

ANMF (Vic Branch) Policy

USE OF SOCIAL MEDIA

Purpose for this Policy:

To provide guidelines relating to all Australian Nursing and Midwifery Federation (Victorian Branch) members professional responsibilities and legal risks when using social media and to highlight the potential ramifications of participating in the use of any form of published media.

Preface

Social media is a widely used and useful means of online communication. All Australian Nursing and Midwifery Federation (Victorian Branch) members should be cognisant of the legal risks and their professional obligations when using all social media as they relate to reputation, privacy and confidentiality.

Please note: the term nursing and midwifery professionals refers to registered and enrolled nurses, registered midwives and unregistered workers carrying out nursing work, including personal care workers.

Websites and applications used for widespread online communication and social and professional networking are termed 'social media'. These include websites that enable an individual or group to post personal, professional or anonymous content. These websites include but are not limited to Facebook, LinkedIn, Twitter, YouTube, Instagram, Flickr, Wordpress and other blogging sites, discussion forums and message boards.

Social media has become an important component in both professional representation and community campaigning. This communication tool has frequently allowed Victorian nurses and midwives to bypass traditional media gatekeepers to share their health care messages with an audience numbering in the hundreds of thousands. A growth in the number of Victorian nurses, midwives and carers using social media professionally, responsibly and actively is proportionate with greater online influence of the professions.

All Australian Nursing and Midwifery Federation (Victorian Branch) members should make themselves aware of the risk and implications of using any social media sites, especially where comments or images posted may potentially or actually damage the reputation or breach the privacy or confidentiality of others, including, but not limited to:

- Persons in their care
- Persons formerly in their care
- Colleagues
- Managers or employers
- Members of the public

Professional responsibilities for nurse and midwives

Nurses and Midwives should be aware of their professional obligations as outlined in the *Health Practitioner Regulation National Law (Victoria) Act 2009* as well as the codes of professional conduct and ethics for both

nurses and midwives¹ and various professional standards and guidelines as outlined by the Nursing and Midwifery Board of Australia (NMBA). These documents provide guidance in respect to professional conduct and ethics as they relate to social media and members are encouraged to read them and apply their principles to their social media conduct. This ANMF (Vic Branch) policy document is intended to work in conjunction with the NMBA social media policy².

Policy

The Australian Nursing and Midwifery Federation (Victorian Branch) endorses the following principles:

- 1) All members recognise that the laws of defamation may apply in respect to a post, comments or images published by them on any form of social media. You may be personally liable for damages and legal costs, including the legal costs of the person claiming to be defamed.

Defamation occurs when a statement:

- a. Injures a reputation
- b. Refers to the person or organisation being defamed, or the person or organisation's identity is known to the recipients
- c. Is published.

- 2) All members recognise that the laws of defamation may apply to posts, comments or images and the like made by other people on a social media site over which you exercise any form of control, including for example posts, comments or images and the like on your Facebook page.

All members recognise that even if their privacy settings are high, content originating from them may be forwarded or handled in unintended ways by recipients, with far reaching consequences, with the possible result that they may ultimately be held responsible for damage done by such content.

- 3) All members must be aware that the legal costs of defending a defamation claim, and any damages that may be awarded, may not be covered by the ANMF professional indemnity or legal costs policies.

- 4) All nursing and midwifery professionals should:

- a. Understand that when using social media, the *Health Practitioner Regulation National Law (Victoria) Act 2009* and Codes of Conduct for nurses and midwives apply.
- b. Be aware that any information posted on social media/networking websites are considered as published, may be accessible in the public domain and may not be easily deleted.
- c. Be aware that within Australian law, all social media users are publishers and any citizen is vulnerable to defamation action where damages may exceed \$80,000³
- d. Maintain patient/client/resident privacy and confidentiality at all times and in all media (including online and print) and as such must refrain from commenting about clients/patients/colleagues they come in contact with or the health services they provide to people, on social media/networking websites.
- e. Not engage in online communication or relationships with a patient/client/resident including, but not limited to inviting a patient/client/resident to become an online 'friend' or accepting an online invitation from a person they have met through their professional work.
- f. Never post (on social media/networking websites or through blogs) any photographs/video of themselves or others engaging in activities, including those in the workplace that may be deemed offensive, illegal or compromising. This may be deemed inappropriate by AHPRA, the employer, or the public.
- g. Never post (on social media/networking websites) any photographs/video of patients/clients/residents unless it is within the parameters of work, appropriate organisational clearance has been granted or approval has been obtained through an employer approved release form.
- h. Exercise caution when placing personal details onto any social media account/profile.

¹ Australian Nursing and Midwifery Council. 2008 *Code of Professional Conduct for Nurses and Code of Professional Conduct for Midwives*

² Nursing and Midwifery Board social media policy. 2014 available at: <http://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Policies.aspx> accessed January 11, 2016.

³ *Mickle v Farley* [2013] NSWDC 295

- 5) All members should be aware of the Australian Nursing and Midwifery Federation (Victorian Branch) Workplace Bullying Policy⁴ and their employer's organisational bullying policy. You must abide by the expected standards of behaviour in accordance with the relevant staff code of conduct. Failure to comply with such standards and policy may result in disciplinary action by the employer.
- 6) While complying with the ANMF (Vic Branch) Workplace Bullying Policy, all members must also be aware that online bullying behaviour (defined as cyber bullying) can become a crime under Victorian or national law if behaviour is reckless enough. This may occur when someone:
 - a. uses social media in a threatening, harassing or offensive way
 - b. accesses private internet accounts without permission
 - c. encourages suicide
 - d. engages in unethical harassment activities such as targeted personal information dumping, also referred to as 'doxxing'.
- 7) Exercise care before posting angry, insulting or critical comments on social media or online. Carefully consider all comments and the potential consequences before publishing.
- 8) Employers have an obligation to ensure all employees are provided with organisational policy in relation to the use of information technology, inclusive of social media – however if this is not available it does not exempt nurses and midwives from their professional obligations associated with privacy and the professional treatment of others.

Occupational Health and Safety laws oblige employers to ensure the work environment is free of risks to an employee's health and safety. Employees must take reasonable care for their colleagues and their own health and safety. Employees should co-operate with employer actions to comply with these laws. For more information on these responsibilities, visit the Victorian Equal Opportunity & Human Rights Commission website⁵.
- 9) All members must be aware that the legal costs of defending against any criminal act (including cyber bullying behaviour) will not be covered by the ANMF professional indemnity or legal costs policies.
- 10) If your workplace does have an organisational policy in relation to use of information technology, inclusive of social media, make sure you are familiar with the contents and fully understand the policy guidelines. Australian law has ruled these organisational policies represent a "legitimate exercise in acting to protect the reputation and security of a business."⁶
- 11) All members must ensure they do not post content which is likely to mislead or deceive. Members should never post any comment or image where it could be perceived as a comment on behalf of a third party such as the employer or the ANMF, without first being provided written authority to do so. Australian Consumer Law forbids false or misleading representations, such as false testimonials or false claims to association, approval or affiliation.

It is important that members engaging in businesses relating to nursing or midwifery read and understand their rights and responsibilities under Australian Consumer Law and the Nursing and Midwifery Board of Australia Advertising Guidelines⁷ before marketing any nursing or midwifery service online.

⁴ Workplace Bullying Policy. 2013. Australian Nursing and Midwifery Federation (Victorian Branch) available at: <http://www.anmfvic.asn.au/news-and-publications/publications/2013/09/01/workplace-bullying-policy>. Accessed January 11, 2016.

⁵ <http://www.humanrightscommission.vic.gov.au/index.php/bullying>

⁶ Pearson v Linfox Australia Pty Ltd [2014] FWC 446

⁷ Guidelines for advertising regulated health services. 2014 Australian Health Practitioner Regulation Agency. Available at: <http://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Codes-Guidelines/Guidelines-for-advertising-regulated-health-services.aspx>

Information provided online, whether photographs, video, comments or personal details is considered published and potentially in the public domain and may be viewed by people other than those for whom it was intended. Once it is posted, it may not be easily removed. Always be aware that what you are putting online – despite your privacy settings – may be viewed by others and potentially copied and republished. This information may have significant unintended professional and personal ramifications.