



PROTECT YOUR IMAGES: TIPS FOR SOCIAL MEDIA SHARING



An expert shares road rules to keep patient identity safe and prevent lawsuits when sharing images on social media.

BY ALLYSON AVILA, JD

Social media is a great way to gain business and get your company's name out there. But there are precautions that all practices must take to protect themselves from liability.

Below is an outline of all items that must be covered when sharing images.

First and foremost, a consent form must be signed by the patient. This consent form must include verbiage that states the practice can use the images for any and all forms of media

and that it is irrevocable. It is very difficult once a photo is posted on social media to remove it. The patient must acknowledge that they understand this concept.

Additionally, if you are going to use a patient's image as before and after photos, you must indicate the length of time between the before and after image and place a disclaimer stating that results will vary and cannot be guaranteed.

Many practitioners get into hot

water when they copy an image from someone else's site and use it as their own. This is strictly prohibited and can result in legal expenses to defend against any copyright claims from the owner of the photo.

Below is a sample of what an informed consent should contain.

GENERAL NAME, PHOTO AND LIKENESS RELEASE

I give _____ his/her licensees, designees and assignees (hereinafter collectively referred to as "Licensees"), the absolute and irrevocable right and permission to photograph, film, videotape, and record and/or portray my name, voice, portrayal, actions and/or likeness for use and exploitation in connection with LICENSEE's practice, medical education, science, website, marketing and promotional materials ("Event") and to use the results and proceeds thereof (collectively the "Material") as follows:

To use, incorporate, broadcast, distribute, reuse, publish, republish, alter, and/or edit the Material and/or my name, likeness, voice, and portrayal in whole or in part, severally or in conjunction with other material for any purpose and in any manner

whatsoever as LICENSEE so chooses in any and all media, now known or hereinafter devised, in any and all versions, throughout the universe and in perpetuity, as well as for promotion, merchandising, publicity, and advertising. LICENSEE has no obligation to use the Material, my name, voice, or likeness.

I understand that all rights in and to the Material, including the negatives, out-takes, sounds, and the images contained therein, shall be LICENSEE's sole and absolute property.

I represent and warrant that I have the right to grant LICENSEE the above-mentioned rights without obtaining the permission of, or making any payments to, any third party or entity. This authorization and release shall inure to the benefit of the legal representatives, licensees and assigns of LICENSEE. I hereby release you from, and covenant not to sue you for, any claim or cause of action, whether known or unknown, for libel, slander, invasion or right of privacy, publicity or personality, or any other claim or cause of action, based upon or relating to the use of the Material or the exercise of any of the rights referred to herein. I agree

BOTTOM LINE

Misuse of images online and in social media can get a practice in hot water. Never use photos that are not your own, and always get patient consent. Be sure your consent forms are comprehensive and up to date.

“IF YOU ARE GOING TO USE A PATIENT’S IMAGE AS BEFORE AND AFTER PHOTOS, YOU MUST INDICATE THE LENGTH OF TIME BETWEEN THE BEFORE AND AFTER IMAGE AND PLACE A DISCLAIMER STATING THAT RESULTS WILL VARY AND CANNOT BE GUARANTEED.”

to indemnify and hold harmless LICENSEE and any person claiming under LICENSEE, and the officers, directors, shareholders, and employees thereof, from, and against any liabilities, losses, claims, demands, costs (including without limitation to attorney's fees) and expenses arising in connection with any breach or alleged breach by me of any of the above representations, warranties or agreement hereunder.

I acknowledge that, in the event of any breach by LICENSEE or any third party, the damage, if any, caused me thereby will not be irreparable or otherwise sufficient to entitle me to seek injunctive or other equitable relief. My rights and remedies in such event will be strictly limited to the right, if any, to recover damages in an action at law, and I will have neither the right to rescind or terminate this agreement or any of LICENSEE's rights hereunder, nor the right to enjoin the use of the rights. This

release constitutes our entire understanding and agreement with respect to the subject matter hereof and cannot be amended except by a written instrument signed by the parties hereto. This release will inure to the benefit of and will be binding upon our respective affiliates, successors, licensees, assigns, heirs and representatives. This release will be governed in accordance with the laws of the State where it is executed and applicable to contracts wholly negotiated, executed and performed therein.

PROTECT YOUR PRACTICE

Making sure that you have a signed informed consent form on file for all images is the best way to protect your practice and your patients. ■

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