

# NSO *Risk Advisor*

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## Legally, when can you say “no”?

Accepting responsibilities beyond the scope of your license or skill level can have serious consequences for you, your patients, and your career. Learn when to say no to keep patients safe and protect yourself from legal repercussions.

### Overtime and a heavy case load

Mandatory overtime or any policy that requires you to work beyond your scheduled shift can lead to a high-stress environment, more errors, and burnout. You may worry that your refusal will lead to a poor evaluation, termination, or charges of patient abandonment, which could threaten your license. You can legally say no to mandatory overtime without repercussions depending on state law and facility policy. To check your state's laws on overtime, contact your state nurses association. If mandatory overtime is permitted under state law and facility policy, you agreed to abide by this expectation when you accepted employment. In that case, you may not be able to say no without the permission of your manager or someone else in authority.

If you refuse to accept a work assignment *after* arriving for shift report, you may be charged with abandonment if you walk away without placing your patients safely into the care of another qualified staff member, depending on your state's laws. Employers can fire advanced practice nurses who refuse even an unreasonable assignment for insubordination. If you don't have a written agree-

ment with your employer regarding staffing expectations, you may have to accept the request.

### Assignments outside of your scope of practice and skill level

You should always refuse assignments outside your legal scope of practice as defined by your state's nurse practice act. If you accept responsibilities that are reserved for other professionals, you may be charged with practicing medicine or pharmacy without a license. Your professional liability insurance may not cover you for penal-



ties resulting from actions beyond your legal scope of practice that harmed a patient.

A patient who's been harmed may sue an advanced practice nurse for negligence if she was practicing without the skills needed to provide safe nursing care—even if she was performing tasks legally within her scope of practice. Know when you're not current on a specific skill needed and if you feel unsafe to provide certain care. Never attempt to perform treatments or use equipment without the knowledge required.

### Saying “no” like a professional

Aggressive behavior or responses aren't the professional way to say no. A reasonable explanation that's assertively explained for saying no will be heard and accepted better than a no that's aggressively or negatively presented. If saying yes isn't in your best interest, give your no response clearly. Communicate decisively and in a timely manner. Provide suggestions of other ways for meeting the need you're unable or unwilling to fulfill.

It isn't always easy to say no to requests being made by peers and healthcare team members. The manner in which a refusal is communicated can make a difference in how the message is received. Good team relations as well as excellent team communication are important to establish a foundation of the work environment that allows you to say no.

Penny S. Brooke, APRN, MS, JD, University of Utah College of Nursing, Salt Lake City.

# Playing it safe with social media

You and your fellow advanced practice nurses likely have personal blogs, Facebook or MySpace pages, and maybe even followers for a Twitter feed. After a rough day at work, it's tempting to share your work experiences on your Facebook page or blog—and it's easy to forget that you shouldn't reveal information that can identify any of the patients you care for.

Social media, when used in a healthcare setting, carries with it a caution—the need to protect patient privacy. You must adhere to legal and regulatory requirements such as those of the Health Insurance Portability and Accountability Act (HIPAA), even when you're just telling your friends about a particularly challenging patient you encountered or an interesting medical problem you helped solve.

## Making a connection

Social media has connected us in new ways. According to a November 2009 report on the Pew Internet Personal Networks and Community survey, 71% of those surveyed reported having at least one member of their core network as a "friend" on a social networking service.

Social media such as Facebook, MySpace, Twitter, and blogs connect the world in ways that are changing healthcare. At Children's Mercy Hospital in Kansas City, Missouri, surgeons performed plastic surgery on a 10-year-old boy from Mongolia. During the operation, a public affairs officer "tweeted" so the boy's father back in Mongolia and boy's mother in the hospital's waiting area could follow along.

Some hospitals combine streaming video on YouTube with Twitter updates both to inform families and as an educational tool for medical and nursing students. Social media has become the latest popular trend in hospital marketing. According to the blog "Found in Cache," more than 400 hospitals use social networking tools.

Social media can also be a tremendous resource of health information for



advanced practice nurses and patients alike. Many associations have Facebook pages and Twitter feeds so you can keep up on the latest news and research. For instance, you can subscribe to an information feed from the Centers for Disease Control and Prevention and follow the American College of Cardiology on Twitter.

## Play it safe

Even though social media is a great way to stay connected, always remember to follow your organization's guidelines regarding e-mail and other electronic communication when you're using social media. Usually, any such communication is the organization's property if it was created on your work computer. Take a look at the Mayo Clinic's guidelines on social media for its employees at <http://sharing.mayoclinic.org/guidelines-for-mayo-clinic-employees>. At Mayo, employees must use their personal e-mail address when posting on social media sites.

If you don't follow guidelines to protect patients, you could be fired. One survey by Proofpoint, an IT security firm, found that nearly 20% of IT decision makers had disciplined an employee in the past year for violating blog or message-posting policies, and 9% reported they'd fired an employee for the same reason. In February 2009, two Wisconsin nurses were fired for posting a patient's X-rays on a Facebook page, even though the patient wasn't identified.

Avoid potential problems when consulting online with a colleague about a patient by not providing any identifying information and, if appropriate, obtaining permission in writing from the patient. It's probably a good idea to hold those types of discussions offline and use social media for general information. After all, it's not worth the risk: Violating HIPAA regulations can lead to fines as high as \$250,000 and time in jail.

## Friend or foe?

Some organizations take a dim view of social media, going as far as blocking staff access to the Internet. Administrators may feel they're protecting patient privacy and eliminating reduced productivity from employees. Proponents of banning social networking point to a United Kingdom study of 1,460 workers that claimed social media costs businesses \$2.25 billion a year in lost productivity.

On the other hand, employees will talk to each other, with or without social media. By not allowing it, organizations send the message that they don't trust their employees. Banning access could also affect recruitment. According to an Australian study, nearly half of employees who use MySpace and Facebook during work hours would turn down a job offer from an employer that banned the sites.

When using social media, a good way to avoid problems is to simply use common sense. Most organizations already have policies regarding e-mail and website use, and by extension, these apply to social media sites, too. Be cautious and think about the information you're sharing before you hit "Send"—will what you're sharing violate your patient's privacy in any way? If so, don't send it.

## Valuable resource

Just like any other tool, social media can be used for good or bad. By remembering to protect patient privacy and following your organization's policies, you can access a wealth of information and connect with nursing colleagues online while avoiding liability issues, all while keeping yourself—and your patients—safe.

Cynthia Saver, MS, RN, President, CLS Development, Columbia, Maryland

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## NSO Executive Receives Highest ACNP Recognition

The American College of Nurse Practitioners (ACNP) presented the 2009 Nancy Sharp Cutting Edge Award this year at their

National Clinical Conference to Michael J. Loughran, Executive Vice President of Nurses Service Organization (NSO). The Board of Directors of the ACNP, who voted unanimously to give Michael the honor, presents the award to a nurse practitioner, nurse, or layperson who has demonstrated extraordinary belief in nurse practitioners and contributed to efforts to improve the image and visibility of NPs.

"The awards selection committee and Board of Directors enthusiastically agreed on Michael's tireless commitment and advocacy on behalf of nurse practitioners," said Thad Wilson, APRN, BC, FNP, PhD, president of the ACNP. "He is indeed worthy of this honor and recognition. His support has truly made a difference for nurse practitioners."



## Improving Our Service to NSO Customers

Our NSO Contact Center is dedicated to providing you the highest level of service. Each year, we manage an increasing number of client interactions including telephone calls, e-mails, faxes, and letters. Our customer service team works to answer your phone calls, online inquiries, e-mails, and faxed requests in a timely manner.

We recognize that we have not met your expectations in all cases over the last year. To support our goal to provide you excellent service, we've made improvements to our professional staff and technology.

### Professional Staff

- **More Resources:** Our representatives are licensed insurance agents and now we have more of them to better serve you.
- **Quality Assurance Program:** We take pride in our quality assurance program and take steps to ensure that our service results meet or exceed your expectations. We analyze call performance, develop quality measures through training and audits, and deliver one-on-one coaching feedback.

### Advanced Technology

- **Call Recording Solution:** Recording telephone calls and data associated with each call has allowed us to improve the customer experience through first-call resolution, streamlined processes, and targeted training and education. We now can handle many of your requests over the phone, such as name change requests, policy upgrades and adding policy endorsements that were previously required to have been submitted in writing.
  - **Document Imaging:** By scanning all client information and adding it to your electronic account, we can immediately access your documents to provide quicker response and processing times.
  - **Daily E-mail:** When your renewal payment is received or if you've applied for a new policy and payment is received, we'll send you an electronic verification of payment statement by the next business day, along with a link to download your Certificate of Insurance. To take advantage of this service, a valid e-mail address is needed.
  - **My Account Online Self-Service:** You can renew online, obtain certificates of insurance, make payments, change an address, and perform other self-service functions.
  - **Telephone Self-Service:** Allows you to perform many of the same functions as our online solution by calling our toll-free number.
- As always, our self-service systems allow you to access your account information and process transactions at your convenience, at any time, from any location.

## Announcing New Coverage Enhancements


NSO strives to offer the best product in the marketplace at competitive rates. To support this goal, NSO is pleased to announce that we've upgraded many of the features included in your professional liability insurance policy. The following limits have been upgraded and will be available at your next renewal:

- License Protection: New Expanded Coverage!
- Defendant Expense Benefit: New Higher Limits!
- Deposition Representation: New Higher Limits!
- Assault: New Expanded Coverage!
- Medical Payments: New Higher Limits!
- First Aid: New Higher Limits!
- Damage to Property of Others: New Expanded Coverage!

Along with these upgrades, the following coverage enhancements will also be available:

- **Workplace Violence Counseling:** Includes reimbursement for counseling services arising from an assault at your workplace.
- **Sexual Misconduct (up to \$25,000 aggregate):** Replaces existing exclusion to provide coverage for sexual misconduct. Defense is outside the limit, and all duty to defend ends once the aggregate is paid. When sexual misconduct is alleged, all allegations in that claim will be subject to the sexual misconduct aggregate, including professional liability, personal injury liability, and malplacement liability.
- **Information Privacy Coverage (up to \$25,000 aggregate):** Coverage for breach of privacy including HIPAA fines and penalties (not including medical billing errors and omissions).

To read more about these coverage enhancements, please visit our website.

 Put the purchasing power of NSO to work for you

The NSO Marketplace is an online shopping experience created especially for NSO customers that gives you access to brand name merchants at favorable prices!

Working with the nursing community, NSO identified the products you use and value. We then used the purchasing power of NSO's 675,000 nursing professionals to negotiate special savings just for you. You receive discounted prices from merchants such as Barnes & Noble, The Walking Company, and many more.

Registration is free with no activation fees or hidden costs. The only requirement is that you're a nursing professional. To begin your online shopping experience and see all of our merchants, register today at [www.nso.com/marketplace](http://www.nso.com/marketplace).

Service your account, day or night, by visiting **My Account!**  
Check it out at [www.nso.com](http://www.nso.com)

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## CNA HealthPro and NSO Announce Update to Nurse Practitioner Claim Study

Amid growing expectation that healthcare providers demonstrate quality and safety in clinical practice, in 2005 NSO and their insurance carrier partner, CNA, embarked on the first ever ten-year (1994–2004) analysis of malpractice actions involving nurse practitioners (NPs). This study evaluated claims in a number of critical areas, including clinical specialty and claims by state and financial analysis. Data on key areas such as scope of practice, prescribing authority, diagnosis, and collaboration were of particular interest.

In an exciting move and an anticipated



publish date of December 2009, NSO and CNA have announced an update of this study with design modifications based on

input from NPs. The findings will next be presented at the California Association for Nurse Practitioners' 2010 Conference in Anaheim, CA, March 25 to 28.

The updated study will provide insight into how "experience" influences the likelihood of a claim; define the NP specialty and location of practice that drive the greatest value from a claims perspective; define the leading allegations of malpractice against NPs; review highest value claims against NPs in 2009; and compare and contrast how claims against NPs have changed from study to study.

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