

IMPACT OF THE ONSET OF SOCIAL MEDIA ON HIPAA

**A LITERATURE REVIEW OF THE ONSET OF SOCIAL  
MEDIA AND ITS EFFECT ON HIPAA VIOLATIONS**

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## ABSTRACT

### **A LITERATURE REVIEW OF THE ONSET OF SOCIAL MEDIA AND ITS EFFECT ON HIPAA VIOLATIONS**

Social media has become increasingly popular in the United States and is accessed daily. It consists of different websites such as Facebook and Twitter. Access to these websites is easy and fast, allowing users to frequently network. In many situations, social media can be utilized in a positive manner. However, in fields such as nursing, social media can be detrimental. The Health Insurance Portability and Accountability Act, HIPAA, provides specific and strict regulations regarding the use of social media in the medical field. Breaching patient confidentiality can jeopardize a nurse's job and future career. With the onset of social media, HIPAA violations have increased. This thesis will provide a literature review of social media and its onset, and how it affected HIPAA. I will show how these websites have caused more violations of HIPAA, and provide interventions and suggestions to decrease the violations. Specific methods will be included to show how the problem can be fixed. In addition, a brief history of social media will be provided to illustrate how it is extremely prevalent.

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## **Introduction**

The Internet has become an increasingly powerful resource to acquire information for people all over the world. Sites such as Google, Wikipedia and Facebook open vast avenues for research, work or recreational options. It has become the most accepted and viable means of communication for younger generations, specifically those in college and high school (Lunden, 2013). Young men and women contact each other through the Internet using what is referred to as “social media”. Social media is forever present in almost every young adult’s life and has made significant inroads across the balance of the population landscape.

Social media web sites provide easy access, a key feature which results in active and frequent engagement by its users. While social media web sites are a great tool for networking and keeping in step with the latest trends and styles, they can be detrimental in the workplace. Certain professions may utilize social media for networking and promoting business, while within the healthcare field, it is strictly prohibited. Patient confidentiality is the basis for this restriction and the consequences are significant for those in nursing who go outside this parameter. The number of nurses losing their jobs due to social media breaches is a disturbing trend that is on the rise (McCann, 2013). Confidentiality for the patient’s highly guarded information is paramount as it must be kept out of destructive hands. There is an underlying craving for information and the sensationalizing of it for damaging purposes.

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## Literature Review

### Overview of social media

Social media is defined as forms of electronic communication (as web sites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other contents (as videos) (Webster, 2013). To understand how social media evolved, it is important to look back at its history. In 2003, social media was a term no one had ever heard of. MySpace and LinkedIn, both social networking websites, had just been launched. A year later, another social networking site named Facebook was created for students at Harvard University, (Curtis, 2013). This began social media expansion, without knowing how successful Facebook would become.

A year later, Facebook launched a version for high school students and eventually expanded to anyone who was thirteen years or older. At this time, another social networking and microblogging website was created named Twitter (Curtis, 2013). It didn't take very long for Facebook to grow, as it became the most used social network worldwide with 400 million users in 2010 (Curtis, 2013). However, in 2011 the first concern with social media was brought to attention. Public sharing of personal information via social media sites raised concern over privacy. Immediately, stringent privacy options were implemented and the websites continued to flourish. In 2012, one billion people were using Facebook, eventually reaching 1.11 billion in 2013. Twitter successfully gained 500 million registered users since developed, and continues to grow day by day (Curtis, 2013).

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It is essential to understand how social media operates to recognize where and when it should be accessed. Facebook allows individuals to create profiles containing information and pictures about themselves. Depending on the privacy settings, only certain people can view a user's Facebook page, or the entire world can. Twitter is similar to Facebook in regards to privacy settings. Users post "Tweets" up to 140 characters, which may contain pictures. In most situations, Facebook and Twitter posts are harmless. However, many users of these social media websites don't understand the repercussions that can result from their posts. Anything posted on social media by a nurse or health care worker can affect their job and lead to possible termination.

### **Concerns and violations with social media**

The greatest concern in nursing related to social media is patient confidentiality. Each patient is entitled to the same rights under the Health Insurance Portability and Accountability Act (HIPAA). HIPAA requires health care providers and organizations to develop and follow procedures that ensure the confidentiality and security of protected health information (PHI) when it is transferred, received, handled or shared (California Department of Health Care Services, 2012). This includes all forms of information; written, oral, or electronic. Also, only the minimum information needed to conduct business is to be used or shared (California Department of Health Care Services, 2012). PHI can be spread electronically through social media, violating HIPAA.

When HIPAA was first passed by Congress in 1996, the main concerns of PHI were in written and oral forms (Perkins & Theis, 2013). However, with the use of the internet as popular as it is today, the electronic forms of PHI now raise the greatest

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concern. A Nucleus research study found that nearly seventy seven percent of workers have a Facebook account and nearly two thirds of these workers access their account during work hours (Perkins & Theis, 2013). This especially poses a risk for nurses falling into the traps of social media, creating legal risks.

When combined with federal civil rights laws, HIPAA protects patients' fundamental rights of nondiscrimination and health information privacy (US Department of Health & Human Services, 2013). These rights are under the Office of Civil Rights (OCR) which provides protection and nondiscrimination to patients in hospitals, health clinics, nursing homes, welfare programs, medicare and medicaid agencies, among many other institutions (Gungor, 2013). Unfortunately, violations of HIPAA can transpire which breach patients' confidentiality. Violations of HIPAA can occur in various ways. Examples include errors in paper file storage and disposal, release of information after the authorization period has expired, incomplete authorization forms, and storing patient information on unsecure laptops (Gungor, 2013). Releasing patient information, regardless of the type of violation, compromises a patient's confidentiality and can lead to law suits, fines, and even jail time (McCann, 2013). With the escalating popularity of social media in recent years, there is evidence that violations have increased (McCann, 2013). Breaches in confidentiality are no longer happening solely through written forms of communication, but have branched out through multiple internet sources. These sources include the popular social media websites; Facebook and Twitter.

In the patient's eyes, the nurse is a role model and someone who is trusted. Given their vulnerable position, the patient relies on their nurse(s) for the delivery of professional care and respect for their confidentiality. When a violation of confidentiality



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occurs, not only does a nurse face a potential lawsuit, fine or jail time, but perhaps more professionally damaging is the loss of patient trust. Future nursing employment is dramatically jeopardized as a result of such illegal actions. Violating the HIPAA law is detrimental to more than just the patient and is tragically worsening by virtue of the ever-present rise in HIPAA violation fines. Unfortunately this trend is projected to continue (McCann, 2013).

New HIPAA regulations relating to privacy became the official standard in 2003, at the same time social media was created. This regulation focused on maintaining the confidentiality of patient's protected health information, transmitted through any form of communication, including electronics (US Department of Health & Human Services, 2013). In addition, electronic transmission of PHI was standardized to reduce the risks of confidentiality and improve health care systems. These new regulations were created due to the increased use of technology, correlating exactly when social media developed. Although social media was fairly new at this time, it can be concluded that their onset sparked the increase of HIPAA violations and lead to bigger, heftier fines.

### **Examples of HIPAA violations**

Since the new HIPAA regulation was enforced in 2003, the Office of Civil Rights has received about 80,000 HIPAA breach cases (McCann, 2013). Most of these cases resulted in corrective action and only sixteen have resulted in fines. These fines seem to be on the upward trend, as evidenced by one of the nation's largest health insurers, WellPoint (McCann, 2013). WellPoint is the largest managed health care, for-profit company in the Blue Cross Blue Shield Association. This insurance company left PHI

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records of 612,402 individuals over the internet, including patients' names, date of births, social security numbers, telephone numbers and health information. They were fined over \$1.7 million dollars for their large breach in confidentiality (McCann, 2013).

The biggest HIPAA violation in history occurred on Facebook in 2006, and caught the attention of CNN ("Largest hipaa violation," 2009). Christopher Cornstalk, a middle aged Native American struggled with alcoholism and frequently visited Chicago hospitals. Many of the employers grew to know this patient and seemed to have a close relationship with him. When he passed away, a group was created on Facebook titled "Did you know this alcoholic Indian?" The group had over 600 members, included registered nurses, firemen, EMTs and police officers. Pictures were posted of Cornstalk in his hospital bed wearing a hospital gown and displayed his cardiac monitoring leads. Derogatory comments were made about the patient and multiple violations of his PHI were on the group. Although the Facebook page was deleted, an activist group known as Natives Against Racism saved the information, allowing it to still be visible today ("Largest hipaa violation," 2009).

### **Rules and regulations regarding HIPAA**

Because of the increase in violations of HIPAA, the new HIPAA Omnibus Rule was created by the director of the Office of Civil Rights, Leon Rodriguez, in September of 2013 (McCann, 2013). This rule brings hefty fines, more audits to maintain patient confidentiality and adds enforcement to patients' PHI. The Omnibus Rule has potential for \$1.5 million fines, which is why it must be taken with all seriousness. Risk analyses may be done in various health care settings to determine if their facility is at potential risk

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for releasing PHI without knowing it. For example, if hard drives and firewalls fail, information may be set out across the internet. Risk analyses are extremely important in hospitals to prevent possible large breaches of HIPAA.

Lawrence General Hospital in Lawrence, Massachusetts has never experience a HIPAA breach (McCann, 2013). The employees who work at this hospital are not allowed to bring their own devices to work, such as cell phones, laptops, or tablet devices. The hospital provides employees with their own cell phones and laptops for specific purposes. By doing so, this prevents any workers from accessing inappropriate websites while at the hospital, which lowers the risk of breaching HIPAA. Lawrence General Hospital is also updated with the latest encryption technology, which prevents any accidentally release of PHI (McCann, 2013). If more hospitals throughout the country enforced the same rules as Lawrence General and stayed current with the latest technology, patient confidentiality would be maintained more successfully.

Nurses often communicate information with each other regarding their patients via blogs, emails, social networking sites and electronic devices, which can potentially expose confidentiality (Hillman & Watson, 2012). Most hospitals can restrict which websites can be accessed while at work, like Lawrence General Hospital. However, when employees return home, they may turn to social media to vent about a difficult day on the job. Most people are under the impression that what they post may be private, or won't be seen once it is deleted. To users' dismay, internet posts are permanent. These postings can go viral in minutes and immediately be out of the nurse's control. In 2010, a survey of state boards of nursing (BON) was conducted by the National Council of State Boards of Nursing (NCSBN) to learn how many complaints were received regarding the use of

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social media (Hillman & Watson, 2012). 33 BONs out of the 46 responders had received complaints about nurses who violated patients' privacy by using social media sites. These violations occurred by both posting photographs and personal information. 26 of these boards administered disciplinary action to the nurses involved (Hillman & Watson, 2012)

In attempts to model Lawrence General Hospital, new tools are being developed to address specific social media concerns related to violating HIPAA. Novarus Healthcare, a mobile solution development company in Charlotte, North Carolina is developing a confidential and proprietary mobile technology platform. This platform proactively monitors social media sites for HIPAA violations to allow providers to meet the developing challenge presented by the use and prevalence of social media (McNeer, 2012). This is part of a coordinated risk management program that can identify potential confidentiality breaches, assess the severity of the issue and address the improper behavior immediately (McNeer, 2012). With universal systems similar to Novarus Healthcare's, violations may be monitored more successfully and eventually prevented.

### **Nursing responsibilities**

It is common for nurses to form close bonds with their patients, especially when caring for them for an extended period of time. It may seem harmless to become Facebook friends with a patient, however Patricia Sullivan, APN, FNP-BC states "accepting a patient's 'friend' request can damage the nurse-patient therapeutic relationship" (Prinz, 2011). Learning a nurse's private information may deplete the patient's trust in that nurse. It may also potentially ruin the nurse's reputation and lead to possible job termination.

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Nurses and other healthcare workers are risking their futures when posting anything on social media. For example, nurses have been terminated for posting harmless statements such as “my job is boring” or from making offensive comments about their employer, coworkers or patients (Prinz, 2011). In California, five nurses lost their jobs as the result of posting information about a patient on Facebook. Although no pictures or a name was posted, disciplinary action was still taken against these nurses (Prinz, 2011). This example shows the severity of social media in the healthcare industry and how vital it is for nurses to keep their professional and personal lives separate.

Maintaining confidentiality is not only one of registered nurses’ responsibilities, but is a major role of student nurses. Teaching the importance of HIPAA laws in nursing school can help prevent possible breaches in confidentiality down the road. Nursing students should be introduced to HIPAA and confidentiality during their first semester, and should continue discussing the laws throughout their four years of nursing school (Isaacson, Miller, Stacy, Walden, Wiggins & Wimberley, 2005). When students begin a nursing program, their focus is solely on patient care. Many students don’t realize the legal importance of nursing, and what their roles and responsibilities are.

### **Solutions and guidelines for social media use**

Solutions to the social media challenge are well within the grasp of educators and students alike. As students progress in their curriculum, their knowledge and understanding of HIPAA should expand (Isaacson, Miller, Stacy, Walden, Wiggins & Wimberley, 2005). Each clinical setting can allow students to practice and maintain their confidentiality awareness with their help of their clinical faculty. Although the clinical

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setting is mainly used for developing hands on techniques, it is also an area where students will come across legal obligations and responsibilities. The final semester of nursing school prepares students for the professional world and is where they can perfect all skills. It is vital to understand all aspects of HIPAA prior to graduation for all students to become well-rounded nurses.

Because HIPAA is addressed to students, it is necessary that all faculty remain updated on current regulations. Faculty have been guided by the American Hospital Association as well as the American Nurses Association to instill a professional duty to all nursing students (Isaacson, Miller, Stacy, Walden, Wiggins & Wimberley, 2005). Initially, HIPAA addressed written and verbal communication. With the development of social media, HIPAA has expanded its rules. In order to prevent student violations of HIPAA, the faculty must understand how social media works and how it poses risks to breaching confidentiality. Most students use smart phones which have access to social media. It is easy to post information about a patient during a clinical rotation with a smart phone. Therefore phones should be restricted in the clinical setting and the importance of this rule should be reiterated throughout all four years of nursing school. If students do not understand HIPAA before they become registered nurses, their likelihood of violating the law increases which jeopardizes their careers.

Although nursing students don't have a license to lose, they have other consequences to face. While in school, their actions will determine their future. The NCSBN provides specific scenarios in which nursing students breached HIPAA and jeopardized their futures as nurses. For example, a nursing student in her pediatric rotation took a photo of her patient and posted it on Facebook. Not only did she write his

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first name as part of the caption, but his room number was visible in the background (NCSBN, 2011). Both the school and hospital viewed the photo and became aware of her actions, and as a result, she was expelled from the nursing program. The school was unable to use the hospital again as a clinical site. Although the student thought her actions were harmless, more harm than good was done, and her future as a nurse was over. Scenarios such as this are why HIPAA must be taught and enforced each semester in nursing school.

As a result of social media and the risks it poses with HIPAA, the NCSBN issued a lengthy list for nurses on how to avoid these problems. The first guideline states nurses must recognize that they don't only have a legal obligation to maintain confidentiality at all times, but an ethical obligation as well (NCSBN, 2011). If nurses do not initially realize this guideline, they are more likely to violate HIPAA. Another important guideline the NCSBN addresses is that all nurses be aware of their hospitals' policies regarding use of all personal electronic devices when in the workplace (NCSBN, 2011). When hospitals restrict its employees from bringing their own personal devices to work, like Lawrence General Hospital, the likelihood of confidentiality breaches significantly decreases. Lastly, it is vital that all nurses and other employees promptly report any identified breach of confidentiality or privacy (NCSBN, 2011). Not only are nurses protecting their patients when they report breaches of confidentiality, but they are protecting themselves as well as their careers.

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### **Conclusion**

Since the onset of social media in 2003, violations of HIPAA have increased, and patient's confidentiality continues to be compromised. With this upward trend, stricter rules and regulations must be enforced in all health care environments. Social media is accessed at all times today, but it must be eliminated in such areas. Further research and studies on social media and how it relates to HIPAA can help reduce the number of breaches made each year in health care; specifically in nursing. In order to stop the trend of the many violations occurring today, greater research on the subject must be done. Understanding how and why social media is being accessed in the health care industry is important in order to determine solutions to correct the problem.



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