

## ETHICS CASE

### When Is Posting about Patients on Social Media Unethical “Medutainment”?

Commentary by Katelyn G. Bennett, MD, and Christian J. Vercler, MD, MA

#### Abstract

Social media is characterized by online spaces for rapid communication, advertising, professional development, and advocacy, and these platforms have revolutionized the way we interact with people and our culture. In plastic surgery, platforms like Facebook, Snapchat, and Instagram are especially attractive for practice promotion and instantaneous connection with potential patients. However, considerable risks and ethical dilemmas lie in wait for the plastic surgeon who attempts to use patient photographs and videos for advertising. It is critical for plastic surgeons who use patient images for this purpose to facilitate fully informed consent, consider both context of use and the patient-physician power differential, and put patients' interests ahead of their own.

#### Case

After ten years of back pain and difficulty finding properly fitting clothing, Alexis decides to begin researching breast reduction. She looks over hundreds of photos on Instagram and follows surgeons on Snapchat. After completing her online investigations, Alexis schedules a consultation with Dr. Mayer, who has 10,000 social media followers, to discuss her breast reduction surgery.

On the day of her surgery, Dr. Mayer revisits the risks and benefits of breast reduction, which he also discussed with Alexis during her clinic visits. Dr. Mayer also asks Alexis if he can take pictures of her intraoperative course to post on his social media accounts. He explains, “These accounts are for education. Many medical students and patients follow me on social media to learn more about breast reduction and reconstruction.” With the understanding that these social media platforms are for education, Alexis offers verbal and written consent to the procedure and to have pictures of the surgery uploaded afterwards.

During the surgery, Dr. Mayer has one of the operating room nurses, Maya, begin taking photos and videos for his Snapchat account. Dr. Mayer announces, “Today I am doing a breast reduction on a nice young lady,” while Maya films. When Dr. Mayer begins to remove Alexis's excess breast tissue, he asks for Maya to turn the camera on again.

Holding up the tissue with two hands, he says, "Look at how much extra breast tissue you might be carrying around." Maya puts the camera down. "You aren't going to post that, right?" she says. Dr. Mayer pauses. "Why not? It will be deidentified. Future patients want to know what this looks like." Maya leaves the video on Dr. Mayer's camera and Alexis's surgery continues.

After Alexis's operation, Dr. Mayer visits her in the recovery area and tells her the procedure went well. She goes home later that day. In the evening, she checks Snapchat on her cell phone to see if videos from her surgery were posted, and she sees Dr. Mayer's Snapchat story and opens it. She views the video and is shocked and upset.

Two weeks later during her postoperative visit with Dr. Mayer, she is told her incision sites are healing well. Toward the end of the visit, Dr. Mayer notices that Alexis is struggling to hold back tears. "What's wrong?" he asks her. "I couldn't believe that you posted that video of my surgery on Snapchat. You hold up my breast tissue for the world to see and call that education?" Dr. Mayer is surprised by her reaction. "You gave consent for me to use images from your surgery on social media," he offered. "Yes, but I assumed you'd treat my experience with respect," she answers. Unsure how to respond to Alexis's reaction, Dr. Mayer wonders what to do.

### **Commentary**

Like many plastic surgeons [1], Dr. Mayer uses patient images on social media to promote his practice, and he obtains verbal and written consent to do so. Plastic surgeons often post pre- and postoperative photographs on social media platforms like Snapchat and Instagram, and live intraoperative videos are sometimes posted as well [2]. For plastic surgeons, social media functions as a form of free advertising, which is incredibly useful for cosmetic surgeons [1]. But what's the big deal? Those familiar with Dr. Miami and his squad's Snapchat posts [3] would not recognize Dr. Mayer's actions as unusual or particularly offensive or upsetting. Indeed, the content of some surgeons' "snaps" might be posted with the intention of being attention-grabbing and jocular [2]. However, some patients, like the one in this case, might view them differently and find them upsetting.

Given the patient's response, Dr. Mayer should be quick to apologize and remove the video from his Snapchat account, if possible. Unfortunately, once posted, the video is permanently out of his control. He might be able to delete or hide the post, but the content is never truly eliminated from cyberspace [4]. As a result, there is little he can do for this particular patient beyond offering a sincere apology.

There are two issues at play here. The first is that the patient in this case clearly did not understand what she was consenting to when she gave Dr. Mayer permission to use intraoperative photos of her body on his social media account. The remedy could be as

easy as implementing a more thorough and robust [informed consent process](#) in the future. We argue, however, that there are some aspects of the sensationalist use of patient images on social media platforms that render consent necessary but insufficient for ethical and professional behavior. Changing his social media practices for future patients is imperative, and sharing his specific plans for change with Alexis could help her to feel like she is making a difference and thus ease the tension. These changes must include: (1) fully informed consent, (2) a commitment to professional content, and (3) avoidance of abusing the patient-physician power differential. First, however, we will cover the necessary ground rules.

### **Basic Guidelines for Using Patient Images on Social Media**

While Dr. Mayer likely knew some [basic guidelines](#), using patient images and interacting with patients on social media requires complete adherence to the Health Insurance Portability and Accountability Act (HIPAA), maintenance of separate private and personal social media accounts, minimal online interactions with patients, and familiarity with hospital policies on social media. Patient confidentiality must be protected at all times, as HIPAA's security rule protecting identifiable health information that a provider creates, receives, maintains, or transmits electronically applies to social media as well [5, 6]. Accordingly, posted information should be deidentified, although seemingly deidentified content can often be traced back to specific patients if situations are sufficiently unique. For example, posting "deidentified" information about your experience caring for a patient hit by a train—an accident covered in depth by local news crews—could be easily traced back to the patient. It is also recommended by some authors that surgeons maintain separate personal and professional accounts and communicate with patients only through the latter [4, 7, 8]. Going one step further, plastic surgeons should minimize interactions with patients online [6, 7], especially if patients inquire about the appropriateness of surgical procedures for their situation. Online communication cannot substitute for the patient-physician encounter, and failing to adhere to this principle can have serious ramifications [6]. If surgeons' posts entail detailed descriptions of procedures and associated indications, it is critically important for the posts to encourage patients to seek a consultation and to clarify that patients must not assume the information provided directly applies to them [4]. Finally, plastic surgeons must be familiar with institutional or hospital policies governing social media use and strictly adhere to them [9].

### **Ensuring Informed Consent for Patient Image Use on Social Media**

While Dr. Mayer appeared to understand the basic guidelines of social media use, his consent process was clearly deficient. However, it should be noted that full disclosure of [social media risks](#) for plastic surgery patients has not been performed in a standardized fashion. To address this gap, the Social Media Task Force of the American Society of Plastic Surgeons (ASPS) has been charged with developing a preoperative consent process specific to social media [10, 11]. Patients must understand that once

photographs, videos, or blog posts are online, they are irrevocable [4, 6, 12]. Surgeons also have no control over posted content, and the information can be disseminated at will to infinitely large and unintended audiences [9, 13]. Additionally, many unintended viewers are exceedingly young and immature. Almost a quarter of Snapchat users are teens [14], and more than half of Instagram users fall between the ages of 18 and 25 [15]. This demographic is largely incapable of processing or appraising publicly available patient photographs as a plastic surgeon could while reading an academic journal, and patients should exhibit understanding of this reality before consenting, especially if the surgeon's social media account is not private. Additionally, if Dr. Mayer and other plastic surgeons are prudent, they will provide patients with the opportunity to view any photographs or videos prior to posting them online. Some medical journals require that authors give patients the opportunity to view photographs being published in a scientific article [16]. How much more should we offer this recourse to patients when photographs of their faces, breasts, or genitalia are being considered for a Snapchat post? Furthermore, obtaining consent for the use of patient photos on social media at the same time as obtaining consent for an operation is problematic. It conflates the trust the patient has in the surgeon to perform the clinically appropriate operation with the trust that the surgeon will do the right thing with the patient's images. It also implies a *quid pro quo* that could put the patient in a position in which she does not want to dissent for fear that she is not living up to her end of the implicit "bargain," wherein performance of the surgery merits a return from the patient via consenting to social media posts.

### **Avoiding "Medutainment"**

Beyond facilitating fully informed consent, the real challenge lies in clarifying what defines a post as unprofessional, which goes beyond the consideration of what is legal. While Supreme Court Justice Potter Stewart famously said, "I know it when I see it," when referring to the ease of identifying pornography [17], identifying inappropriate social media content is not obvious to some. While many plastic surgeons post photographs and videos in a legally compliant fashion by obtaining written consent beforehand, the nature of the post might still fail to reflect well on the profession and the surgeon and fail to honor the patient-physician relationship above all else. It is critical to recognize that using the patient-physician relationship as a source of entertainment by which to increase notoriety or attract patients utterly demeans the surgeon's protective duty toward the patient. This phenomenon, often disguised as efforts to educate the public, can be referred to as "medutainment" [18].

Unfortunately, the public often fails to demonstrate adequate understanding of what plastic surgeons actually do, with emergency room patients ranking plastic surgery last out of 30 specialties regarding importance in caring for inpatients [19]. With such a poor public image of plastic surgery, we should care deeply that some online content posted by plastic surgeons could approximate pornography. Such social media engagement undermines the professional reputation of plastic surgery, and both individual plastic

surgeons and plastic surgery societies should actively discourage such behavior. Also, as members of a profession, we automatically submit ourselves to a higher standard of behavior and a more stringent ethical code, and, as such, our social media engagement should reflect this standard. Regardless of the potential outcry over First Amendment rights, common sense limitations on what we say and do as professionals benefits us and our patients and must extend beyond legality.

When considering social media use in plastic surgery and the avoidance of “medutainment,” context carries considerable weight as well. Even a well-intentioned surgeon posting photos of breasts and genitalia on social media must consider that the interpretation of such photos is largely contingent on context. Images of an infant breastfeeding and images of breasts in an art gallery, on a surgeon’s Snapchat account, in a plastic surgery journal, or on a pornography website are all imbued with different meaning—nourishment, art, advertising, object of knowledge, and object of desire, respectively. Society often sexualizes the body depending on context, and social media is certainly one of those contexts whereas a journal article is not. Clinicians must necessarily adapt content for media wherein sexualization is more likely to occur due to either the audience’s interpretation or social norms that permit such sexualization. Photographs or videos of breasts and genitalia should only be posted if they conform to well-known clinical standards [20] and if consent has been obtained with full disclosure of all the aforementioned risks.

Most importantly, Dr. Mayer’s post and those of thousands of other plastic surgeons fail to prioritize the interests of the patient. Alexis felt that the manner in which he handled her tissue in front of a camera lacked dignity and respect. The purpose of the video was clearly to “medutain,” sensationalizing the procedure for his audience and promoting his practice. These goals were pursued at the expense of the patient—she felt that her surgical experience was trivialized and that her bodily integrity was violated in a public forum. While removing breast tissue is a daily or weekly occurrence for some plastic surgeons, it can be one of the most important days of a patient’s life, and exploiting the patient’s vulnerability on such an occasion is an abuse of the patient’s trust.

Given the current advertising and entertainment culture, real pressure exists to create a culture of transparency to attract cosmetic patients. Patients considering aesthetic surgery want to know the procedures plastic surgeons are performing, the inner workings of the operating room, and what their surgeons are like outside the office. In our experience, meeting this desire can result in attempts by plastic surgeons to deliver material that is titillating, provocative, and easily interpreted by some as pornographic, possibly to fill empty seats in their waiting rooms and pay the overhead. If we promote any and all methods of advertising without carefully considering sensible standards, *caveat emptor* easily overrides *primum non nocere* in our daily practice.

## Recalling the Patient-Physician Power Differential

Finally, it is critical to consider the extant impact of the patient-physician power differential on patient consent. Henry K. Beecher, an anesthesiologist and medical ethicist, believed that most patients will do almost anything physicians ask of them out of genuine trust [21]. Given that posting patient photographs or videos on social media is (physically) painless and can promote the practice of an affable physician, it is probable that even hesitant patients would provide consent. Fully informed consent enumerating all risks, in addition to reassuring patients that their care will be unaffected should they decline, is imperative for minimizing the effect of this power differential. Furthermore, patients should never be incentivized to consent to social media publication of sensitive material in the form of discounted products, services, or procedures.

## Moving Forward

Since engagement with social media is unavoidable for many, plastic surgery requires more concrete guidance regarding the ethical and professional use of social media in daily practice. The development of a consent form specific to social media by the ASPS Social Media Task Force will facilitate improved patient and physician understanding of important social media risks. It is likely that this intervention alone, in addition to allowing his patient to see the proposed video or image, would have enabled Dr. Mayer to avoid the precarious situation in which he now finds himself. Similar to existing advertising guidelines [22, 23], a framework for professional social media engagement should be established and promoted by plastic surgery governing societies. Rather than seeing this framework as harsh or inflexible, a strategy for promoting online professionalism should be viewed as an opportunity to simultaneously distinguish our brand from the more base content of nonboard-certified “cosmetic surgeons.” Confronting this issue directly will only serve to maintain our credibility and future reputation as a profession.

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### **Related in the *AMA Journal of Ethics***

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