





inadvertently announcing to all the recipients the identities of her other substance use clients. Group emails are a form of social media and you should avoid using this communication method with clients if you are not confident on how to maintain privacy. Encryption software should be installed on both your side and the recipient side.

- If forwarding anyone's email to other parties, always read the entire e-mail trail to delete material that could be construed as a private. This practice of quickly forwarding emails can cause embarrassment at the very least, or a breach of confidentiality at worst.
- Consult with a professional to give you the technical knowledge you need to maintain privacy.

Unfortunately, no matter how good your technical skills are and even when you do your best to maintain privacy, hackers will have a better skill set than you. Use of informed consent wordage can lessen your exposure should a client's personal information get into the wrong hands.

### Develop a Social Media Policy for Both Clients and Employees

**Clients:** If you want to use a site like Facebook to reach out to professionals or clients, it is just common sense to create and maintain a separate online page for your professional life. Clients should not be privy to what you did during your last vacation. Clients may not want you to be checking their sites to see what they have been up to either. Develop written guidelines for clients that clearly state what the boundaries are for both you and your client. These guidelines should include "friending" practices. Be aware that if you "friend" a client, or a client "likes" a statement you post, that client may now have access to the names of everyone else that "friends" you or "likes" what you post. Guidelines should also cover the use of "messaging" through social media. For some excellent examples of guidelines and informed consent statements, just do an Internet search for "Guidelines for counselors and social media" and you will find plenty of helpful information and examples that will fit in with your counseling style.

**Employees:** It must be assumed that most of your employees use social media sites while away from the office. It is tempting for employees to want to gripe about a difficult client when they get home or to share amusing anecdotes about clients to their social media friends. They may even feel they have the right to do this because of their "freedom of speech" as long as the client is not identified. If unique enough, sometimes an amusing or difficult situation can identify a client without using names. The fact is you can be held legally responsible for privacy breaches by employees even though you were not aware of their actions. Strongly urge your employees to use the strongest privacy settings available on sites like Facebook so that their content is not available to the general public. When Facebook does an update, remind employees to recheck their settings to make sure they did not default to a public setting.

It is essential that you have clear employee guidelines that stress that client privacy is a top priority of the organization. Clearly spell out what is not allowed and state what the consequences will be of deliberate breaches of the rules. Go over the guidelines with each employee and have them sign a statement that they understand the rules. Having rules in place makes your position clear and paves the way for enforcing consequences if the need arises.

### E-Counseling or Online Counseling

Using teleconferencing sites to provide services could expose you to liability that may not be covered by professional liability insurance, especially if a client is not located in a state in which you are licensed. Most professional liability policies for counselors have exclusions if services are provided in a state in which the insured is not properly licensed or certified. States differ in their laws concerning this practice but in many states a counselor must be licensed in the state in which your client receives your services. Be sure to check with the licensing board of the states in which your clients reside to see if you must obtain a license to practice in that state. Written guidelines for you and your clients and informed consent should be in place before you provide services. The use of passwords just makes sense to make sure you are communicating with your client and not another party who has use of your client's computer.

Not all teleconferencing sites are HIPAA compliant, therefore, make sure you check on a site's HIPAA compliance status before you use it. Skype is not HIPAA compliant though they began working with a strategic partner this year to work toward that goal. A HIPAA compliant site will offer a Business Associate Agreement as required by HIPAA regulations. Consult with "telemental health" organizations such as Telemental Health Institute ([www.telehealth.org](http://www.telehealth.org).) This organization keeps updated lists of sites that are HIPAA compliant as well as provide educational articles, webinars and other training options.

### If a Breach of Privacy Does Occur

Most professional liability insurance policies state that it is the duty of the insured to inform the insurance company as soon as possible if an incident occurs that could give rise to a claim. Delaying reporting the incident could jeopardize insurance coverage. But there is another reason to report incidents to your insurance company or representative in a timely manner. The insurance company claim or risk management department may be able to minimize the damage before the incident cascades out of control.

Whether meeting clients face to face or using social media sites and other technologies to communicate with clients, a counselor's most important responsibilities are to maintain a professional presence, to do your utmost to safeguard your clients' privacy and to respect boundaries, all while providing the standard of care expected of counselors. Written guidelines, informed consent and keeping up to date when using the latest technologies help counselors achieve those goals. Some professional counseling organizations have already revised their Ethics Codes to address the use of Social Media with clients. You can also reach out to your state licensing board to see if they have guidelines for your professional profiles on social media sites.



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