful rest of your day and a great weekend.

Allison: Thank you.

Cara: Thank you.

[01:01:24] [END OF AUDIO]