Tips for practitioners

Avoiding ethical problems in social media
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Did you hear about the lawyer who was suspended for responding to a client's review on Yelp? Or the lawyer who lost her job after posting a photo of her client's courtroom attire on Facebook? Avoid these pitfalls by following five simple rules:

Know your jurisdiction.
Not all bar regulators agree about how the ethics rules apply to social media. Read the ethics rules in each jurisdiction where you are licensed. Then, look for ethics advisory opinions on social media in those jurisdictions. If you are licensed in more than one jurisdiction, follow the most stringent rules. Beware of opinions outside your licensing jurisdiction — for example, while the American Bar Association issued several opinions on social media, those opinions aren't binding and are based upon rules that might differ from your licensing jurisdiction(s).

Remember confidentiality.
The confidentiality rule is much broader than most lawyers think. In Georgia, "all information gained in the professional relationship" is confidential. The American Bar Association says similar language means that even a published opinion is confidential and cannot be disclosed without the client's informed consent (a defined term in the rules). Before you mention anything about a client's case, ask for permission after discussing the pros and cons of posting. If you aren't comfortable asking for permission, you probably shouldn't post it.

Tell the truth.
Advertising rules apply to lawyers' social media use. Most jurisdictions, including Georgia, require all advertising be truthful and not misleading. Making up a story or embellishing or omitting unflattering details could earn you a disciplinary complaint.

Nothing is private.
Keeping close tabs on your friends, restricting access to your accounts and having separate professional and personal accounts won't keep you out of hot water. The lawyer fired for posting a photo of her client's courtroom attire used a personal Facebook page limited to a few friends. One of those friends rightfully reported the misconduct to a judge. Assume everything is public and follow the rules whether using your personal or business accounts.

Stop and think.
A thoughtless click of a mouse is all it takes to create exhibit 1 to a disciplinary complaint and ruin your reputation. It may be difficult, if not impossible, to remove information once posted. Use common sense and ask yourself a few questions before you post: Does this reflect who I strive to be as a lawyer? Will my colleagues, peers and potential clients view this positively? Will I still want to post this next week? If the answer to those questions is no, don't post it, no matter how funny or interesting the item is.

Nicole G. Iannarone, assistant clinical professor, oversees the Investor Advocacy Clinic, where she helps provide students with an opportunity to represent small investors with claims against their brokers before FINRA and to help educate potential investors.