EMS Social Media Issues

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Introduction

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History & Experience

Disclaimer

Nothing in this lecture should be considered as “legal advice”
Consult with your legal counsel before making any changes to your practice, policies or your organization

Ripped From the Headlines!

5 Hospital Employees Fired for Discussing a Patient on Facebook
  NO PHOTOS OR HIPAA PHI DISCLOSED
EMT Pled Guilty, Loses License for Posting Photo of Murder Victim

Social Media

Number One Employment-Related Area
Pictures and Video
Workplace Conduct

Facebook
Regulating Off-Duty Conduct

• Public vs. Private Employers
• First Amendment Issues
• Does Not Apply to Private Entities USUALLY!
• Fourth Amendment Issues
• Reasonable Expectation of Privacy

Pictures and Video

• ED Nurses Fired for Posting Cell Phone Pictures of Patient on Facebook
• NYC Paramedic Fired for Posting Murder Victim Pictures on Facebook
• Firefighter Suspended for Putting Patient’s Photo on Facebook
• Firefighter Criminally Charged After Posting Patient Photos on Website

The Today Show

Policy Elements

• Just Don’t Do It - ZERO Tolerance
• Cannot Sufficiently De-Identify under HIPAA
• No Reasonable Work-Related Reason

But What If…?

• Any Photographs Taken On-Duty Become the Property of the Department
• Any Scene or Patient Photos Become Part of the Patient Record
• No Use of these Photographs Without Agency Authorization

Workplace Conduct

• Firefighter Disciplined for Ridiculing and Disparaging Department Members Online
• Paramedic Sued by Patient for Posting Details about Sexual Assault
• Paramedic Fired over Racially Derogatory Animated Video
The Rules and Policies for Workplace Conduct Apply Online as Well - PERIOD

Hostile Work Environment

Discriminatory Conduct

You CAN Regulate Legal Off-Duty Conduct

Don’t Friend Your Patients or Your Subordinates

Getting sick of picking up all these obama lovers and taking them to the hospital because their medicare pays for an ambulance and not a cab

MLK could go kick rocks for all I care, but thanks for the time and a half today

News flash to half of the island, ur white! Stop talking like ur a shwoog

I like jews about as much as hitler #toofar? NOPE

Reasonable Expectation of Privacy

Computers, Cell Phones, Email Accounts

Text Messages...
What to Avoid

Don’t Post About Patients
Don’t Post Conflicting Information About Yourself
Don’t Post Something You Wouldn’t Want Your Boss to See
Don’t Friend Supervisors & Subordinates

What to Avoid

Don’t Pretend to be Someone You Are Not
Don’t Accept Friend Requests from People You Don’t Really Know
Don’t Post Things that Belong to Other People
Don’t Pick Fights
Don’t Make Politically-Charged Statements*

Risks

Job Termination
Action Against Your Certification
Civil Liability - Intentional Tort
Criminal Liability under HIPAA and State Statutes

National Labor Relations Board

Protected Concerted Activity
AMR Connecticut Case
All for One or One for All?

Policies You Need

HIPAA / PHI Disclosure
Workplace Conduct
Social Media Conduct
Computer / Cell Phone Utilization

Conclusions

People - Don’t be Stupid!
Maximize Your Privacy Settings
Departments - Have Policies!
Fix Your Mistakes!
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