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# Social Media Risks

## For Healthcare Professionals



# Speaker Bio

**Traci Espenship, MSN, MSN-Ed, MS, RN, CPHQ, CPPS, CPHRM, Senior Patient Safety & Risk Consultant, MedPro Group ([Traci.Espenship@medpro.com](mailto:Traci.Espenship@medpro.com))**

Traci has been a nurse for more than 30 years, with a focus on quality, risk, and patient safety in the past 15 years. Her clinical experience includes CCU, PCU, endoscopy, and perioperative care.

Before joining MedPro Group, Traci was a hospital risk manager for a large tertiary academic medical center in Washington, DC. Her responsibilities included day-to-day operations of the department, where she reviewed and analyzed event reports, conducted investigations, participated in disclosure conversations, performed root cause analysis of events, tracked action plan compliance, and provided claims reports to the corporate branch. Traci also serves as an adjunct clinical educator for a nursing program in eastern North Carolina.

Additionally, Traci is a TeamSTEPPS® master trainer; she helps healthcare leaders, providers, and staff use communication and teamwork strategies to improve working relationships, enhance patient safety, and reduce the risk of errors.

She earned both her Bachelor's and Master's degree in nursing from East Carolina University and a post-masters certificate in nursing education. She also holds a Master of Science degree in patient safety leadership from the University of Illinois Chicago. She is a member of the American Society for Health Care Risk Management, the NC and VA chapters of ASHRM, National Association for Healthcare Quality, and the National Patient Safety Foundation. .





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Today's faculty, as well as CE planners, content developers, reviewers, editors, and Risk Solutions staff at MedPro Group, have reported that they have no relevant financial relationships with any commercial interests.



# Objectives



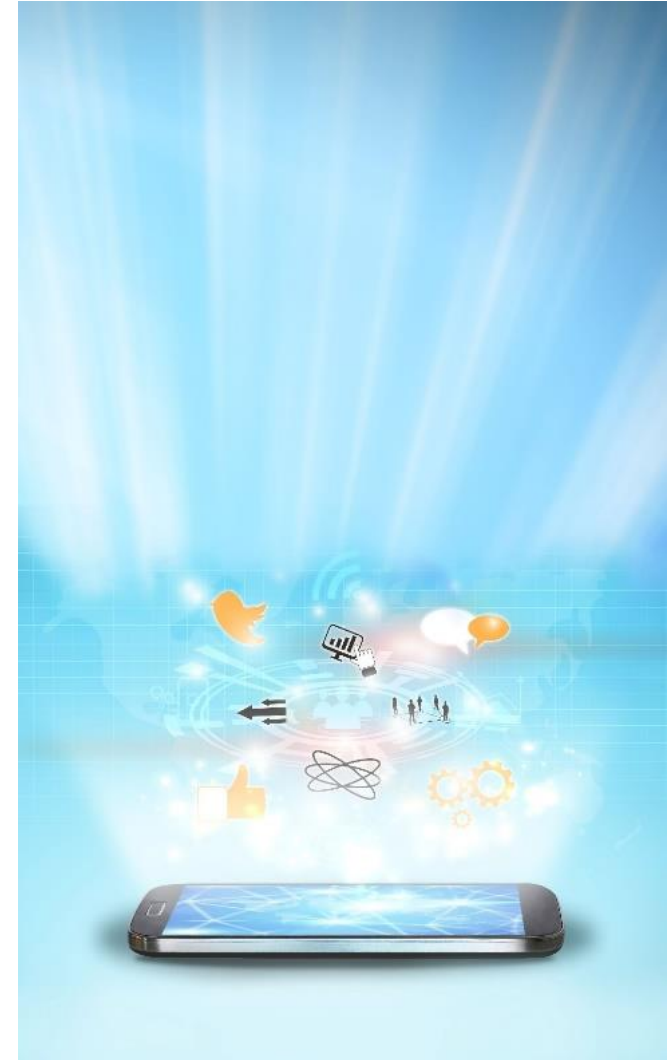
At the end of this program, participants should be able to:

- Examine the types of social media devices and formats
- Describe how social media is used by healthcare professionals
- Discuss the regulatory provisions and professional guidelines impacting social media use
- Demonstrate the various risks of using social media
- Explore strategies to mitigate risks for social media use



# What is social media?

- Social media is commonly understood to be an interactive, web-based application (program and data storage) that is used to share content.
- Commonly conveyed through pictures and videos with commentary.
- Common platforms





# Devices



Computers



Tablets/Pads



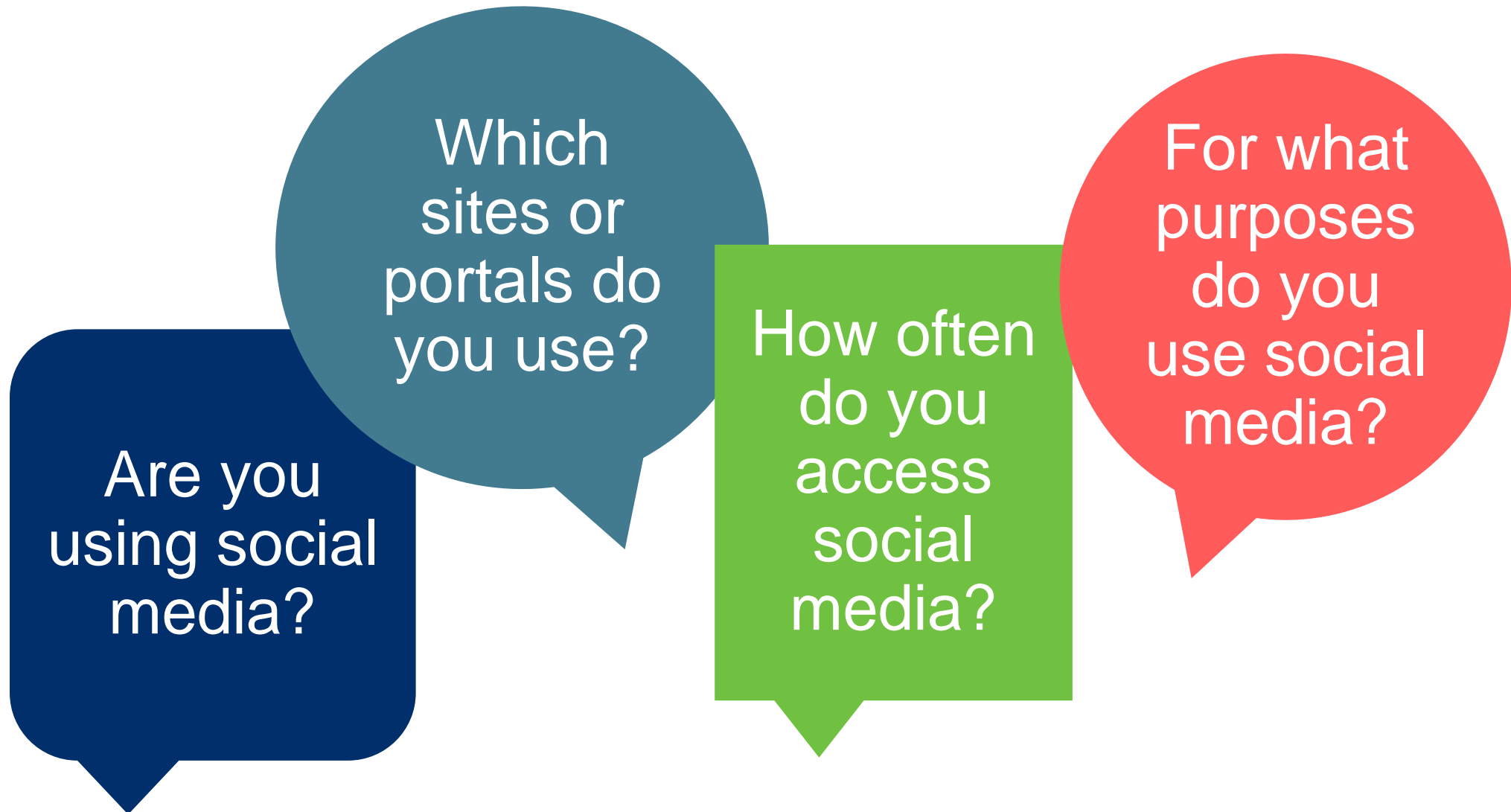
Smartphones



Smartwatches



# Do you use social media for professional purposes?







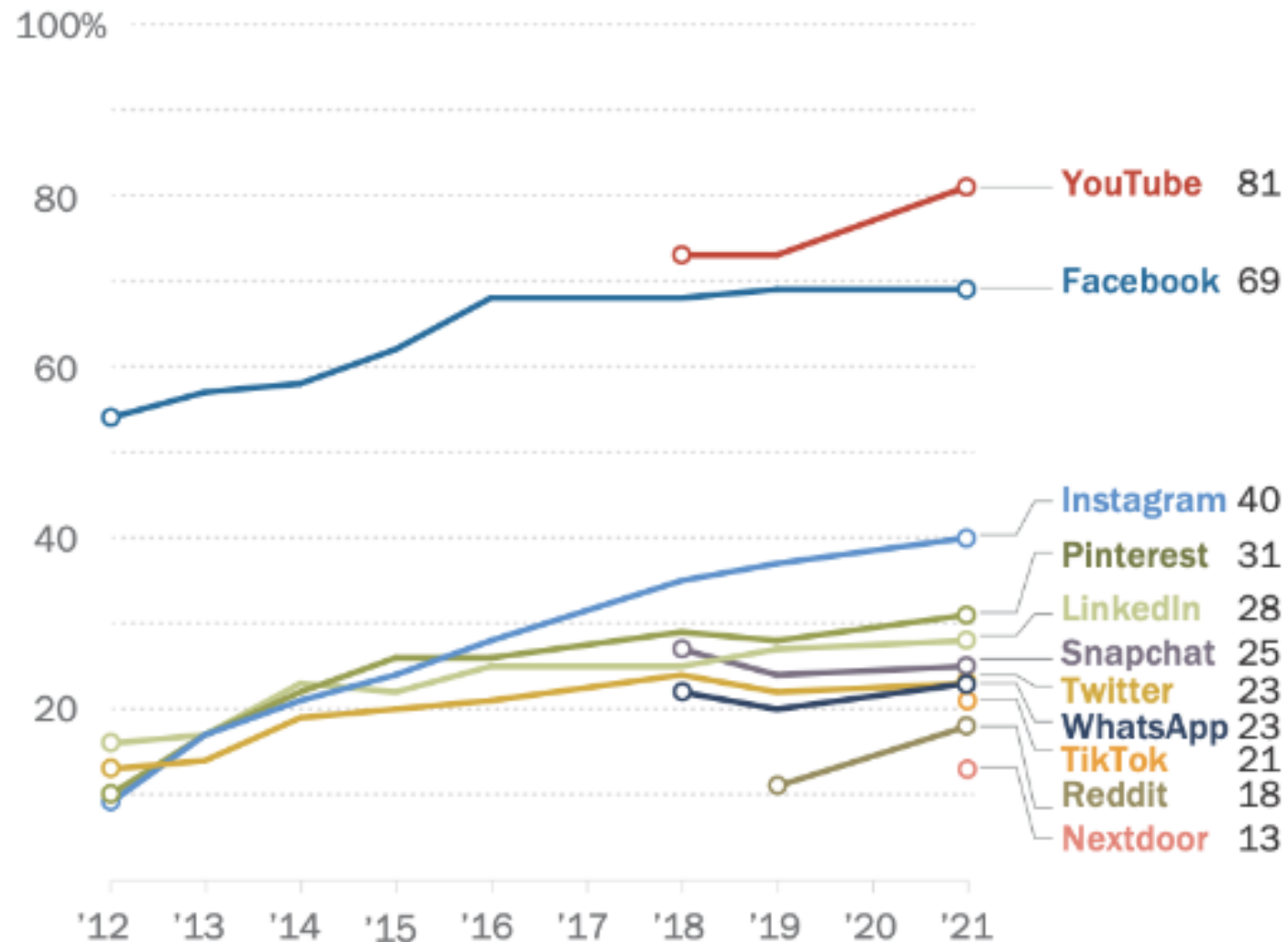
# What Social Media Platforms do you use?

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# Prevalence of social media use





# Unfriended...



CartoonStock.com



# Consumers increasingly rely on social media

- **42%** of individuals viewing health information on social media look at health-related consumer reviews.
- **74%** of internet users engage on social media. **80%** of those internet users are specifically looking for health information, and nearly half are searching for information about a specific doctor or health professional.
- **27%** of patients comment or post status updates based on health-related experiences.
- **43%** of baby boomers are starting to leverage social media for healthcare-related information.
- 18 to 24 year olds are more than **2x** as likely than 45 to 54 year olds to use social media for health-related discussions.
- **30%** of adults are likely to share information about their health on social media sites with other patients, **47%** with doctors, **43%** with hospitals, **38%** with a health insurance company and **32%** with a drug company.



# Welcome to the digital age!



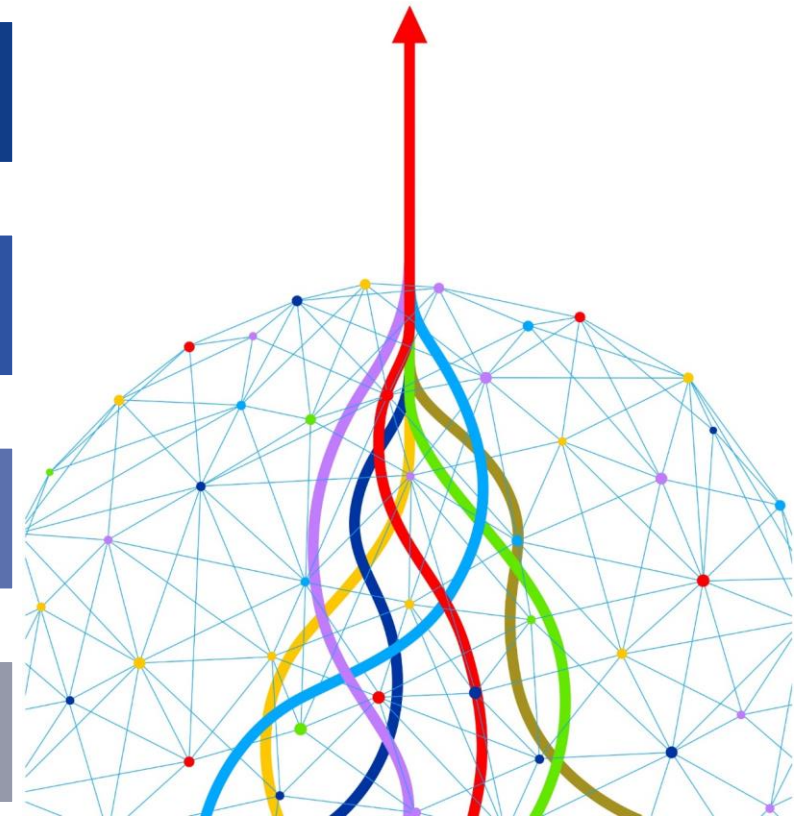
According to the census.gov world population clock, in May 2022 there were 7.8 billion people in the world.

This would indicate a majority of the world's population has a smartphone!

As more satellite internet providers emerge online, soon there will be no place on the planet without internet service!

Anything you post today, good or bad, potentially could reach more than 6 billion people.

Once it is out, you can't take it back. Yes, you can delete posts, but copies are made all along the internet path.







# **Benefits, Risks & Strategies**



# Benefits of social media

- Quick dissemination of information about services & products
- Contemporary marketing medium for efficient & cost effective advertising
- Mechanism for reaching a broad population
- Development of personal support and information sharing groups



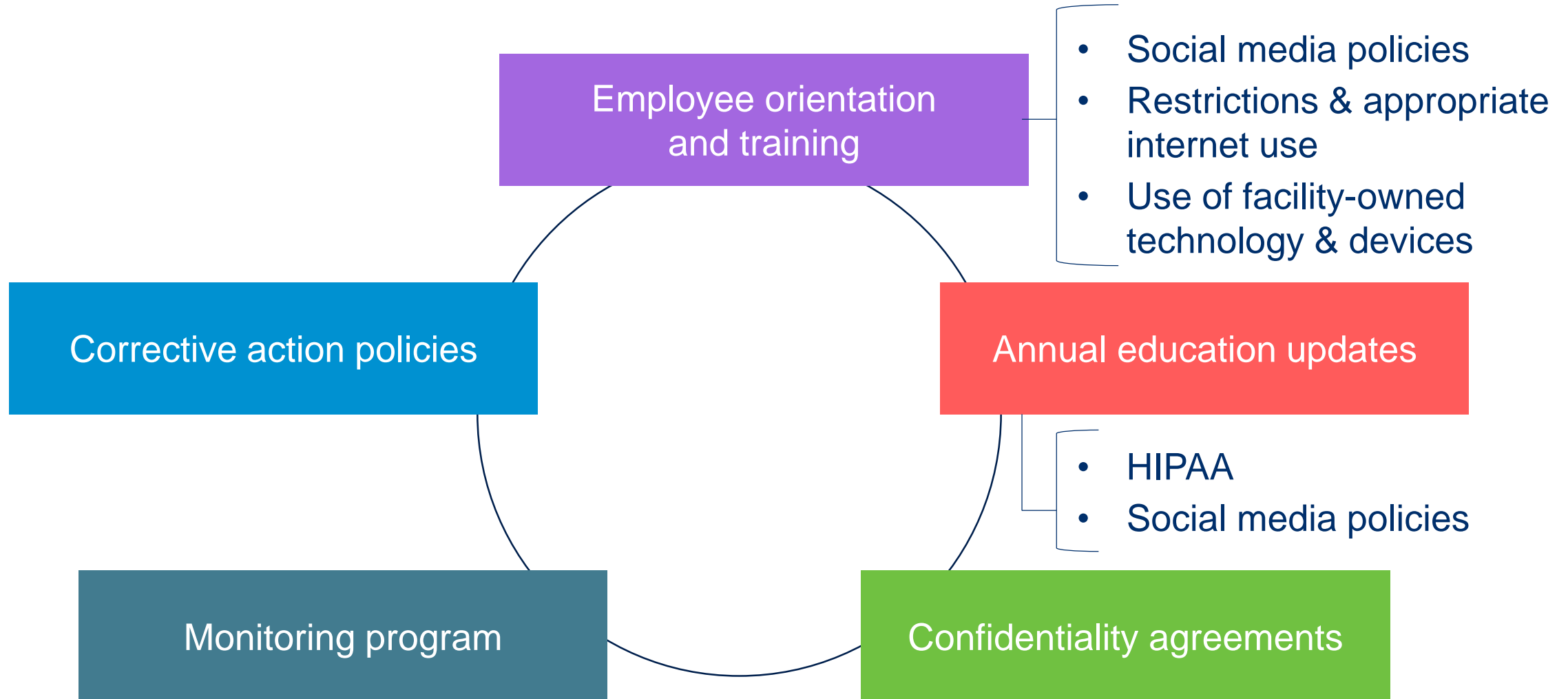
# Risks & strategies of social media

- Privacy and Security
- Appropriate Boundaries
- Social Media Policies
- Quality & Online Presence
- Staff Education \*
- Failure to assign a website administrator





# Risk strategies for staff education and training





# Risks & strategies of social media

- Limited number of website administrators
- Scheduled site review and monitoring
- Routinely update content
- FTC considerations
  - Information truthful and non-deceptive?
  - Evidence to back up claims?
  - Fair, nonbiased content?





# **HIPAA Privacy & Security**





**Have you ever had negative online reviews?**

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# Managing online reviews – options to consider

- Do nothing.
- Remove or ask the webmaster to remove the post.
- Do NOT engage in an online debate!
- Respond with script language to indicate you are committed to providing excellent patient care and encourage anyone with concerns to contact your office directly.





# Negative reviews on the internet

- **Factual Background and Covered Conduct.** On November 18, 2020, HHS notified Manasa of HHS' investigation regarding Manasa's noncompliance with the HIPAA Privacy Rule. HHS's investigation indicated that the following conduct occurred ("Covered Conduct"):
  - Manasa impermissibly disclosed the PHI of four (4) patients in response to their negative reviews posted on Google Reviews. See 45 C.F.R. § 164.502(a).
  - Manasa failed to implement policies and procedures with respect to PHI that are designed to comply with the standards, implementation specifications, or other requirements of the Privacy and Breach Notification Rules in violation of 45 C.F.R. § 164.530(i)
- **Penalty Terms & conditions**
  - Financial penalty-\$30,000.00
  - Corrective action plan-Policies/procedures
  - Notice to patients-If information was breached
  - Monitoring by OCR for 2 years



# Smile for the camera





# Social media nightmares



U.S. International Politics Lifestyle Entertainment Virtual Reality ...

## Nurse Firing Highlights Hazards of Social Media in Hospitals

By LIZ NEPORENT • Jul 8, 2014, 5:26 AM ET

Share with Facebook

Share with Twitter

One of the most dramatic scenes so far from the second season of ABC's [New York Med](#) had nothing to do with gunshot wounds or heart transplants. It came when emergency room nurse Katie Duke was fired for posting a photo to Instagram.

The photo captured a messy but empty trauma room that had been used to treat a man hit by a New York City subway train. Duke posted the photo with the caption “#Man vs 6 train.”

Later that day, she was fired from her job at New York Presbyterian Hospital, she said.

“I got a call at the end of my shift telling me I was being let go after seven years in the ER,” Duke told ABC News.

Duke claims she was told by her supervisor that she had not breached hospital policy or violated the Health Insurance Portability and Accountability Act, a law known as HIPAA that protects patient privacy.

February 24, 2016

## Nursing home sued after employee posts nude photos of resident

Share this article:



A lawsuit has been filed against a South Dakota nursing home where an employee posted nude photos of a resident on social media. This marks the first time a facility has been sued in such a case, in addition to repercussions for the employee.

Callie Jones, an employee at Golden Living Center in Pierre, SD, was charged in June 2015 with a misdemeanor after she took photos of a nude resident and published them on social media. Jones pleaded guilty and was sentenced to three days in jail. The resident who was photographed died in August 2015.



*The lawsuit marks a first in cases of SNF employees abusing social media*



# Social media nightmares

U.S. International Politics Lifestyle Entertainment Virtual Reality ...

## Chicago Doctor Accused of Posting Photos of Intoxicated Patient

By [ALANA ABRAMSON](#) · Aug. 20, 2013

0 SHARES



A former Northwestern University student claims that after she was admitted to an Illinois hospital for extreme intoxication, a doctor there took photos of her and posted them to social media sites with commentary about her condition.

Elena Chernyakova filed suit in the Cook County Circuit Court against Dr. Vinaya Puppala, the Feinberg School of Medicine and the Northwestern Memorial Hospital on Aug. 15, claiming invasion of privacy and infliction of emotional distress. Puppala is a fellow in the Multidisciplinary Pain Medicine Fellowship at Feinberg, which works in conjunction with Northwestern Memorial Hospital, according to court documents.

Chernyakova has the "potential to someday work for Fortune 500 companies, which may now not occur because of said photographs," according to the complaint. Court documents show that she is seeking compensation of over \$1.5 million.



The incident allegedly took place this past June, when Chernyakova was transported to the emergency room at Northwestern Memorial Hospital for overconsumption of alcohol, according to the complaint. She was allegedly unconscious for eight hours.

NEWS STORY

## Employee's Web Post Triggers Inquiry

12/30/2011  
By [Susan Abram](#), *THE DAILY NEWS OF LOS ANGELES*

THE DAILY NEWS OF LOS ANGELES

  One person likes this. [Sign Up](#) to see what your friends like.

**HIPAA: Providence Holy Cross will probe claim as hospitals eye policy shift.**

Providence Holy Cross Medical Center officials are investigating an employee who allegedly posted a patient's medical information on his Facebook page, apparently to make fun of the woman and her medical condition.

According to a printout of the Facebook page obtained by the Daily News, the employee displayed a photo of a medical record listing the woman's name and the date she was admitted, and posted the comment: "Funny but this patient came in to cure her VD and get birth control."

Providence officials said the employee was provided by a staffing agency. "We are investigating this report and if necessary will work with the staffing agency to ensure the individual is not allowed to work in the future in any Providence facility," hospital officials said in a statement. "We also will work with the agency to continue to provide training for contractors to comply with our patient privacy policies and our core values."



# Social media nightmares

## Elder care workers mock patient, post video on Snapchat



BY: [Rachel Bianco](#)

POSTED: 7:41 AM, Oct 16, 2015

UPDATED: 1:06 PM, Oct 17, 2015





# Patient hides recording device in her hair to record surgery

## Woman records hospital staff making disparaging remarks about her during surgery

by theGrio | March 29, 2016 at 6:03 PM Filed in: News





# Distracted patient care



**“Distracted Doctoring” – updating your Facebook status in the O.R.**

## **Dallas Anesthesiologist Being Sued Over Deadly Surgery Admits to Texting, Reading iPad During Procedures**

**BY ERIC NICHOLSON**

TUESDAY, APRIL 1, 2014 AT 9:08 A.M.



# Problems with standard text messaging

Standard text messaging is not secure

- Short message service (SMS)

Does not comply with HIPAA

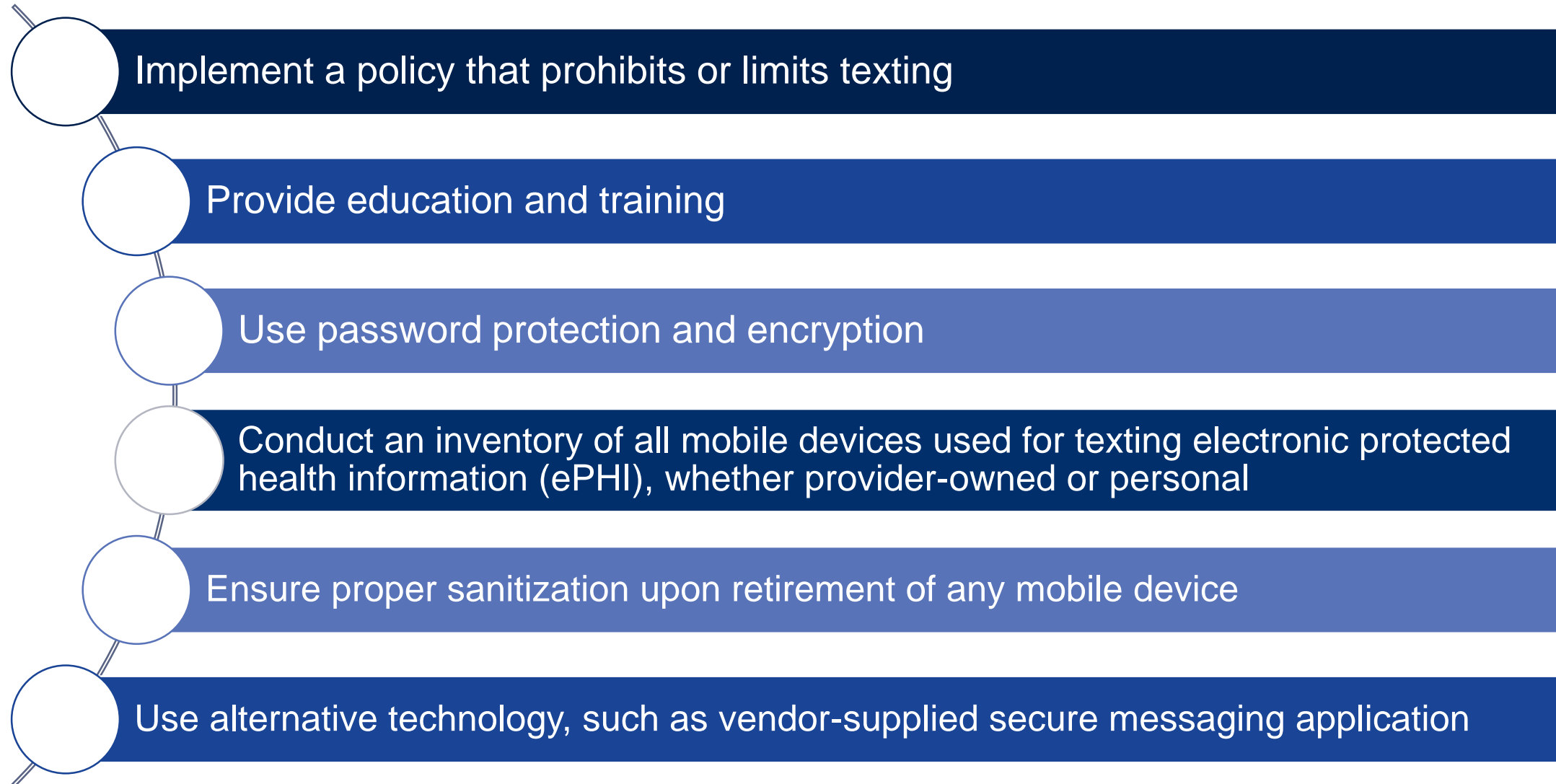
Practice has no control over personal devices

Unable to audit compliance with privacy regulations

If lost, there is no way to wipe protected health information from the devices or lock them remotely



# Risk management strategies for texting





# Consequences of confidentiality breaches

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Employers take HIPAA violations seriously as the risks to the organization are great and many.

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Personally and individually, the risks for healthcare providers are significant. We have already seen nurses being fired by their employer for HIPAA violations. Healthcare providers can also be fined between \$100 and \$50,000.

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Criminal charges brought by the state attorney general can end in fines and jail time.

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For the licensed healthcare professional, board action taken against one's license for HIPAA violations can be a life-changing mistake. One's license can be suspended or revoked.

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A civil lawsuit for breach of confidentiality can be brought against them.



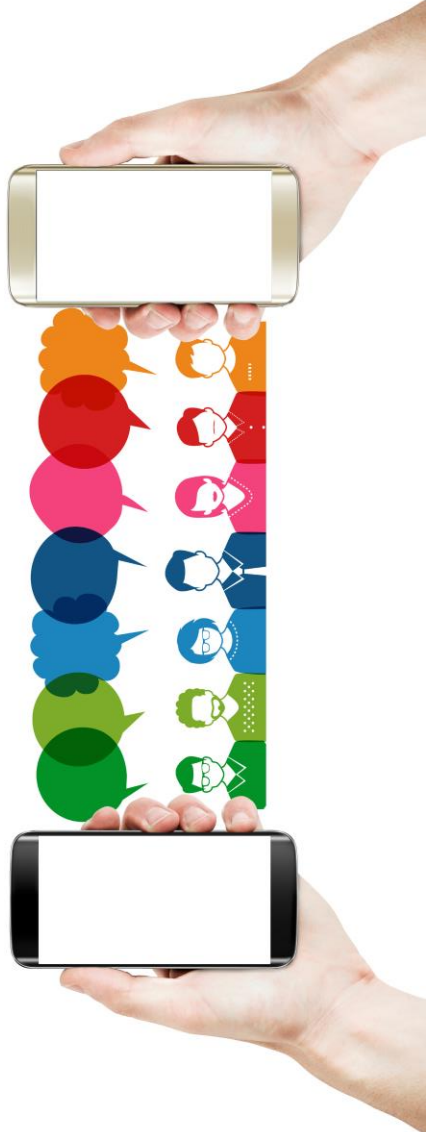




**Claims**



# Social media case examples



General surgeon posted post-operative photos of patient's "white scars" which were a result of suboptimal cosmetic procedure laser settings (surgeon and patient were socially acquainted with each other)

Senior care facility staff posted about a resident's death, referencing resident's appearance as "something out of a horror movie" (resident had fallen, resulting in bleeding/bruising)

Senior care facility staff posted a video showing an altercation between residents

Plastic surgeon posted "before and after" photos of patient's facial surgery without written consent of the patient

Patient and her mother posted derogatory statements about podiatry care

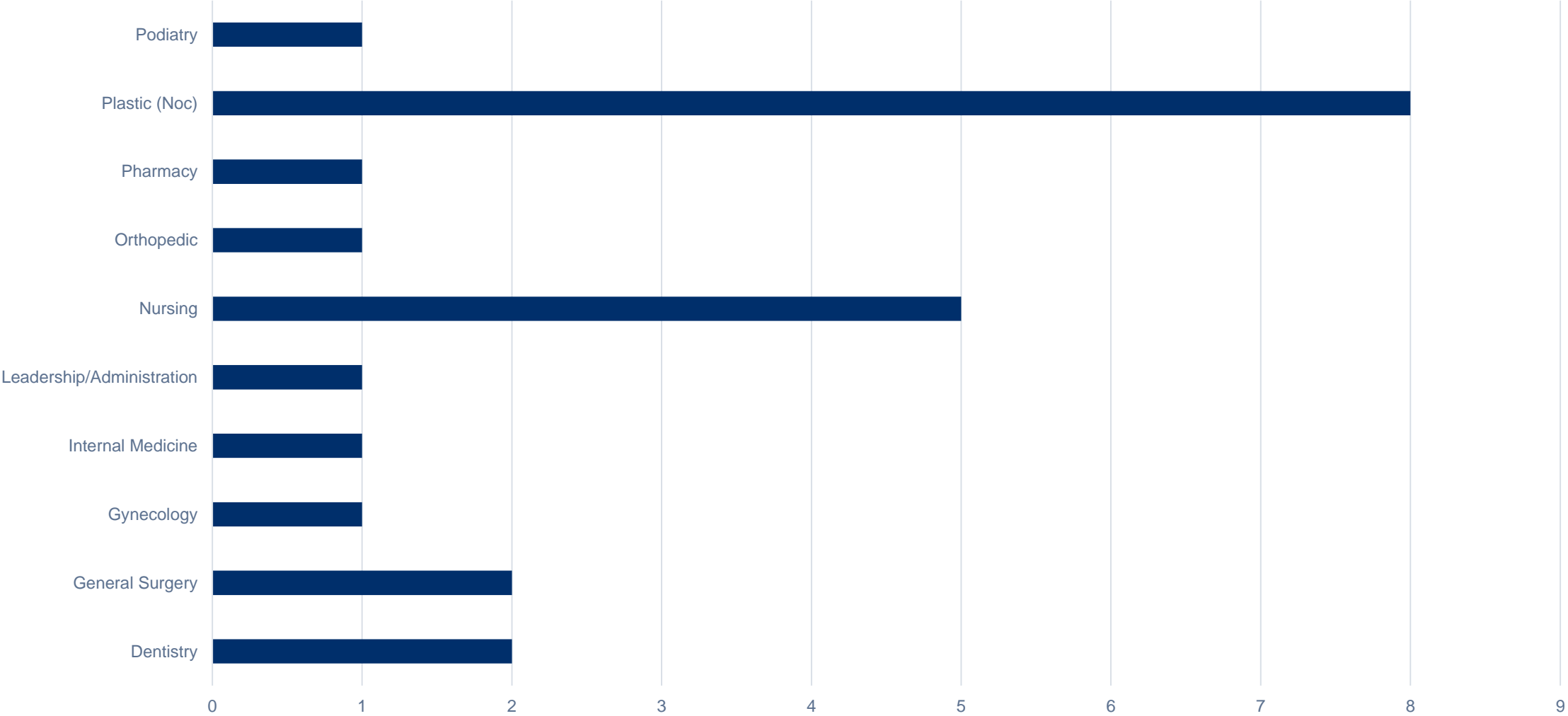
Patient threatened to post negative feedback online following her displeasure with a cosmetic procedure; she did, and also falsely stated that no anesthesia was used for the procedure

Patient posted a negative comment on a dentist's social media page, with a photo, following a complicated extraction of wisdom teeth; the dentist responded on the social media page



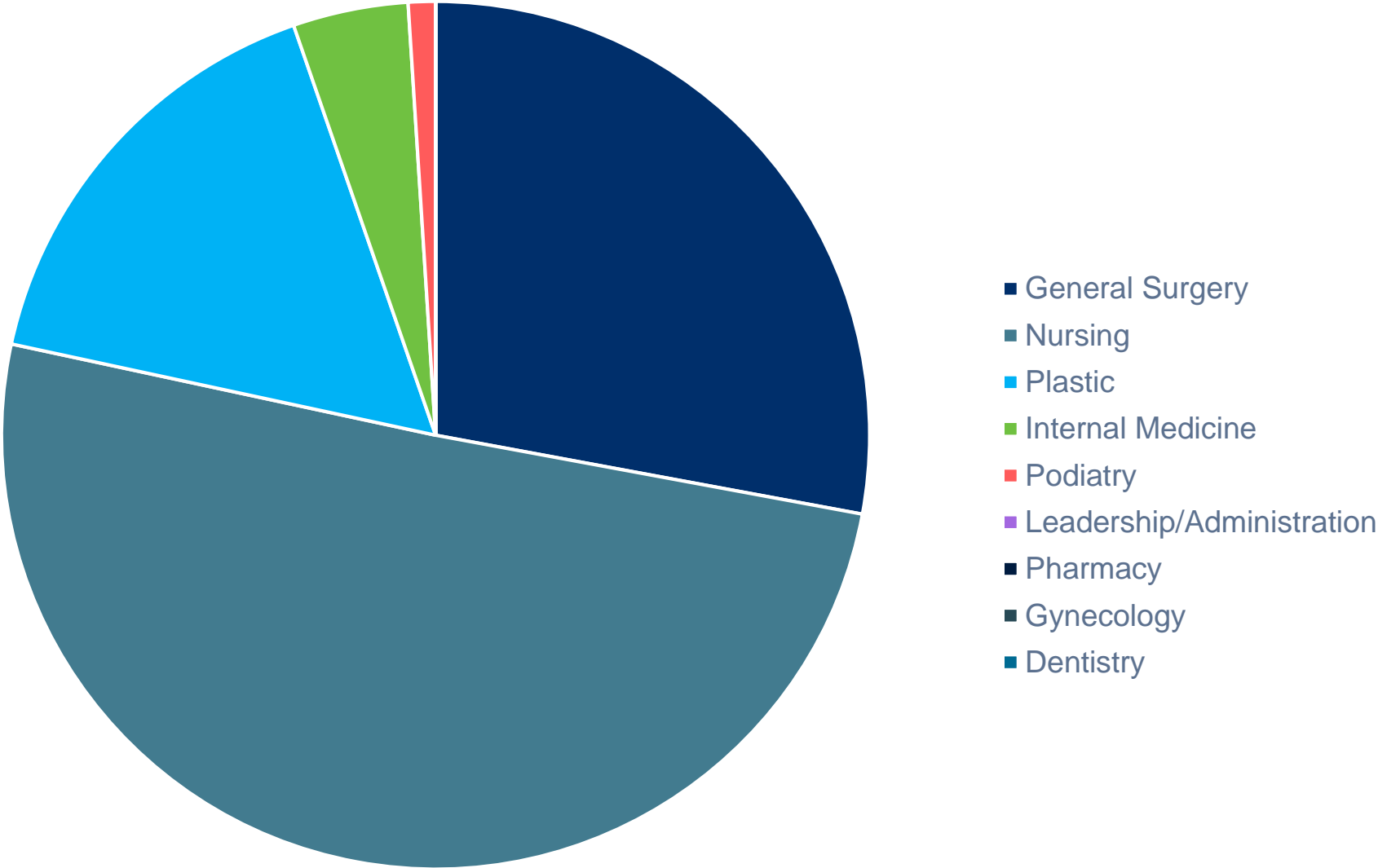
# MedPro Claims

Count of Major Allegation by Primary Responsible Service





# Indemnity paid







# **Special Considerations**



# Metadata-What is it?



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Wednesday • Jul 26, 2023 • 12:52 PM

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Apple iPhone 13 Pro

HEIF

Wide Camera — 26 mm f1.5

12 MP • 3024 × 4032 • 1.9 MB

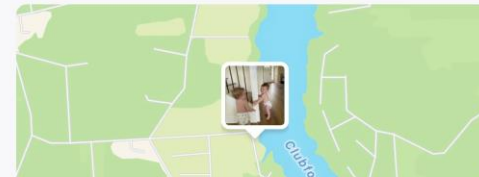
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# The first amendment

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As we have seen in some of the real life scenarios, there are ramifications to our employment based on how our speech and professionalism, or lack thereof, reflects upon our employer.

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The first amendment to the U.S. constitution guarantees the right to freedom of speech. That right is enforced by a constraint on the government preventing the government from interfering. It does not constrain any other authority from exercising its authority in suppressing an individual's speech.

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An example of this is “Big Tech’s” ability to censor speech it considers offensive or misinformation.

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The first amendment will not guarantee continued employment in the face of speech your employer views as a risk to the organization's reputation.





# Social media policy considerations

- Balancing employees' rights under Section 7 of the National Labor Relations Act and an employer's rights and duties to protect patients' protected health information (PHI) and confidential business information
- Monitoring for potential abuses
- Addressing employee harassment or discrimination through social media
- Using appropriate disclaimers





# Electronic communication consent form

- Types of services and information that are suitable for electronic interactions (e.g., nonemergent questions/concerns, prescription refills, appointment requests, etc.)
- Criteria for establishing a provider–patient relationship
- Notice of whether the electronic communications are encrypted
- A statement notifying patients to contact emergency medical services if they are experiencing an urgent problem
- The general turnaround time for responding to electronic communications
- The right of the healthcare provider to refuse to make conclusions or decisions regarding treatment based on information obtained electronically



# Restrictions and appropriate internet use to consider

Does your organization's network prohibit access to inappropriate websites?



Does your organization have a policy that specifies appropriate and inappropriate internet use?



Does your organization's policy permit internet use during nonworking hours (e.g., lunch and breaks) on facility-owned devices?



Does your organization's policy identify prohibited sites or uses (shopping sites, dating sites, etc.)?



Does your organization consistently enforce its policy with all staff?





**Based on what you learned today, what changes do you anticipate making in your practice**

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# Summary

- Develop social media policies for staff that include disciplinary guidelines and corrective actions.
- Develop staff policies that delineate the appropriate use of personal devices, facility-owned technology, and the internet during working hours.
- Conduct annual staff training and education (e.g., HIPAA training and review of social media policies).
- Designate a limited number of social media administrators.
- Regularly monitor your online presence (e.g., website, social media accounts, etc.).
- Develop a framework for managing negative reviews.





## Audience Q&A Session

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