



# North Carolina Board of Licensed Professional Counselors

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## NCBLPC Professional Brief

### **Content Area:** Confidentiality - Social Media and Professional Counseling

#### **Brief Overview/Description:**

Wikipedia defines social media as "media for social interaction which uses highly accessible and scalable communication techniques. Social media is the use of web-based and mobile technologies to turn communication into interactive dialogue." Content on social media sites is not created by one writer, but by participants who create, comment, rate, and recommend content rather than passively reading it. Unlike first generation websites, the model for social media communication is not one-to-many but many-to-many. Social media includes things like blogs (Blogger, WordPress, Typepad), social networking (Facebook, LinkedIn, Twitter), social bookmarking (Delicious, Stumble Upon) news sharing (Digg, Yahoo! Buzz) and photo and video sharing sites (Flickr, Vimeo and YouTube) - to name a few. Like all cultural changes and trends, social media has an impact on the counseling profession.

In 2005, the same year that Facebook received its first big infusion of cash (\$13,000,000 from Accel Partners,) ACA adopted a Revised Code of Ethics that at that time had no reason to mention social media. But, since 2005, Facebook has grown rapidly to become a global social networking site, with more than 206.9 million visitors and 67% of all social media visitors as of January 2010. Recent surveys report that the time visitors spend on Facebook has also increased, with users spending nearly six hours per month on the site. If you add usage of LinkedIn, Twitter, MySpace, Foursquare, Yelp, CyWorld, Bebo, and other, to these numbers, it is not surprising that ACA announced in May 2011 that social media will be an area of emphasis in the 2015 Revised Code of Ethics. Jonathan Rollins, writing for *Counseling Today* in May 2011 said social media "has opened up a new frontier of ethics questions and implications for counselors." In the same article, ACA President Marcheta Evans said, "With Twitter and Facebook, there are some ethical boundary issues just floating out there with counselors."

Junichi P. Semitsu, Professor of Law at the University of San Diego, in "From Facebook to Mug Shot: How the Dearth of Social Networking Privacy Rights Revolutionized Online Government Surveillance," 31 *Pace Law Review*, 291 (2011), reminds us that federal courts have not adapted Fourth Amendment law "to the realities of Internet architecture." Further, he writes "Congress has failed to meaningfully revise the Electronic Communications Privacy Act (ECPA) for over a quarter century. Even if the ECPA were amended to cover all Facebook content, its lack of a suppression remedy would be one of several things that would keep Facebook a permanent open book." Semitsu concludes that 'Facebook has been justifiably criticized for its weak and shifting privacy rules, but even if it adopted the strongest and clearest policies possible, its users would still lack reasonable expectations of privacy under federal law.'

In spite of the lack of ACA guidelines for social media, Code of Ethics boundaries for the use of social media, or laws safeguarding the privacy of social media content, many counselors are using social media. Some use it personally as individuals and members of groups, others use it professionally for advertising, public relations, advocacy, and communication. Some counselors use social media only to stay current and educate themselves because of its impact on so many clients.

The information contained herein is an overview of North Carolina laws, federal laws, and regulations. It is not intended to be a comprehensive list of all laws or regulations that govern the practice of counseling. The material is not to be taken as legal advice. Any interpretation of a statute or regulation expressed in the materials is created for educational purposes only. The NCBLPC does not issue advisory opinions, and the materials are not to be construed as such.

Though there are no written ethical guidelines or laws specifically related to social media, a counselor's responsibility remains the same – to ensure the confidentiality of client information, to maintain appropriate boundaries, and to protect the counseling relationship.

### **Resources:**

ACA Code of Ethics

Derse, Arthur R MD, Ethics Forum, Ethics Group, AMA. <http://www.ama-assn.org/amednews/2010/02/08/prca0208.htm>  
Feb. 8, 2010.

HIPAA

Jonathan C Rollins, "Social media to be among new areas of emphasis addressed in ethics code," Counseling Today, May 20, 2011.

Junichi P. Semitsu, "From Facebook to Mug Shot: How the Dearth of Social Networking Privacy Rights Revolutionized Government Surveillance," 31 Pace Law Review ( Winter, 2011): 191

Kathleen Parish, LPC, and Jeffrey C. Friedman, LISAC. "Counselors, Clients, and Facebook," Presented at 24<sup>th</sup> Annual Northwest Conference on Behavioral Health and Addictive Disorders and printed on line in Counselor: The Magazine for Addiction Professionals.

Keene, Richard . April 14, 2010, System Security, IT Computer Support of New York.

<http://itcomputersupportnewyork.com/ITCSNYITechBlog/category/system-security/>

Lu S., Harter, D. and Pierce, D. "Potentials and challenges of using virtual environments in psychotherapy". Annals of Psychotherapy & Integrative Health, Vol. 14 [1], Spring 2011.

neilsonwire.com blog entries: January 22, 2010, October 27, 2010, September 3, 2010, , August 2, 2010, July 30, 2010, June 15, 2010, January 22, 2010 <http://blog.nielsen.com/nielsenwire/>

### **Key Legal Factors:**

Healthcare providers using social media must remain mindful of professional boundaries and patients' privacy rights.

Facebook and other online postings must comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), applicable facility policy, and state law. Though it has yet to explicitly address issues related to social media, the American Counseling Association Code of Ethics reminds professional counselors that they have a responsibility to "take precautions to ensure the confidentiality of [client] information transmitted through the use of computers, etc." (ACA, 2005).

Confidentiality is still at risk even when online posting on social media and e-mail messages are in compliance with HIPAA and the ACA Code of Ethics. Privacy rules of social media sites have been described as "weak and shifting" which implies a lack of privacy but unauthorized users add to the risk of disclosure when they hack into social media websites and the e-mail programs associated with them. Security breaks compromise the security of users and everyone found on their networking sites, contacts and social media "friends" alike. Confidential conversations, on-line consultations, e-mail exchanges, and sometimes access information for computer programs become public and present a risk of legal action for unauthorized disclosure and violation of HIPAA. When work computers are used to access social media sites, computer programs for every facet of the business are vulnerable.

Professional boundaries are put at risk by social media in several ways. Aside from damage by hackers, who can post whatever they want and do irreparable damage to a counselor's image (think doctored photos); clinicians who post innocent information, pictures, or personal opinions also risk damage to therapeutic relationships. In part, this is because a counselor's professional image may be very different from personal identity, which is confusing to a client and a possible source of distrust. Also, professional distance from clients may be diminished, and transference, a valuable therapeutic tool, is not likely when too much is known about the therapist. Clients with boundary issues may see information disclosed on a website as an invitation to communicate online or even to enter a therapist's personal life.

### **Real Issues to Consider:**

If a counselor uses social media for business as part of professional policy, informed consent around social media participation must become part of the intake process. If use is only for personal reasons, clarifying one's stance on the use of

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e-mail and social media in a counseling relationship should also be disclosed during intake, thereby avoiding any client expectations about on-line communication. As a social media user, a counselor should not disclose personal information or post anything that offers a glimpse into personal life and family. Networking sites should be monitored regularly to remove anything posted by someone else that a counselor would not want a client to see. Privacy settings for social media sites should be set at the most secure level and invitations and messages from strangers should be deleted. No one should be given the right to change what appears on a personal site, and access to one's site should be limited to trusted friends and family. These measures should prevent clients from finding a counselor's site by browsing, though it is still a good idea to Google one's name periodically to look for potential problems.

If a counselor is in a group work setting, the employer or practice manager should take the time to work with the whole staff to develop an effective social media policy.

**Catch 22:**

If a counselor avoids all involvement with social media, there is a risk of being out of the loop to some degree. For example, one cannot easily stay informed about news and events, even professional ones, if colleagues and friends depend on Facebook or other networking sites for communication. Not everyone will take the time to send individual messages to those who are non-users. However, to avoid the risks that attend social media use, some counselors might consider being out of the loop a small price to pay for lack of participation.

**Summary Statement:**

There is no doubt that counselors are being urged to explore the use of social media and virtual environments when front page journal covers host such titles as "Build your practice with Social Media" and "Virtual Environments: New Frontiers in Psychotherapy" (Annals of Psychotherapy & Integrative Health, Vol. 14 [1], Spring 2011.) In this journal, published by the American Psychotherapy Association, an article by Lu, Harter and Pierce (2011) offers continuing education credit for their article titled "Potentials and challenges of using virtual environments in psychotherapy." Lu et al. describe research on the use of virtual environments as an effective tool which can "scaffold and augment traditional psychotherapy treatments for a wide range of symptoms." This being the case, counselors must become mindful and vigilant of the benefits and drawbacks associated with the use of these powerful technologies and continuously monitor the well-being of our clients, careful to prevent harm with each new step.