

# Before Responding to a Negative Comment ...

As human beings, it's our natural tendency to want to defend ourselves against unwarranted criticism. However, as healthcare providers under the purview of HIPAA, Doctors of Chiropractic need to guard against that tendency when it comes to responding to negative complaints from patients.

## **This has increasingly come to the forefront due to the speed and ease of sharing negative thoughts via technology.**

A disgruntled patient can quickly reach the masses with an impulsive post. It's equally easy for you to respond with a quick retort, advisable or not.

Unfortunately, the playing ground is not level for healthcare providers. This is because a patient may post information about their treatment or relationship with you as a healthcare provider; however, you cannot post information that identifies them as a patient, due to the HIPAA Privacy Rule.

## **Difficult Position for Doctors**

When a patient publicly disparages you or your practice, you're in a Catch 22. If you fail to correct the erroneous information, people who read the post may believe it to be accurate. After all, they may assume you would take the time to respond if the information was untrue. Consequently, your reputation could take a significant hit.

But HIPAA does not allow doctors to disclose protected health information to defend themselves. In fact, the Health and Human Services Office for Civil Rights has brought enforcement actions against several healthcare providers for releasing protected health information when they attempted to defend themselves against public allegations.

## **Example**

For example, Allergy Associates, a healthcare practice that specializes in treating individuals with allergies, recently agreed to pay \$125,000 and to adopt corrective actions to settle potential HIPAA violations.

In February 2015, an Allergy Associates' patient contacted a local television station about a dispute between the patient and an Allergy Associates' doctor. When the reporter asked the doctor to comment, the doctor's response included the patient's protected health information without the patient's permission.

## **Minimize the Damage**

Although your hands may be tied to some extent in responding to negative comments about you or your practice, there are a few things you can do to minimize the damaging effects:

- If it is possible to respond to negative criticism **without violating patient confidentiality, immediately correct any factual statements** and provide a brief explanation to clarify misunderstandings. Respond directly or use specially trained staff to let the person know you are aware of the concerns.
- Sometimes, it is not what you say but how you say it: **Make sure no statement of empathy could be interpreted as an "admission"** if the patient ever sought to bring a board action or lawsuit.

- **Take the high road.** If the person is angry, do not engage in an argument. Your goal should be to calm the unhappy person and bring the situation to an amicable resolution. However, you also want others who view the post to realize that the patient may not have provided a fair review.
- If the negative comments appear on social media, **offer to go offline with the unhappy person** if the discussion escalates or becomes unmanageable. Ask your patients to post about good experiences with your practice. Several positive reviews will tend to offset any negative ones.

## A Social Media Policy May Be Beneficial

On a related note, it can be helpful to have a social media policy in place at your practice before you need it. (See sidebar for a related article.) In this policy, consider limiting content on your practice's social media sites without your expressed permission.

Additionally, make sure to state that you have the right to monitor and take appropriate action if your social media policies are violated. To ensure your policy is in compliance with local, state or federal laws, ask your practice attorney to review it and provide any needed disclaimers.

Remember, your current and future patients are paying attention to your interactions and how you convey your caring and professionalism.