Social Media 2.0-Ethics and Legal Issues

Today’s Goals
• The legal, regulatory and practical pitfalls to avoid in the social media arena.
• The importance of having a clearly articulated social media policy.
• To provide practical and concise training to staff members, residents and visitors.

Areas of Concern
• Privacy and Confidentiality
• Human resources
• Marketing/Reputation
• Copyright
• Liability/discovery
• Defamation
• Securities (public companies)
Areas of Concern

- Risk as a function of
  - the likelihood/probability of a given threat triggering or exploiting a particular vulnerability, and
  - the resulting impact/severity on the organization

Privacy and Confidentiality
- Greatest probability and vulnerability
- Resident information, images, data
- Regulations:
  - State and fed privacy, confidentiality, dignity
  - HIPAA/State laws
- Reputation

Human Resources
- Hiring and firing
- Discrimination
- Facility drama
- Concerted activity
Areas of Concern

- Marketing/Reputation
  - Your online presence is as, if not more, impactful as your curb appeal
  - What is said by “you”
  - What is said about “you”
- Liabilities
  - Representations

Areas of Concern

- Copyright/Intellectual property
  - Use of images not yours
  - Just because it’s on the internet does not make it public domain
  - Particularly risking if doing it yourself

Areas of Concern

- Liability and Discoverability
  - Social media is standard for discovery
  - Trolling in advance of action
  - Retention/document hold
Policy Considerations

- Single “policy” not likely possible, components of existing policies
- Risk analysis to guide focus
- One “policy” for official facility communications
- Expectations for employee usage, likely subset of privacy and confidentiality training/policy.

Policy Considerations

- Official Facility Communications:
  - Part of larger marketing and communication effort
  - Target efforts to intended audience/purpose

Policy Considerations

- Limited official “voice(s)” of facility
  - Fully knowledgeable regarding:
    - medium, privacy settings, access/restrictions
    - Legal do’s and don’ts, copyright rules/attribution
    - Privacy/confidentiality/authorization
Policy Considerations

• Limited official “voice(s)” of facility
  • Appropriate temperament
  • Knowledge of response expectations and internal communications
  • Comment/Response: Establish expectations and plan in advance, not on the fly.

Policy Considerations

• Employee Expectations and Policy:
  • Focus on risks
  • Don’t prohibit what you cannot prohibit
  • Subset/component of privacy/confidentiality expectations
Policy Considerations

- HR-Employment Screening:
  - Separate rules for HR personnel
  - Know the rules for use, misuse
  - Risk: Discrimination
  - If used as part of hiring process: when, who, what

Policy Considerations

- HR-Discipline:
  - Less a "policy" versus knowledge of do’s and don’t
  - Stay atop what constitutes "concerted activity" to minimize risk

Policy

1. Social Media Policy
   a. Message to all employees
   b. Suitable for training as subset of privacy/expectations and marketing/communication
   c. Policy review of current privacy/confidentiality
2. Instructions/guide for Official Facility use
Policy

3. HR rules
   a. Screening usage
   b. Discipline

Sample discussion

Questions