OMA Ontario Medical Association

Ontario Medical Association Submission

CPSO Consultation
Draft Social Media Policy

August 2021

The OMA appreciates that the CPSO is open to feedback and recommendations about its draft Social Media Policy through a public consultation process. The OMA appreciates that social media is a complex and evolving area. We recognize the challenges involved in developing a policy that sets standards and expectations that may require frequent updating to remain current and to reflect evolving societal norms. In preparing our response, the OMA surveyed several physicians who identified areas requiring clarity and/or additional information. Given the continually changing nature of social media, the OMA asks the CPSO to make modifications to its Social Media policy and Advice to the Profession document as the landscape changes.

Title – Social Media

The policy as it is currently written covers areas that are outside the usual definition of social media, for example, seeking out personal health information in online content (policy #14, 15, 16), and the inclusion of digital email communication, text messaging, etc. in the Advice to the Profession document (lines 36-47). As well, there are areas of the policy, such as professionalism, disruptive behaviour, advocacy, confidentiality, and so on, that would likely apply to online content or digital communications as well as social media. If the intent of the policy is to cover digital content more broadly, it may be more accurate to re-title the policy to reflect this, for example, "Online Content, Digital Communication, and Social Media".

Purpose

Some members have expressed concern that the Social Media policy will have an impact on physician free speech. It may be instructive for the Advice document to contain an explanation about the limits of free speech and freedom of expression within the Canadian legal context. As well, the College may wish to clarify the purpose of the policy up front in a section entitled 'Purpose' or 'Overview', for example: "Maintaining professional communication is important to preserving the reputation of the profession. The purpose of this policy is not to curtail physician free speech. It is designed to establish expectations to help physicians navigate the social media environment and prevent miscommunication that could negatively impact the credibility, respect, and societal influence of individual physicians and the medical profession as a whole."

Definitions - Social Media (lines 12-15)

The draft policy defines social media as "Online platforms, technologies, and practices that people use to share content, opinions, insights, experiences, and perspectives. Examples of social media include Twitter, Facebook, YouTube, Instagram, LinkedIn, blogging sites, and discussion forums, among many others." The OMA recognizes that given the evolving nature of social media, it is difficult to provide a definitive list of all social media interactions. For

example, the policy doesn't address audio applications, such as podcasts or "Clubhouse", nor does it provide information about text applications such as "WhatsApp" or "Signal" that are used by some physicians for group messaging. The OMA recommends providing clarity by expanding the definition of social media to include digital communication, audio applications, online forums, etc. and by clearly indicating that the examples provided do not constitute a comprehensive list.

Policy (lines 16-19)

Regarding the scope of the policy, there is an opportunity in this section to clarify whether the policy is meant to address both public and/or personal social media communications and whether it covers social media content not directly related to the practice of medicine. While the Advice document addresses this topic in a few of the FAQs and indicates that "physicians are expected to maintain professionalism in both personal and professional contexts", the direction in the policy needs to be more explicit about this point. It would be helpful for the CPSO policy or Advice document to define 'personal and professional contexts' and to clarify and add greater precision to what would be considered personal social media/digital communications that are not covered by the policy. For example, is a text between a physician and their partner, family member, or friend considered personal communication? Language that is vague or possibly too broad in scope could potentially invite frivolous or vexatious complaints or lead to a misinterpretation of the policy's intent to address serious social media abuse.

The OMA recognizes that the distinction between personal and professional is a contentious subject, but acknowledges it is necessary to establish clear expectations to prevent any misunderstandings, especially given the Canadian Medical Protective Association's (CMPA) interpretation regarding personal and public social media statements, including:

- Physician activities, including on social media, are an extension of their professional activities. Social networks are governed by the same legal and professional standards that apply in a professional setting.
- Physician activities, personal and professional, reflect upon their professional identity.
- Professional behaviour should be applied to all facets of care and private life, including social media. Behaviour should mirror appropriate real-life, face-to-face encounters.
- Social networking sites, whether private or public, should be considered public spaces. Irrespective of privacy settings, most content that is shared on social media is broadly accessible and permanent.

(Source: CMPA Good Practices Guide - Summary of key concepts and good practices (cmpa-acpm.ca), and CMPA - Social media: The opportunities, the realities (cmpa-acpm.ca))

Professionalism (lines 20-73)

Professional Responsibility

At lines 21-22, the draft policy states that "Physicians hold a respected position in society and, in turn, have responsibilities not only to themselves, but to patients, colleagues, the public, and the profession." We ask that medical students and/or postgraduate trainees be added to this list to underscore the professional, respectful treatment that is warranted for medical learners as well.

Professionalism

The policy states that professionalism "involves upholding the values of compassion, service, altruism, and trustworthiness, and demonstrating cultural humility and safety in everyday interactions with others" (lines 23-25). Cultural humility and safety are defined in a footnote as follows: "Cultural humility refers to a process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust. Cultural safety is an outcome based on respectful engagement that recognizes and strives to address power imbalances inherent in the health care system."

The concepts of cultural humility and cultural safety are worthwhile, but there is some concern these terms may be unfamiliar. The definitions provided in the footnotes are not expressed in plain language and could lead to further confusion. Clearer, more explicit definitions with additional information and examples in the Advice document would be helpful to enable the profession to implement these expectations. Alternatively, the term 'cultural sensitivity' that exists in the CPSO Practice Guide may be more easily understood and implemented.

Physician Advocacy

Regarding advocacy (lines 33-36) the policy indicates that advocacy for patients and for an improved health care system is an important component of the physician's role, and while advocacy may sometimes lead to conflict, physicians must continue to demonstrate professional behaviour and act respectfully. It would be helpful for the policy or Advice document to define what the CPSO views as appropriate advocacy. As well, it would be useful for the Advice document to contain examples of acceptable advocacy actions and appropriate community involvement activities, as well as examples of some that are not. In addition, it would be instructive to provide advocacy guidelines, or links to guidelines, for physicians wishing to participate in advocacy efforts. For example, the CMPA recommends that physicians may wish to consider whether "it is necessary or appropriate to discuss the planned activity with parties who may be affected (e.g., patient/family, other members of the care team, clinic, hospital, health authority, etc.) … Hospitals, institutions, and health authorities may have policies or guidelines on the role of physicians in advocacy activities, including media or social

media campaigns." The CMPA provides other tips regarding social media advocacy that may be helpful to add to the Advice document, such as:

- "use appropriate language and review the entire thread of a conversation or any embedded links before retweeting,
- Work within approved channels of communication,
- Discuss concerns, suggestions, and recommendations calmly,
- Provide an informed perspective, and seek the perspectives of patients and other healthcare professionals,
- Use evidence to help persuade others,
- Remain open to alternative suggestions or solutions and try to build on areas of consensus."

(Source: CMPA - Advocacy for change: An important role to undertake with care (cmpa-acpm.ca))

Disruptive Behaviour

With respect to the text concerning disruptive behaviour (lines 38-48), the policy states that physicians must not engage in behaviour that interferes, or is likely to interfere, with the physician's ability to collaborate with others, the delivery of quality healthcare, or the safety or perceived safety of others. The policy provides examples of disruptive behaviour, such as language that is "profane, disrespectful, insulting, demeaning, intimidating, or abusive" (line 43). Questions have arisen regarding the word "profane" and whether its meaning pertains to the occasional use of swear words or acronyms (for example, 'WTF') in social media posts. As well, concern has been raised that the inadvertent use of words that cause unintentional harm could lead to disciplinary action by the College. As such, we ask the CPSO to review this section and to provide greater precision regarding expectations. At line 46 regarding comments that may be perceived as discriminatory, it is recommended that the following be added: language, national or ethnic origin, colour, physical attributes, sex, gender identity, gender expression, marital status, family status, and pardoned conviction.

The policy describes communication or behaviour that should be avoided on social media, including "unsubstantiated and/or defamatory statements" (line 53). There is concern about the use of the word 'unsubstantiated', meaning not supported or proven by evidence. Situations involving public health crises are often fluid. In some circumstances, evidence is available quickly, for example, proof regarding the ineffectiveness of hydroxychloroquine against Covid-19. In other circumstances, definitive proof takes time, for example, concerns that arose over a period of time regarding the Astra Zeneca vaccine. Clarification regarding how these types of clinically unsure situations will be addressed would be helpful.

Health-Related Information and Clinical Advice (lines 56-73)

The draft policy sets out new requirements for physicians who intend to share general health information on social media, including that the information must be verifiable and supported by available evidence and science, and not be misleading or deceptive. As indicated above, concerns have been expressed about the changing nature of evidence, particularly in circumstances like a pandemic where new information becomes available almost daily. It would be helpful for the policy to comment on how clinically unsure situations where evidence is evolving will be addressed. With respect to more conventional circumstances, it may be helpful for the Advice document to contain guidelines regarding the evaluation of evidence. Extensive information about this topic is contained in the draft Advice to the Profession document for the draft Complementary and Alternative Medicine policy. Relevant materials could be referenced or replicated for this policy as well.

Privacy and Confidentiality

Seeking Out Patient Health Information (lines 114-134)

The draft policy requires that physicians refrain from seeking out a patient's health information online without their consent unless:

- There is appropriate clinical rationale related to safety concerns,
- The information cannot be obtained in another manner,
- They have considered whether it is appropriate to ask the patient for consent to seek out the information online,
- They have considered how the search may impact the physician-patient relationship (for example, whether it would lead to a breakdown in trust).

From the feedback received, it is evident that this section of the policy is not well understood. It would be helpful for the policy or Advice document to provide additional explanation regarding its purpose. Several questions of clarification have been raised, such as:

- Does this include a general google search of famous patients or patients who are prominent figures when the intent is not to find personal health information?
- Can physicians look for information in an emergency? Can they look for possible substitute decision makers?
- If the information is available on a public site, is there an expectation of privacy?
- If the physician is within the patient's circle of care, are they able to search for pertinent health information that could help with treatment?

Conflicts of Interest (lines 135-139)

The policy requires that physicians avoid or recognize and appropriately disclose actual or perceived conflicts of interest (i.e., where their personal or professional interests are at odds

with their professional obligations) when using social media. It would be helpful if there could be additional information about the use of promotions, brands, advertising, etc., in tweets, blogs, and so on. Additionally, examples in the Advice document regarding when disclosure may be appropriate, and a clear identification of the specific information physicians are required to disclose, would help to make this section clearer.

General Comments

The CMPA indicates that physicians should consider establishing a social media policy for their practice and share it with their staff and patients (in community practice, or if a health facility does not already have a policy in place). Additional information/templates regarding this type of policy would be helpful. (Source: CMPA - Top 10 tips for using social media in professional practice (cmpa-acpm.ca))

Additional requests for information/clarification in the Social Media policy include:

- Additional information about how to communicate appropriately with patients via email or social media,
- More details about how to advocate effectively and appropriately,
- Information about how to minimize and manage privacy breaches,
- Examples of inappropriate use of social media to use as a learning tool,
- Information about how to confidentially notify the CPSO about inappropriate and/or misleading content on social media,
- Courses physicians can take to learn more about communicating appropriately online.

As well, although it is difficult to identify how exactly this would occur, members indicated that it would be helpful for patients to receive the same guidance as physicians when posting on social media. It is difficult to address misinformation or slander by a patient once it is posted.

Thank you for the opportunity to provide feedback. If you have any questions, please do not hesitate to contact the OMA Health Policy & Promotion Department.