New Ethical Dilemmas in the Digital Age
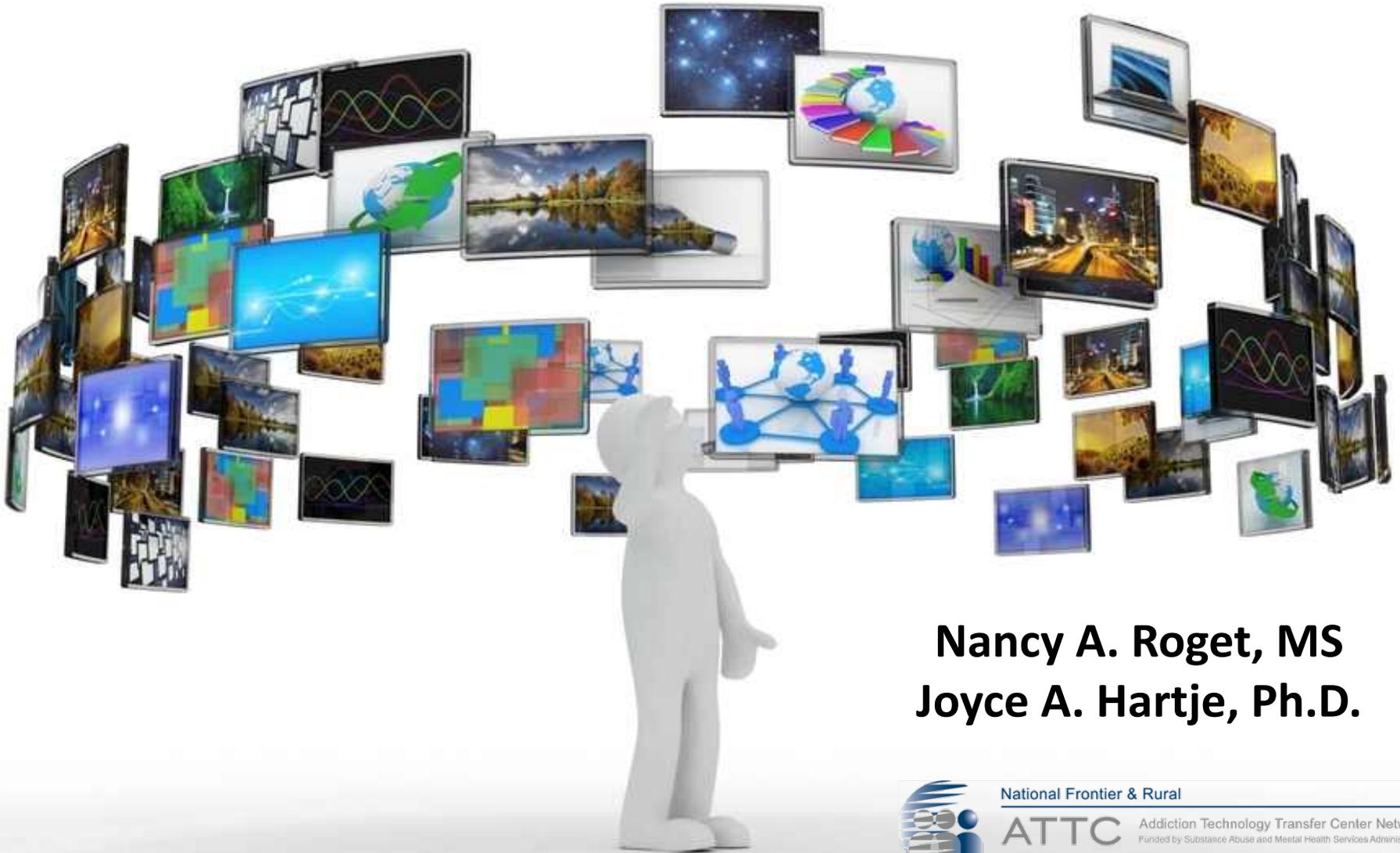
Nancy A. Roget, MS
Joyce A. Hartje, Ph.D.

National Frontier & Rural
ATTC Addiction Technology Transfer Center Network
Funded by Substance Abuse and Mental Health Services Administration

CASAT

(Center for the Application of Substance Abuse Technologies)
Division of Health Sciences
University of Nevada, Reno

National Frontier and Rural

ATTC

Addiction Technology Transfer Center Network
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Presentation Outline

1. *Digital Types*

2. *Use of Technology and Social Media*

3. *Ethical Codes and Social Media Guidelines by Associations*

4. *Social Media Policy Issues*

5. *Employer Social Media Policies*

Technology has invaded our lives …

(Dixon, 2013)

... and its *Creeping* into professional practice

(Mishna et al., 2012)

Intertwining of the professional and personal

(Clinton et al., 2010)

EXAMPLE

Chapman v. Unemployment Compensation Board of Review

- While on duty at Lifequest Nursing Center in Allentown, PA, a nurse used her personal cell phone to post comments on Facebook about a coworker who had accidentally soiled her pants at work. After it was discovered she had been distributing medications at the time of the postings, she was fired for "*engaging in conduct that could cause a life-threatening situation*."

  The unemployment compensation board held that Lifequest had proven willful misconduct in their decision to terminate the nurse, as her distraction with the cell phone could have placed patients at risk of serious harm. It denied her unemployment compensation benefits.

Chapman v. Unemployment Compensation Board of Review. 20 A.3d 603 (Pa. Commw. 2011)

More EXAMPLES

- **An OB-GYN in St. Louis took to Facebook to complain about her frustration with a patient:** *"So I have a patient who has chosen to either no-show or be late (sometimes hours) for all of her prenatal visits, ultrasounds, and NSTs. She is now 3 hours late for her induction. May I show up late to her delivery?"*
Another physician commented on this post: *"If it's elective, it'd be canceled!"*
The OB-GYN at issue then responded: *"Here is the explanation why I have put up with it/not cancelled induction: prior stillbirth."*
http://www.the-hospitalist.org/article/how-to-avoid-data-breaches-hipaa-violations-when-posting-patients-protected-health-information-online/2/

- **A financial services employee of the hospital accessed the detailed billing records of a patient with a sexually transmitted disease and deliberately and maliciously published those records on Facebook, taunting and ridiculing the patient.**
http://www.healthcareitnews.com/news/cincinnati-hit-breach-nightmare-0

47 incidents since 2012 in which workers at nursing homes and assisted-living centers shared photos or videos of residents on social media networks

Use of technology by health care practitioners (HCPs)

- is increasing

- presents unique ethical dilemmas

(NBCC Policy, 2013)

Practitioners are vulnerable to being *blindsided* by NEW ethical dilemmas

(Crowley & Gottlieb, 2012)

Digital Immigrants

(Zur, 2012; Prensky, 2001)

Digital Immigrants

… people born before or about 1964 and who grew up in a pre-computer world

(Zur & Zur, 2011)

Like all immigrants... as Digital Immigrants learn to adapt to their environment, they retain, to some degree, their 'accent' ...
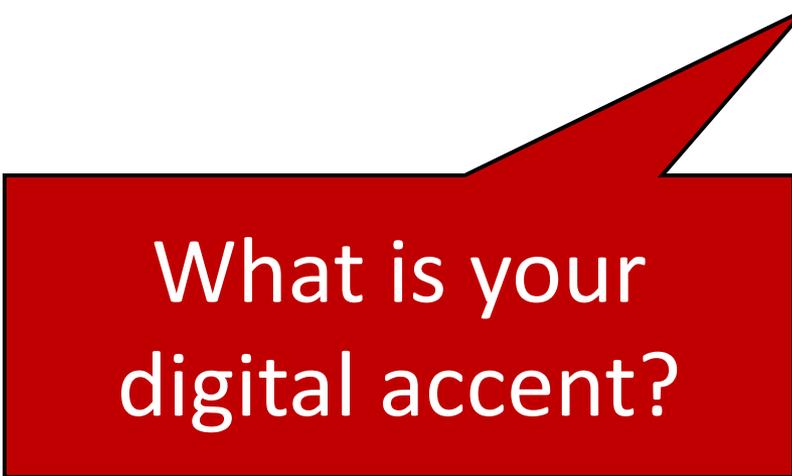
What is your digital accent?

(Prensky, 2001)

'*native speakers*' of the digital language of computers, cell phones, video games, and the Internet

(Zur, 2012; Prensky, 2001)

Comparison of Digital Types

Digital Immigrants

- **Prefer to talk in-person or on the phone**
- **Don't text or only sparingly**
- **Prefer synchronous communication**
- **Prefer receiving information slowly: linearly, logically, & sequentially**
- **Prefer reading text (i.e., books) on processing pictures, sounds & video**

Digital Natives

- **Prefer to talk via chat, text, or messaging thru social media**
- **Text more than call**
- **Prefer asynchronous communication**
- **Prefer receiving information quickly & simultaneously from multiple multimedia & other sources**
- **Prefer processing /interacting with pictures, graphics, sounds & video before text**

(Zur & Zur, 2011; Rosen, 2010; Prennsky, 2001)

DIGITAL DIVIDE
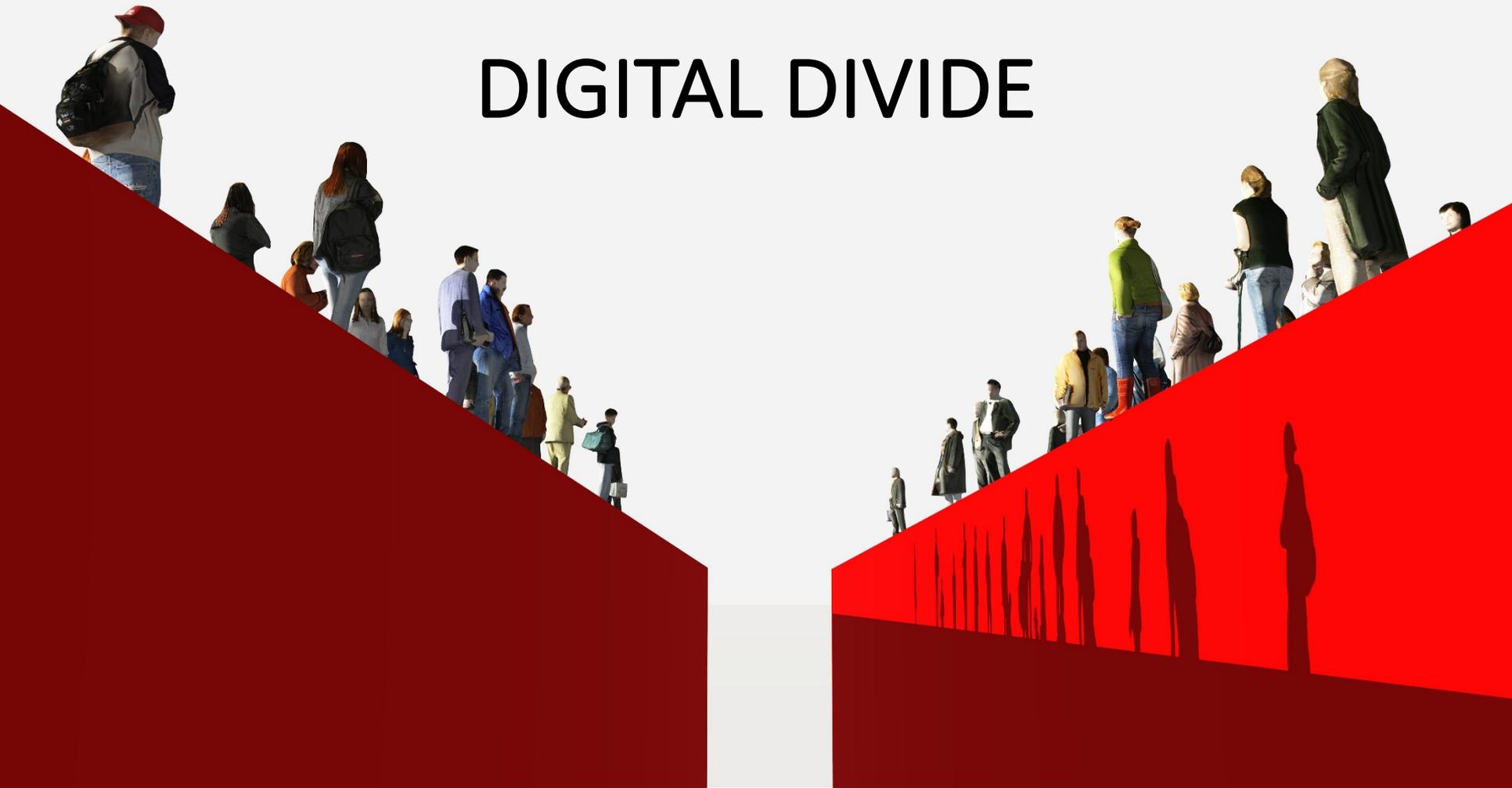
Younger clinicians and those with smartphones found the app more usable than older clinicians and those without smartphones.

These variables predicted clinicians' intentions to use the PTSD app in treatment with Vets.

(Kuhn et al., 2014)
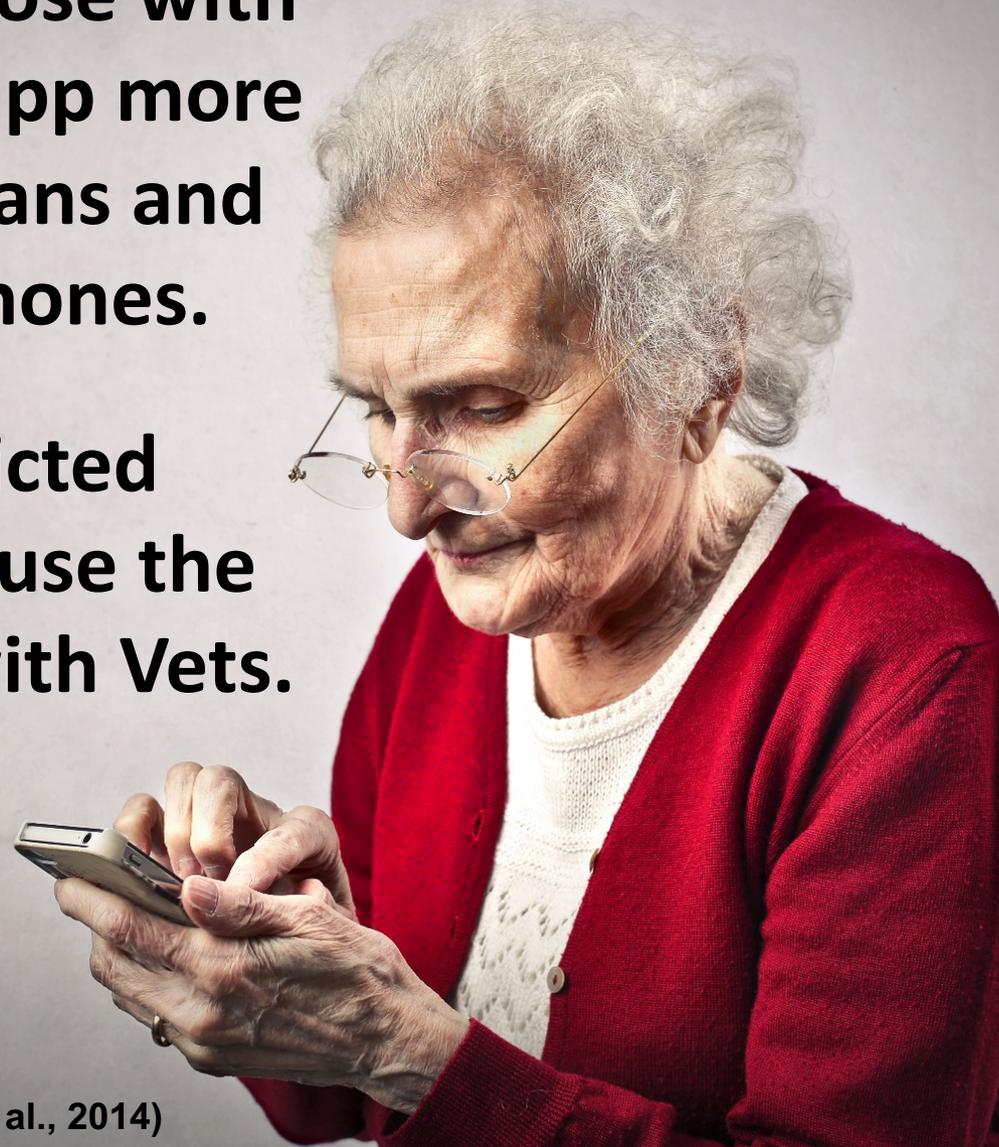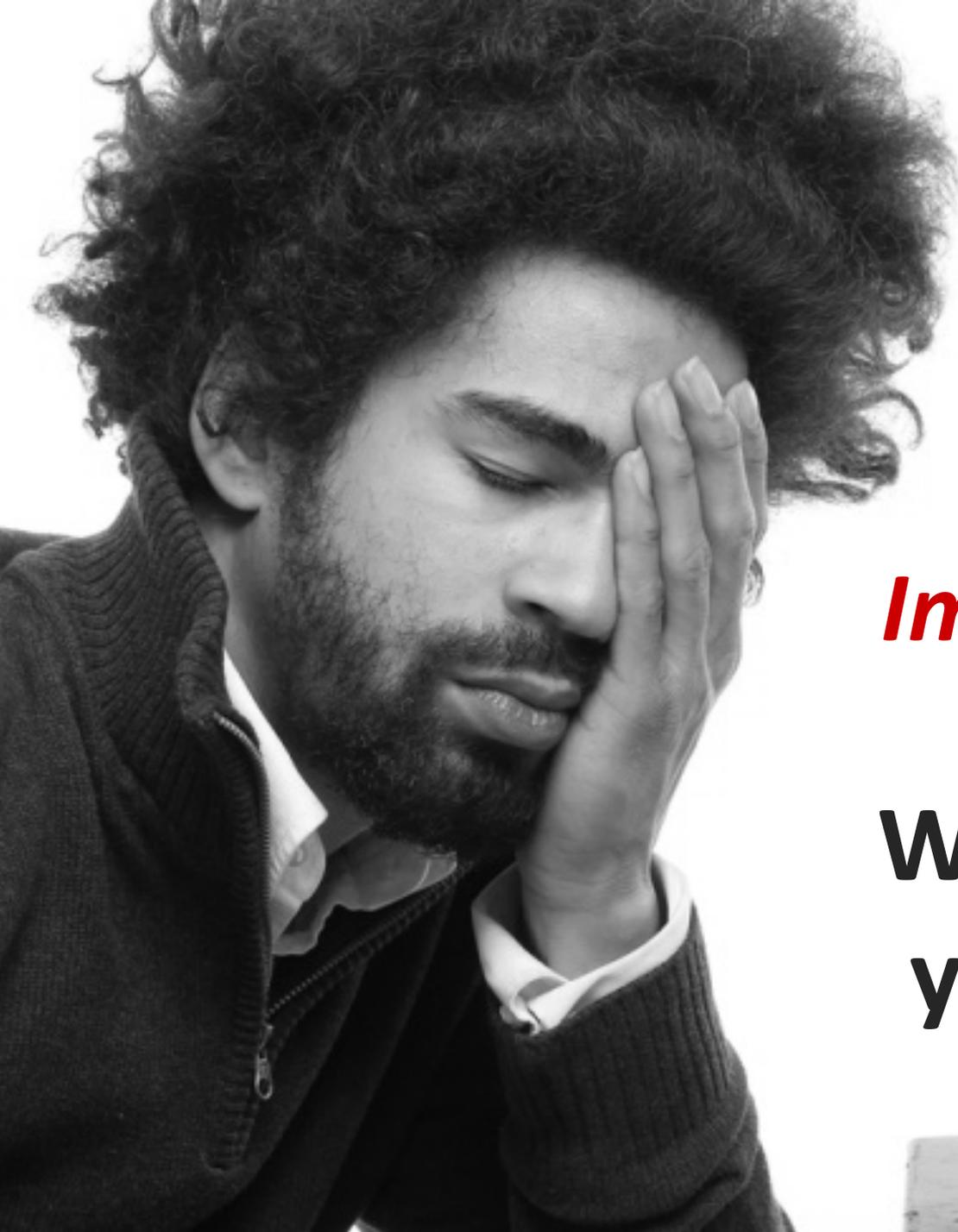
Digital *Native* or Digital *Immigrant*

Where do you fall?

Health care professionals must be knowledgeable about and open to this new digital culture

(Lannin & Scott, 2013)

Use of Technology and Social Media

People are using technology

92% of American adults have cell phones

68% have smart phones

(Pew Report, 2015)

No matter a person's salary... more people own cell phones than use the Internet

(Fox, 2013)

90% of people over age 6 will own SMARTPHONES by 2020
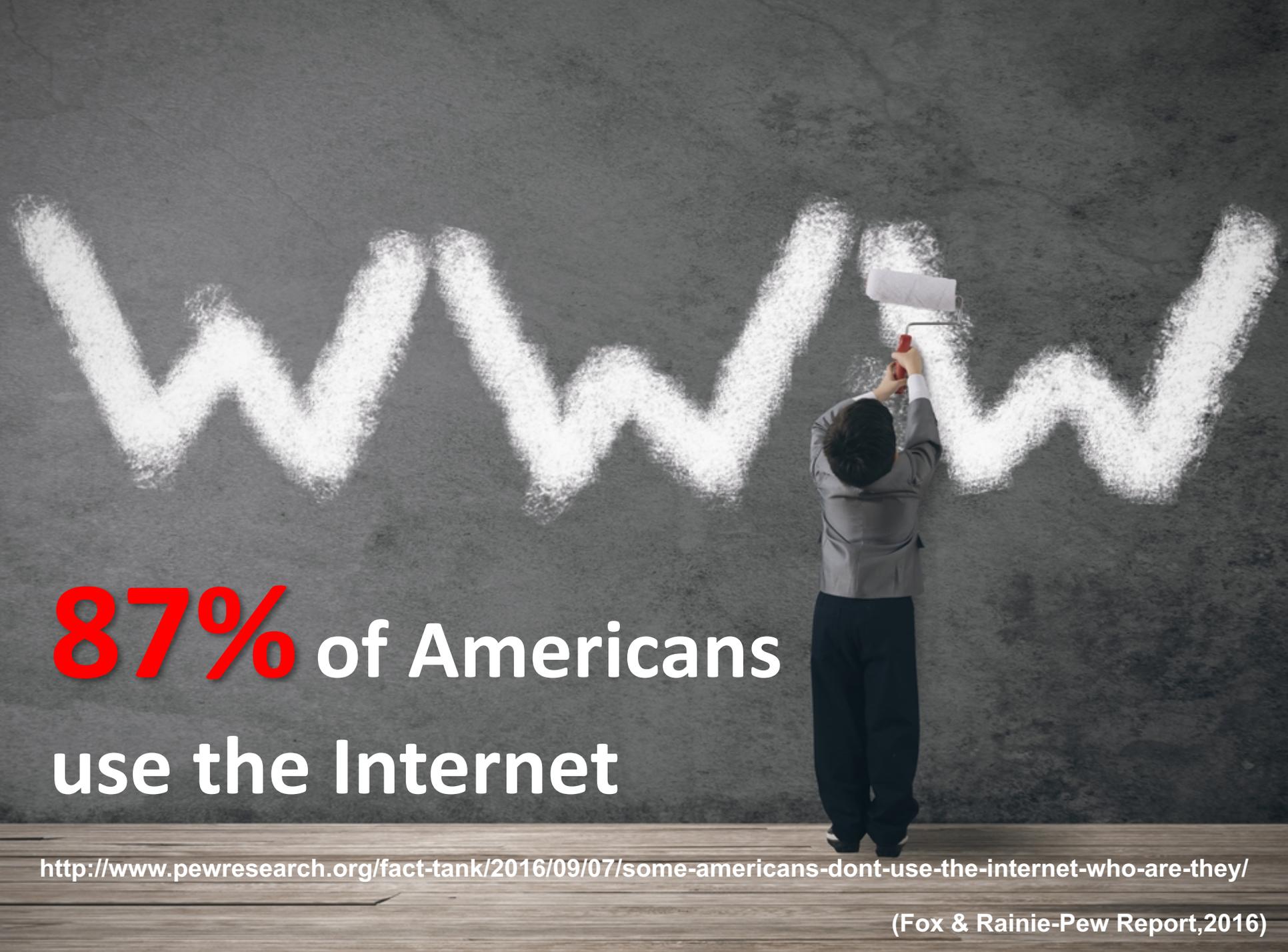
87% of Americans use the Internet

http://www.pewresearch.org/fact-tank/2016/09/07/some-americans-dont-use-the-internet-who-are-they/

(Fox & Rainie-Pew Report, 2016)

Use of online and mobile technologies is increasingly ubiquitous across age, race/ethnicity, and geography.

Consumers relying more on Internet- and smartphone-based tools for health information and tracking.

Ramsey et al., 2016

The widespread availability of online health information is increasing self-management of chronic illness.

72% **of Americans have looked for health information online.**

62% **of smartphone users have used their phone.**

Americans now spend an average of 34 hours per month using mobile apps and mobile web browsers

but only 27 hours a month getting online with their PCs

80% send and receive text messages

(Pew Report, 2012)

In 2013, **1.91 trillion** text messages were sent in the United States….

and more than **8 trillion** text messages were sent worldwide

Research studies support the efficacy of texting with other chronic conditions, such as:

- **obesity,**

- **diabetes,**

- **asthma,**

- **tobacco dependence, and**

- **sexual health.**

(Gonzales et al., 2013)

In 2015, almost 60% of mobile phone users had downloaded a health app (Krerbs & Duncan, 2015)

## A 2016 study revealed that 139 apps found in the app stores directly related to health care (Gan et al., 2016)
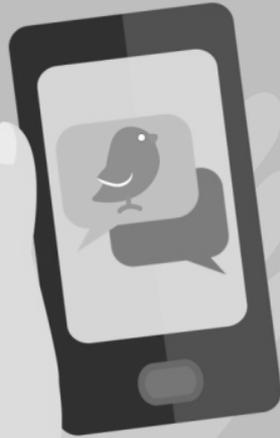
Mobile apps have the advantage of existing on a device that's already in patients' hands at any time of day

(Jones et al., 2014)
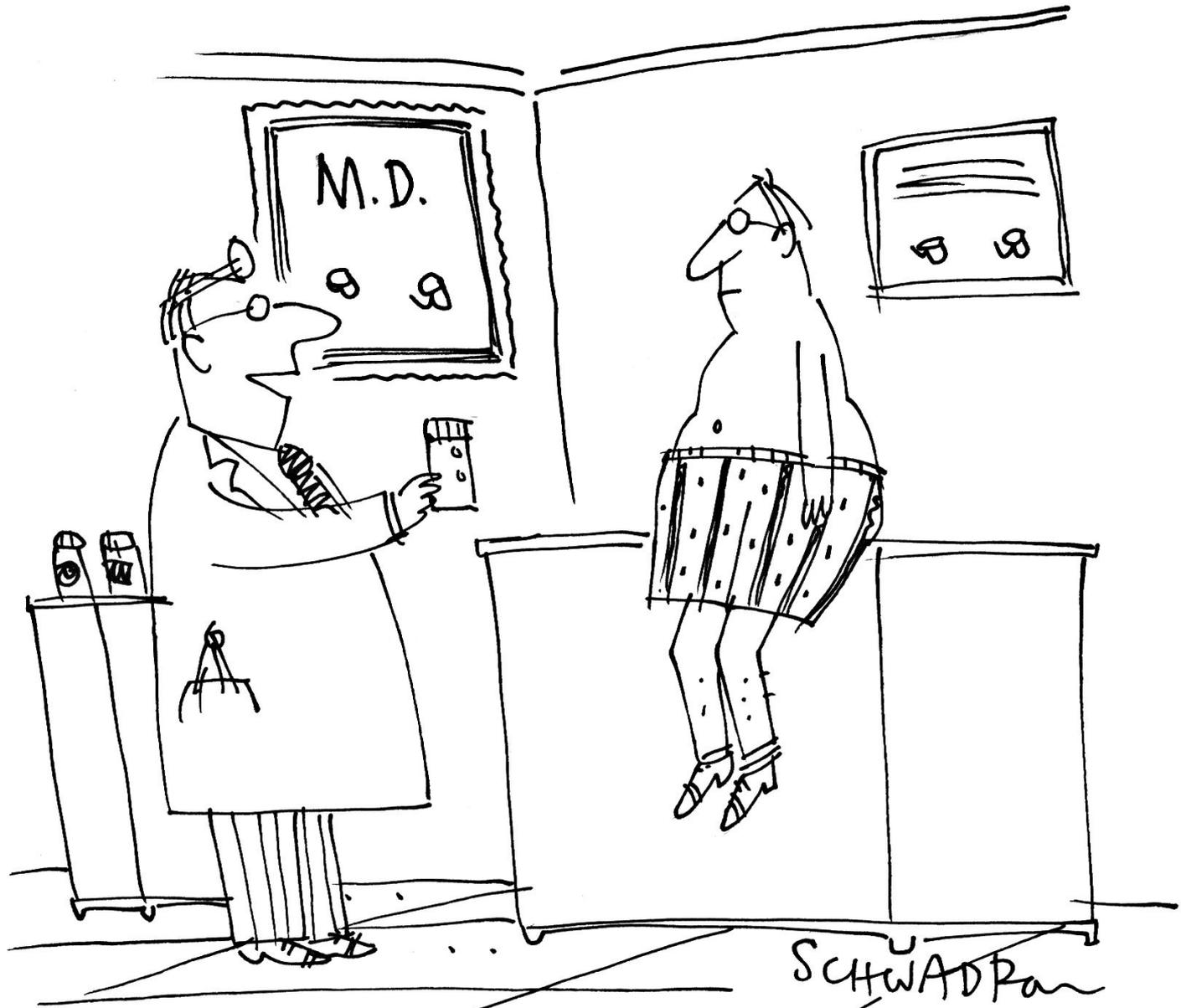
"DO YOU WANT THE PILL, THE SUPPOSITORY, THE PATCH, OR THE APP?"

Text messaging	97%
Voice/video calls	92%
Internet	89%
Email	88%
Social networking	75%
Take pictures/video	60%
News	55%
Watching video	50%
Games	47%
Maps	41%
Music or podcasts	41%
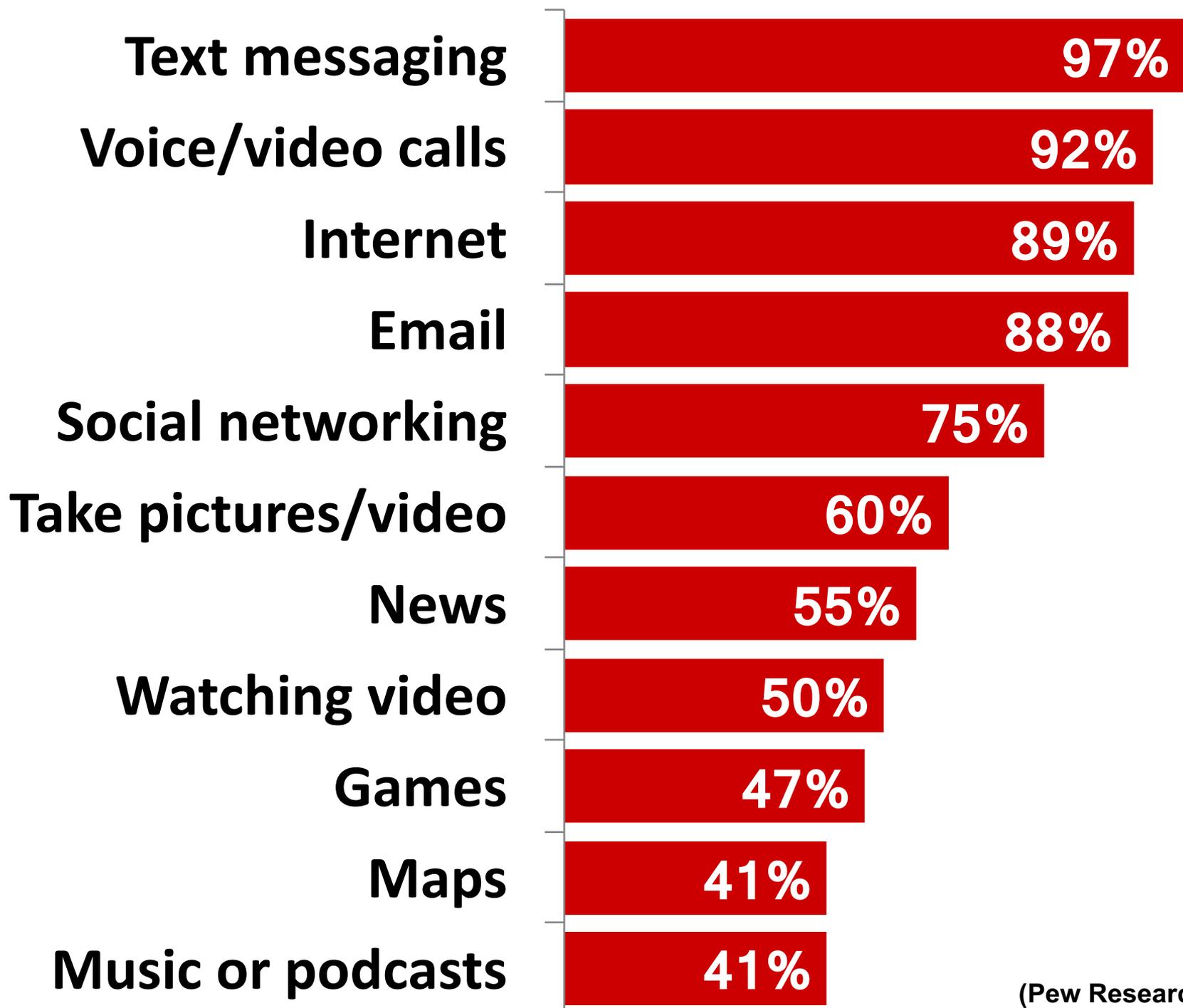
(Pew Research, 2015)

What do we know about patients?

Survey of 8 urban drug treatment clinics in Baltimore (266 patients)

Clients' had access to:
- **Mobile Phone 91%**
- **Text Messaging 79%**
- **Internet/Email/Computer 39 - 45%**

(McClure et al., In Press)

Current evidence demonstrates that clients use and are interested in using technologies as part of their treatment or continuing support

(Moore et al., 2011; Muench et al., 2013; Muench, 2015)
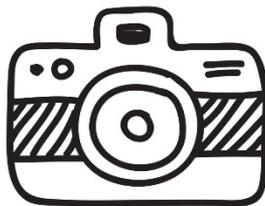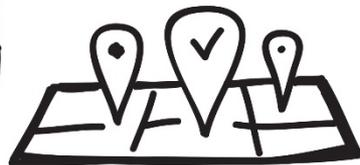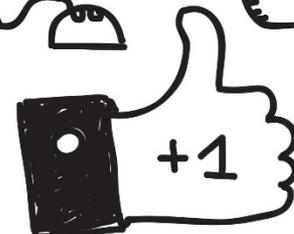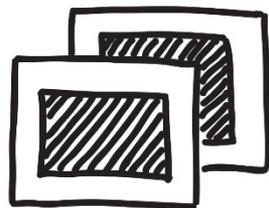
Social media **is a broad term that refers to online forms of communicating that any individual can employ as opposed to 'industrial media', which refers to professionally-produced radio, television, and film.**

(Kaplan & Haenlein, 2010; http://www.pcmag.com/encyclopedia/term/61162/social-media)

Social Network Site

... a website that provides a venue for people to share their activities with family, friends, and colleagues, or to share their interest in a particular topic.

Examples include:
Facebook, Google+, LinkedIn, Twitter

SNS facilitate highly interactive online communities where individuals share, co-create, discuss and modify user-generated content
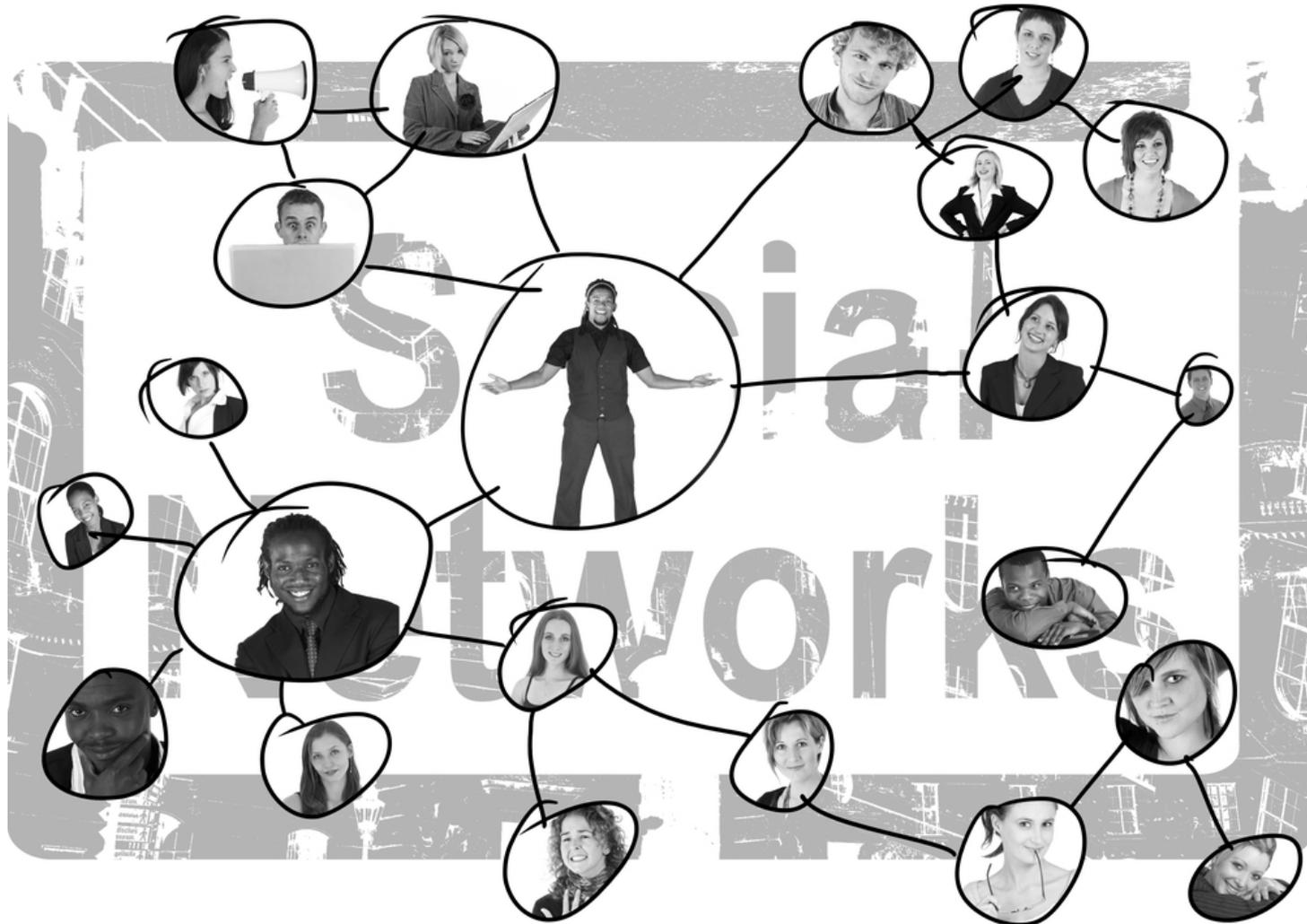
Social Media Explained

twitter — i'm eating a #donut

facebook — i like donuts

foursquare — this is where i eat donuts

instagram — here is a photo of my donut

youtube — here i am eating a donut

linkedin — my skills include donut eating

pinterest — here's a donut recipe

spotify — now listening to "donuts"

g+ — i'm a google employee who eats donuts

73% of American adults reported using the Internet to engage in social networking

social network

(Duggan & Smith, 2014)

Social Media Sites 2012-2014

Percent of Online Adults Who Use the Following Social Media Websites

■ 2012 ■ 2013 ■ 2014

FaceBook: 67% 71% 71%
LinkedIn: 20% 22% 28%
Pinterest: 15% 21% 28%
Instagram: 13% 17% 26%
Twitter: 16% 18% 23%
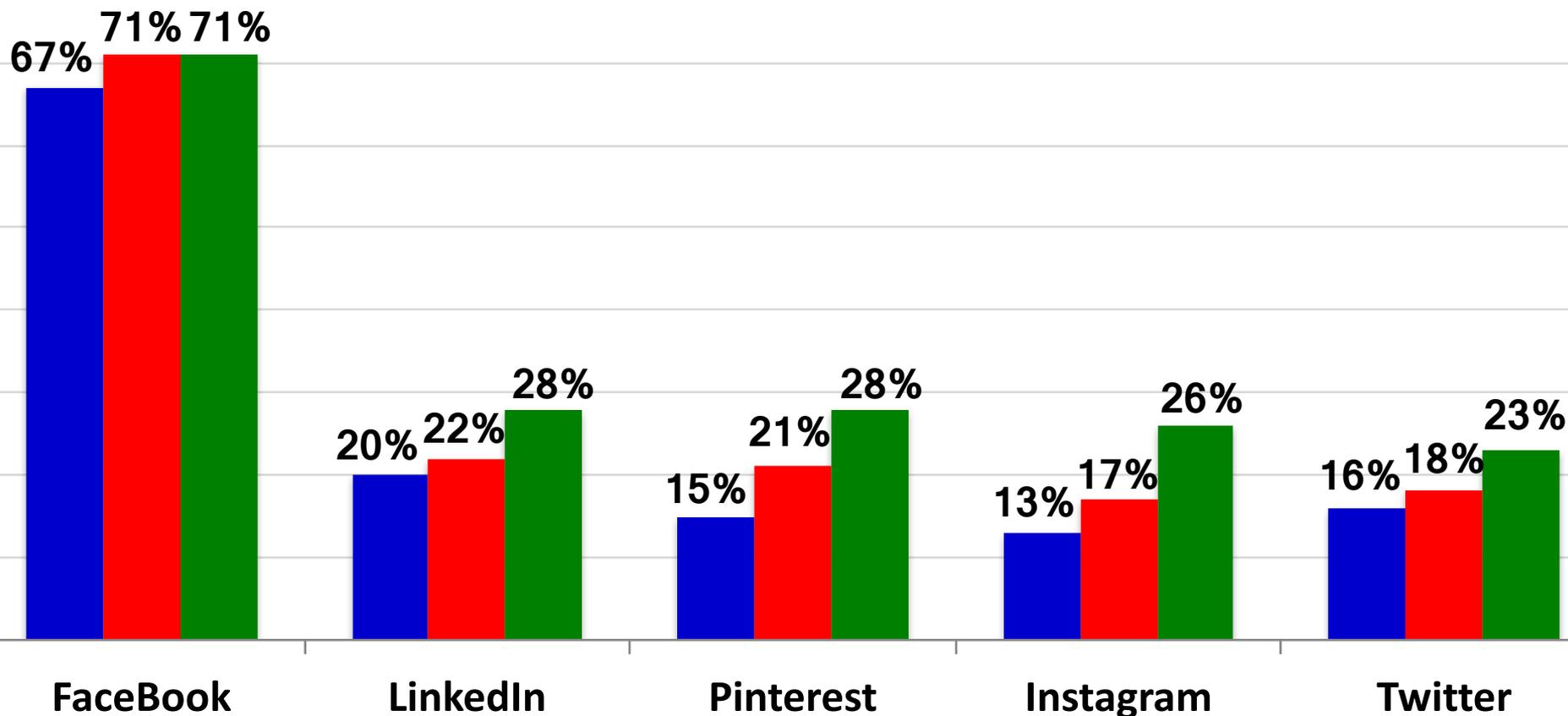
Pew Research Center's Internet Project Surveys, 2012-2014
2014 data collected Sept. 11-14 & Sept. 18-21, 2014; N=1,597 Internet users ages 18+

http://www.pewinternet.org/2015/01/09/social-media-update-2014/

Since patients are likely to use SNS, it may be helpful for practitioners to understand the phenomena of SNSs, even if they do not participate themselves.
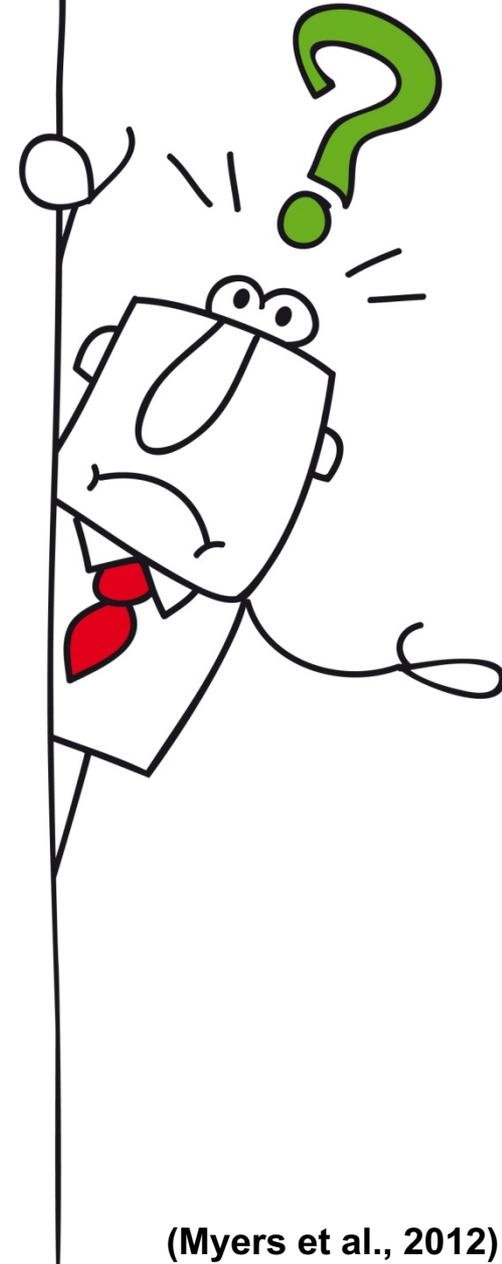
(Myers et al., 2012)

ETHICS

Interesting professional and ethical challenges as the distinctions between private and public information blurs.

(Behnke, 2008)

SELF

OUTSIDE WORLD

"All disclosures reflect decisions about the boundaries between the private self and the outer world."

(Farber, 2006)

Ethical Codes and Licensing Boards
have not caught up
with the TECHNOLOGY

but are starting to provide some guidance

Social Media Guidelines

- **Nurses' Guide to Use of Social Media - 2011 National Council of Boards of Nursing**

- **Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice - 2010 Federation of State Medical Boards**

National Boards and Ethical Guidelines/Codes for Social Media

- **APA**

- **NASW**

- **NBCC**

- **ACA**

- **AAMFT**

- **ASHSP**

Does your professional association have Social Media Guidelines?

If so, have your reviewed them?

HCPs can use social media to:

- **potentially improve health outcomes**

- **develop a professional network**

- **increase personal awareness of news and discoveries**

- **motivate patients**

- **provide health information to the community**

(Bernhardt et al., 2014; George et al., 2013; Ventola, 2014)

Social media provide HCPs with tools to:

- share information

- debate health care policy and practice issues

- promote health behaviors

- engage with the public

- educate and interact with patients, caregivers, students, and colleagues

(Bernhardt et al., 2014; Fogelson, Rubin & Ault, 2013; Morehead et al., 2013; Ventola, 2014)

These tools can:

- **be used to improve or enhance professional networking and education, organizational promotion, patient care, patient education, and public health programs**

AND

- **present potential risks to patients and HCPs regarding the distribution of poor quality information, damage to professional image, breaches of patient privacy, violation of personal–professional boundaries, and licensing or legal issues**

Blogs or Online Postings

1. ## Candor
    – **be forthcoming and honest about what influences opinions, writings, and recommendations**

2. ## Privacy
    – **prevent disclosure of patient private information and identification**

3. ## Integrity
    – **ensure that information is accurate, clear, and not deceptive**

easy

Stop and Think Approach to Patient Narratives on Social Media

- **writing a de-identified patient narrative using a respectful tone on a blog or other social media site, similar to narratives published in books and medical journals, is not itself wrong... it is the PLATFORM of digital dissemination that threatens to render the details identifiable**

(Chretien & Kind, 2013; Wells et al., 2015)

Stop and Think Approach to Patient Narratives on Social Media

- **sharing patient stories of a personal nature, even if positive and with the best of intentions, may be perceived by viewers as encroaching on patients' personal boundaries, thus carrying some inherent risk to the public and to the profession**

(Chretien & Kind, 2013; Wells et al., 2015)

HCPs can also expose themselves to lawsuits if they respond to a question sent via social media by providing medical advice

- **requests for advice would be to send a standard response that:**

  1) **informs the inquirer that the HCP does not answer online questions;**

  2) **supplies offline contact information so that an appointment can be made, if desired;**

  3) **identifies a source for emergency services if the inquirer cannot wait for an appointment.**

(Chretien & Kind, 2013)

Another argument…

- **What matters is not whether a patient may recognize him/herself, but rather that the physician took information obtained in a confidential relationship and used it for personal ends.**

- **De-identification doesn't change the moral breach; it only reduces the physician's risk of being caught.**

(Vartabedian et al., 2011)

CASE STUDY

A student on her surgery rotation at a well-known hospital encounters a patient with a severe injury that occurred while the patient was intoxicated. Part of the student's posting on Facebook includes "Note to everybody: don't get drunk and fall asleep on train tracks...."

Common examples of social media HIPAA violations include:

- Posting verbal "gossip" about a patient to unauthorized individuals, even if the name is not disclosed.

- Sharing of photographs, or any form of PHI without written consent from a patient.

- A mistaken belief that posts are private or have been deleted when they are still visible to the public.

- Sharing of seemingly innocent comments or pictures, such as a workplace lunch which happens to have visible patient files underneath.

Consequences of online postings include the possibility of undermining public trust in the profession, inadvertently identifying patients, and violating expectations of privacy

(Wells et al., 2015)

Follow the Elevator Rule... if you wouldn't say it aloud in a crowded elevator don't post it online

(Gagnon & Sabus, 2015)

Best Practices for Promoting e-Professionalism

- **Do not share any clinically related information about patients, families, working conditions, staff, colleagues, or incidents at clinical settings.**

- **"Off-duty" conduct is just as likely to be scrutinized and evaluated against professional standards.**

- **Know and follow explicit agency policies and restrictions for cell phone use, photography, and electronic communications.**

- **Always consider your audience and the context of your postings – your meaning may misinterpreted.**

(Barry & Hardiker, 2012; Westrick, 2016)

Best Practices for Promoting e-Professionalism

- **Stop and think before you post any information.**

- **Know and follow the social media policies of the institution, clinical agency, and follow e-etiquette principles for all professional communications.**

- **Do not discuss school- or work-related issues online, including complaints about others. This includes not criticizing or presenting unflattering images of your educational institution, teachers, or fellow classmates**

(Barry & Hardiker, 2012; Westrick, 2016)

SOCIAL MEDIA POLICIES for PATIENTS and STAFF

Social Media Policies

- **Friending, following, and messaging patients through SNS**

- **Conducting web searches of patients**

- **Patients doing web searches on practitioners**

- **Patient reading/following health practitioner's blogs**

- **Responding to patients comments on web-rating sites**

Is it okay for practitioners to accept friend requests from patients, allow patients to follow them or message them through social network sites?

(Kaplan, Wade, Conteh, & Martz, 2011)

Would it ever be okay for a health professional to Google, Facebook, or use other search engines to find out information about a patient?

POLICY

(Kaplan, Wade, Conteh, & Martz, 2011)

Prevalence of Googling

- **22%** of **193** clinical psychology graduate students had Googled their psychotherapy patients

- **28%** of **227** multidisciplinary psychotherapists accidentally found information about patients online, whereas **48%** intentionally sought this information

(Martin, 2010; Kolmes & Taube, 2010)

Would it be okay to
drive by a patient's house?

**Will HCPs be held responsible for what they read on blogs or SNS?**
(Duty to Warn)

On the other hand …
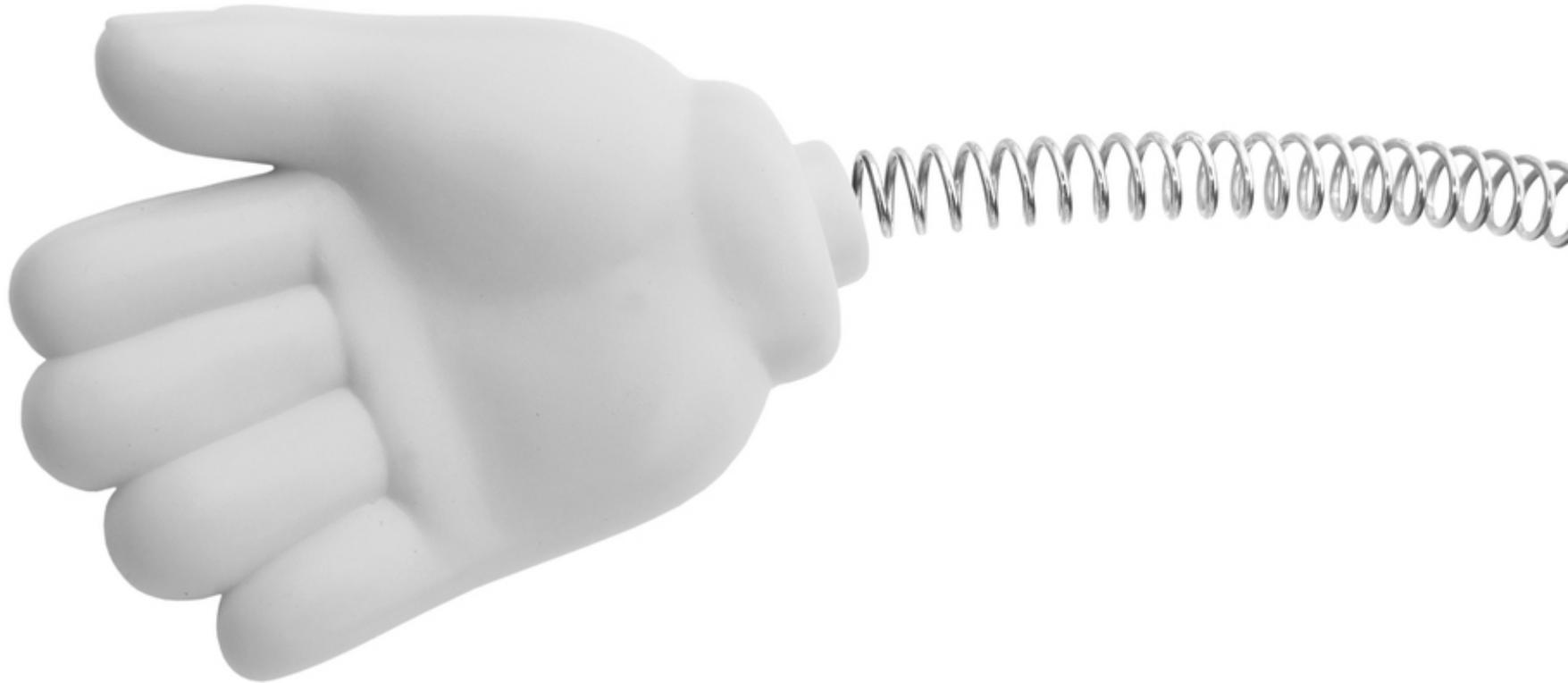
Patients **Googling** their Psychotherapist

70% of patients reported finding personal information about their psychotherapist on the Internet

only **28%** discussed it with their psychotherapist
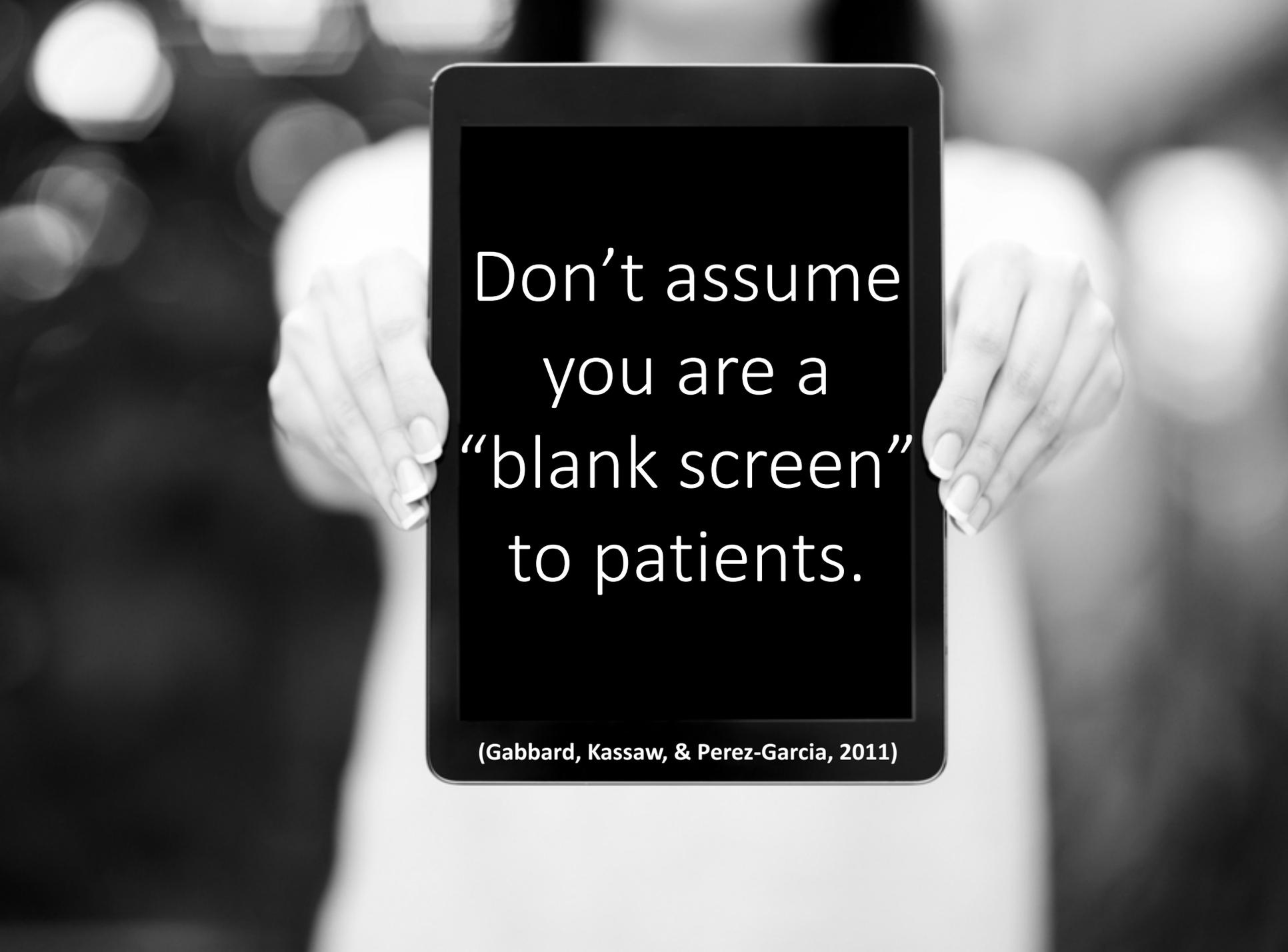
(Kolmes & Taube, 2011)

Don't assume you are a "blank screen" to patients.

(Gabbard, Kassaw, & Perez-Garcia, 2011)

Blogging Puts You at Greater Risk
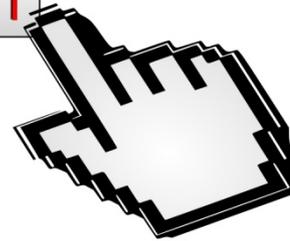
**most blogs are searchable by
date or keywords so that a blog entry
written a year ago can be quickly accessed**
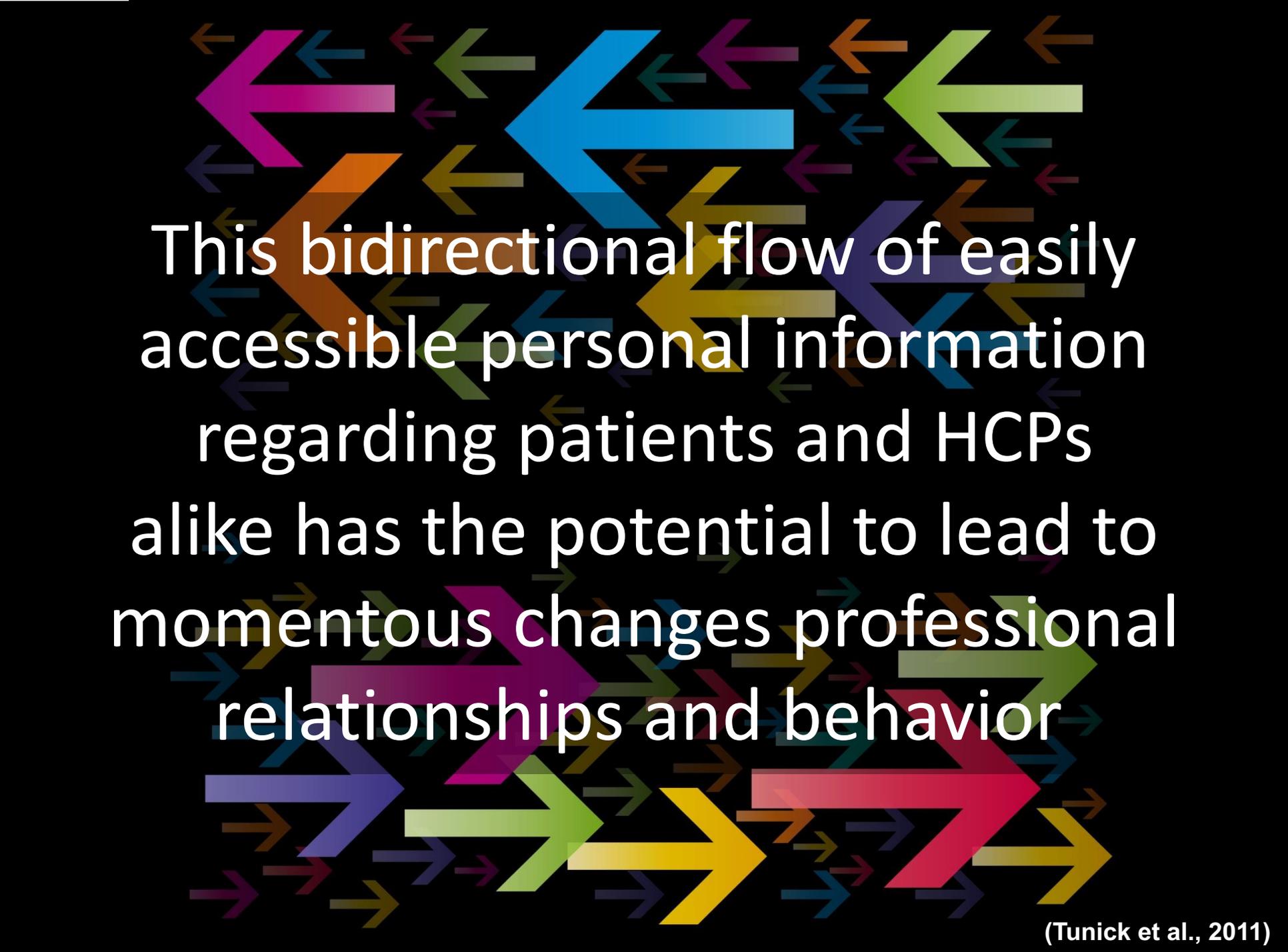
This bidirectional flow of easily accessible personal information regarding patients and HCPs alike has the potential to lead to momentous changes professional relationships and behavior

(Tunick et al., 2011)

How should the practitioner respond to comments or ratings posted on Internet sites?

(Kaplan, Wade, Conteh, & Martz, 2011)

Does your organization have a social media policy?

CMS August 2016

Protecting Resident Privacy and Prohibiting Mental Abuse Related to Photographs and Audio/Video Recordings by Nursing Home Staff

- Each nursing home must develop and implement written policies and procedures that prohibit all forms of abuse, including mental abuse.

- Each nursing home must review and/or revise their written abuse prevention policies and procedures to include and **ensure that nursing home staff are prohibited from taking or using photographs or recordings in any manner that would demean or humiliate a resident(s). This would include using any type of equipment (e.g., cameras, smart phones, and other electronic devices) to take, keep, or distribute photographs and recordings on social media.**

Employer Social Media Issues

- **Employees griping on the web**

- **Shoulder-surfing**

- **Googling job applicants**

Employees will share their gripes and struggles on Twitter, Facebook, YouTube, Instagram, and any other site with friends or strangers who will listen...

(Kasarjian, 2013)

When employees are reprimanded or terminated for statements they make online ...
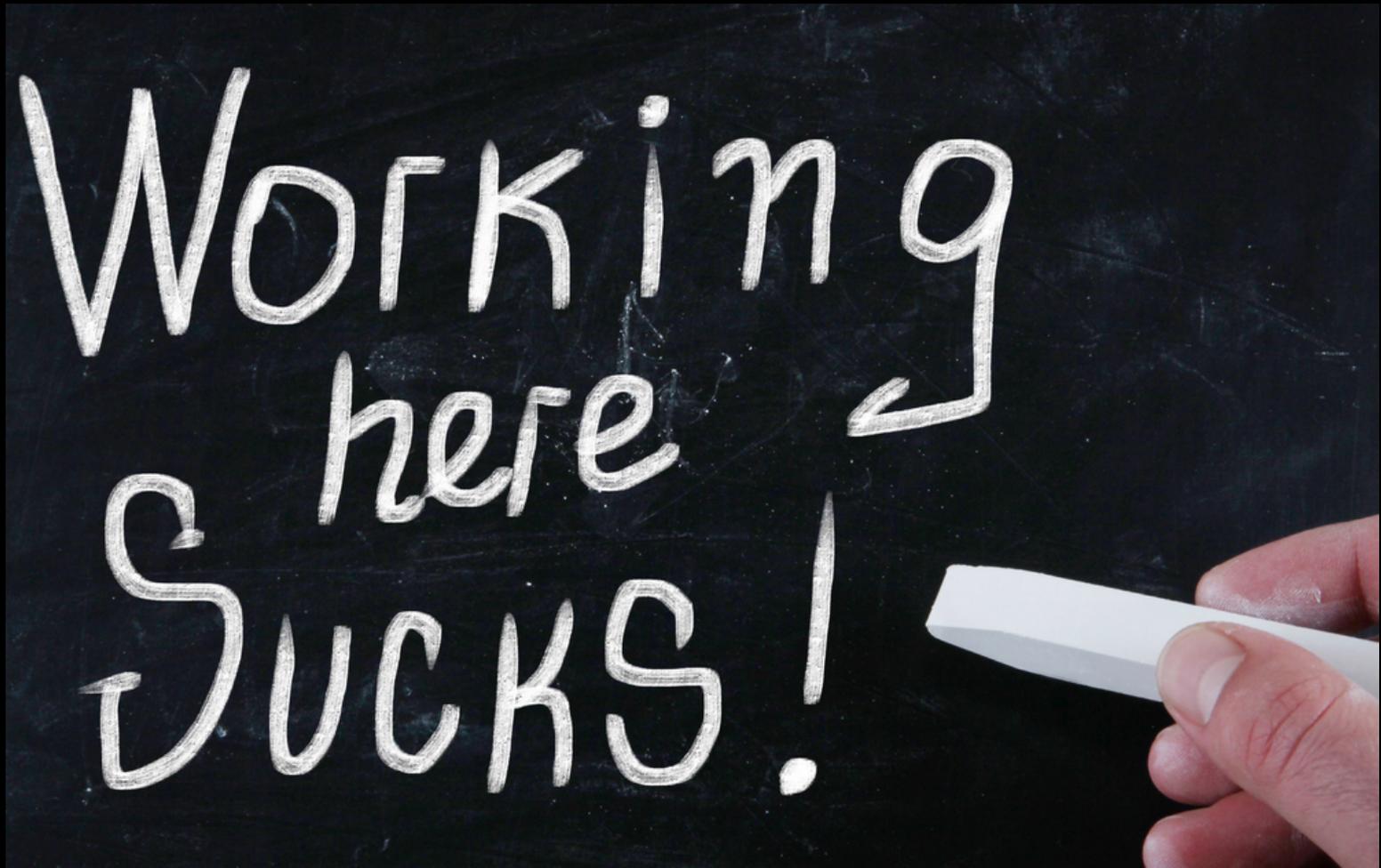
''Facebook Fired'' … the growing number and type of incidents that have arisen across all professions

(Hidy & McDonald, 2013)

DON'T EVER 'SHOULDER SURF' *or* MAKE AN EMPLOYEE SHARE THEIR PASSWORD *or* ASK THEM TO 'FRIEND' YOU

(Klemchuk & Desai, 2014)

Companies need to be careful when using social media in recruiting employees and researching applicants.

**Protected Class
(race, religion, & disability)**

'What is learned cannot be unlearned'

(Kasarjian, 2013)

So I looked at your Facebook page ...oh man...there's no way you're getting this job!

Summary

1. Use of technology is widespread

2. Patients and HCPs are interested in using technologies to manage their health.

3. Many Ethical Codes have not caught up but some recommendations now exist

4. Ease of posting facilitates posting without careful consideration

5. Employer social media issues associate with national acts, state laws, and other regulations

Be Prepared …

- **Violations of ethical codes related to social media and technology will occur... are you prepared?**
    - **What training can you refer HCPs to attend**
    - **How will you handle complaints**
    - **What guidelines can you provide HCPs**

- **How do we prepare our new practitioners versus seasoned practitioners?**

Professional associations and licensing boards are now immersed in efforts to identify pertinent ethical issues and develop practical guidelines regarding technology/social media


(Reamer, 2015)

Legal Issues
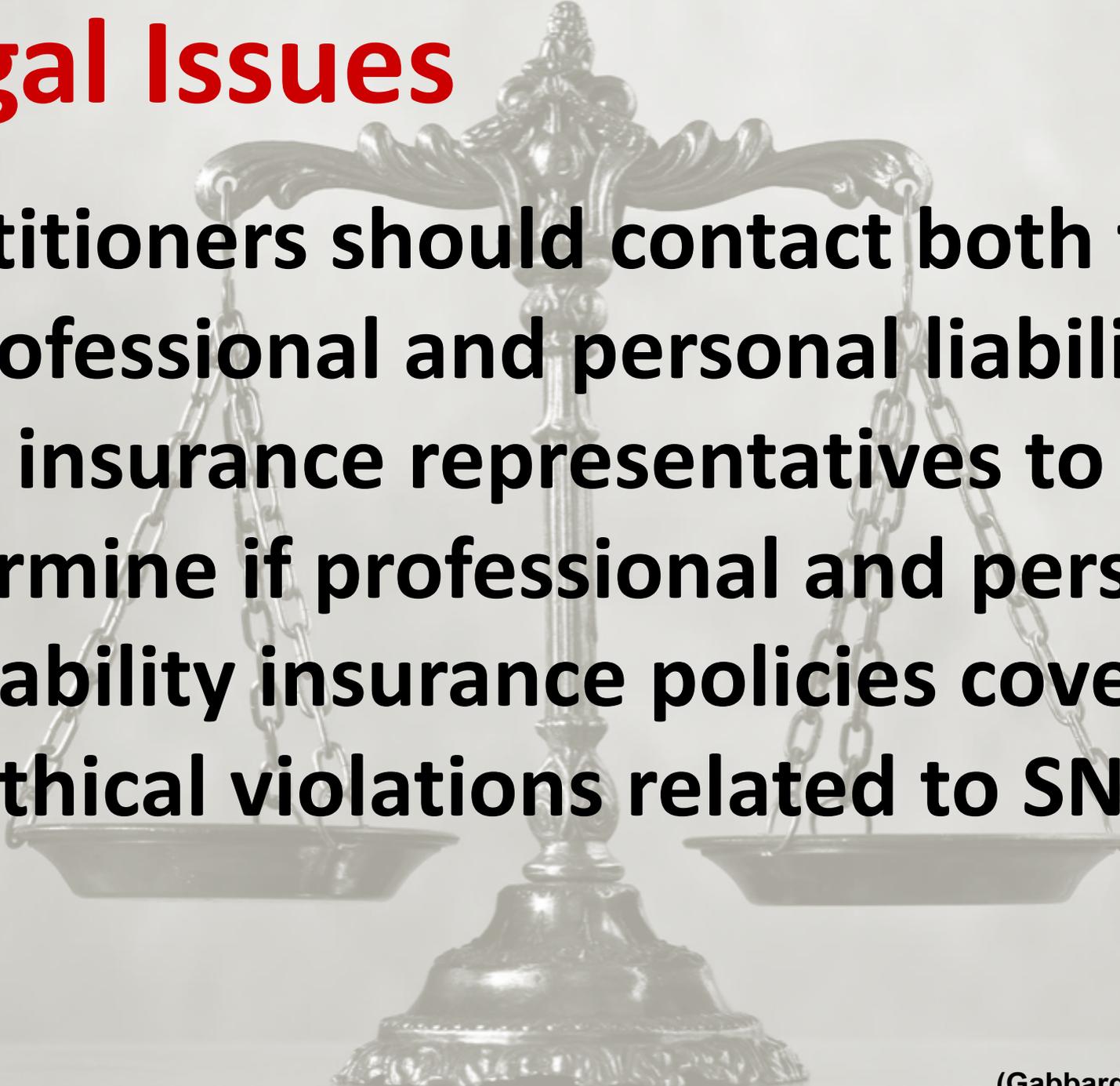
Practitioners should contact both their professional and personal liability insurance representatives to determine if professional and personal liability insurance policies cover ethical violations related to SNS

(Gabbard et al., 2011)

'Ethical behavior does not arise solely from habit or obedience to patterns or rules but includes intelligently guiding our actions in harmony with the texture of the situation'

(Luce-Kapler, Sumara, & Iftody, 2010, p. 540)

"When you are walking through your neighbor's watermelon patch don't stop to tie your shoe."

Chinese Proverb

(Duncan-Dashton et al., 2013; Tennison, 2004)

THANK YOU