

Publications

False, Negative Online Reviews Challenge Health Care Professionals and Health Care Providers

Related Professionals

Colleen M. Devanney

AUTHORED ARTICLE | 7.11.2016

Online reviews affect nearly every industry, and health care is certainly one of them. What differentiates health care, in this context, is the Health Insurance Portability and Accountability Act of 1996, or HIPAA.

Under HIPAA, a federal privacy law, health care professionals and providers are not allowed to disclose certain health information about patients without their authorization. This restriction has proven to be a challenge for many health care professionals and providers when it comes to addressing online reviews.

In fact, HIPAA has many in the health care industry feeling as though they have their hands tied behind their backs when it comes to dealing with negative and potentially defamatory online reviews.

In an interview with BuzzFeed for a [2014 feature on this very issue](#), one California neurosurgeon (who was the subject of an online harassment campaign himself) stated there was no way in 1996 that HIPAA could have anticipated online reviews and the resulting issues.

Responding publicly to false online reviews is risky

Many websites today suggest that business owners or others affected by online reviews simply respond and share their sides of the stories. [Ripoff Report](#), for example, makes the following suggestions to the subjects of consumer complaints:

- “If you find that a complaint has been filed against you, the best thing you can do is to post a rebuttal and tell your side of the story.”
- “If the customer is simply wrong, say so!”
- “Post the names and contact information for favorable references who can testify to the high quality of your business.”

Each of these sounds nice, in theory. But they clearly apply more to the local pizza shop or hardware store, for example. Not to a doctor or a hospital.

A health care professional or provider who follows the above suggestions would be taking a major risk.

A recent [article co-published by *The Washington Post* and non-profit news organization ProPublica](#) reported that there have been “dozens of instances” in which responses to negative Yelp reviews about medical care resulted in patient privacy disputes.

The article includes several real examples of medical professionals who, in their responses to patients’ online reviews, disclosed what some might consider [protected health information](#) under the statute. Some of the responses resulted in patients filing complaints with the U.S. Department of Health and Human Services’ Office for Civil Rights.

Deven McGraw, the Deputy Director for Health Information Privacy at the Office for Civil Rights, told *The Washington Post* and ProPublica that, if confronted with a complaint about poor patient care, a physician can say: “I provide all of my patients with good patient care” or “I’ve been reviewed in other contexts and have good reviews.”

This might not seem satisfactory for physicians, especially if they are the subjects of actually defamatory reviews. But there is certainly an opportunity to address complaints—whether true or false—offline.

Any doctor who can identify a patient based on his or her online review and then post a response to that person’s review online most certainly can contact that person offline and attempt to resolve the issue out of the public eye.

Sampling bias of health care-related reviews

For better and for worse, medical patients are less likely to review a health care professional or provider than, say, a local restaurant or retail store. This means there is a lesser chance of health care professionals and providers being the subjects of negative reviews, including potentially defamatory statements.

On the other side of things, a smaller sample size can greatly affect a doctor or medical center. Fewer reviews can lead to greater exposure of any bad ones.

Moreover, fewer reviews can impact health care professionals and providers’ online ratings—on Healthgrades or Yelp, for example, and these are often prominently displayed in search results.

In the aforementioned article from *The Washington Post* and ProPublica, Jeffrey Segal—the founder and CEO of Medical Justice—pointed out that a way of overcoming negative reviews is simply to get more reviews.

“If they only have three reviews and two are negative, the denominator is the problem,” Segal said.

[We wrote about this “sampling bias” in 2014.](#) In that post, we noted a then-recent study showed most physicians surveyed had fewer than three total online reviews. This lack of reviews caused issues for many doctors, as their false and/or negative reviews were being displayed prominently in their search results.

Thus, physicians and other health care professionals and providers should consider trying to lawfully (and not in any way that would violate any specific websites' policies) obtain more online reviews by setting up a review program that encourages feedback, not limited to positive reviews.

As part of this, they should continuously monitor their online reputations, in order to take the appropriate action when someone publishes a harmful posting online.

Embracing online reviews

Online reviews seem to be here to stay. Therefore, as Segal stated, health care providers and professionals should embrace them.

As the article reported, and as [we also wrote about two years ago](#), University of Utah Health Care became the first health care provider to launch its own platform for online reviews and ratings – an effort to both overcome issues with online reviews and ratings on third-party websites and be transparent.

Others have followed suit.

Online reviews and ratings might appear challenging to those in the health care industry and often times they are.

But by providing great service, calmly reacting to negative online reviews without risking any HIPAA violations, and encouraging patient feedback, health care professionals and providers can overcome the current and future threats of negative online reviews, including false and defamatory content.

For more information, contact Colleen Devanney at 855.542.9192 or cmdevanney@vorys.com. Read more about the practice at <http://www.defamationremovalattorneys.com/>.