New Brunswick ASSOCIATION OF DIETITIANS

L'ASSOCIATION DES DIÉTÉTISTES du Nouveau-Brunswick

Social Media and Electronic Communication Position Statement

The New Brunswick Association of Dietitians (NBAD) supports the use of social media and electronic communication in dietetic practice, especially where it enhances services to clients and/or improves efficiency. These new communication platforms, however, also come with some risks and challenges. Dietitians have a professional responsibility to critically assess their use of social media and electronic communications, and to take appropriate steps for ensuring compliance with all laws, regulations and standards, as well as any employer policies.

As registered dietitians, members of NBAD are required to adhere to the laws and standards governing dietetic practice in Canada and New Brunswick. This means being aware of the federal and provincial laws that are relevant to their specific area of practice (e.g., federal and provincial legislation related to privacy, consent and advertising). This also means practising according to the standards set out in the NBAD Code of Ethics[1] and Professional Standards[2].

This position statement is intended to help dietitians registered in New Brunswick to understand their professional obligations and responsibilities when utilizing social media and electronic communication.

Key Principles

NBAD has identified four key principles to help dietitians assess their practice so that they can minimize the risks associated with social media and electronic communication:

Principle 1: Standards of practice are the same for virtual practice

Dietitians must adhere to the laws, standards and regulations governing the profession, regardless of whether their services are provided virtually or in person. The standards of practice are not affected by the means of communication.

Principle 2: Standards of conduct apply to personal and professional activities

Dietitians should consider the risks when using social media and electronic communications. Posting controversial opinions or positions on social media, or inappropriate conversations with clients or colleagues could result in disciplinary action from your employer and/or regulatory body.

Principle 3: Be aware of and comply with the laws, standards and regulations in the client's jurisdiction

Dietitians who provide virtual services to clients outside of New Brunswick must ensure that they also comply with the laws, standards and regulations in the jurisdiction where their clients are located. Dietitians are responsible for contacting the regulatory body where the client is located. If there are differences in the standards (NB vs the jurisdiction where the client is located) dietitians must adhere to the stricter law, regulation, or standard.

Principle 4: Be conscious of professional boundaries

Due to the casual or informal nature of social media, dietitians must be aware of and take necessary measures to ensure appropriate boundaries.

Definitions

Social media: are Internet-based services that provide individuals a way to interact with each other online[3]. Social media encompasses a wide variety of web-based platforms and applications.

Electronic communication: encompasses social media and other messaging forms that enable users to interact, create, share and communicate information online or through software applications. For example, electronic communication includes, but is not limited to, messaging or video chat software, websites, apps, email, texting and blogging. It also includes social media networking platforms[4].

Virtual practice: is defined as the provision of dietetic services (e.g., counseling, consultation, monitoring, teaching, etc.) for a client who is remotely located from the dietitian providing the service. It can include telephone, videoconferencing, email, apps, web-based communication and wearable technology. Virtual dietetic practice can occur within a jurisdiction and also across borders.

Client: an individual, family, and/or authorized substitute decision maker, group or agency employer, employee, organization or community who is the direct or indirect recipient(s) of the dietitian's expertise.

Testimonial: a published personal statement from a client about the services they have received from a dietitian, including before and after photography.

Principle 1: Standards of practice are the same for virtual practice

Regardless of the means of communication, dietitians must always comply with the laws, standards and regulations governing the profession. Dietitians should pay particular attention to the impact that using electronic communications and social media may have on their adherence to standards and laws related to:

- Evidence-based practice
- Confidentiality and privacy
- Advertising
- Testimonials
- Conflict of interest

Evidence-Based Practice

Regardless of the medium of communication, dietitians are required to practice according to the Code of Ethics and the Professional Standards for dietitians in New Brunswick. This means providing nutritional advice that is based on an appropriate assessment and using current evidence-based information.

Before recommending a particular product or service, dietitians must be sure that this recommendation is based on current relevant evidence supporting the use of the product for the client or audience in question.

Confidentiality and Privacy

Before adopting new practices that use social media or electronic communication to communicate with clients, the dietitian should complete a risk assessment to determine whether any policies need to be updated or developed.

Risk assessment should include review of:

1. The setup of the specific platform and environment;
2. The functionality, security features and user agreements associated with the specific form of electronic communication or social media platform being considered;
3. Any existing organization policies related to privacy, confidentiality, social media or electronic communication;
4. Provincial and federal legislation related to privacy and confidentiality, including:

    a. *Personal Information Protection and Electronic Documents Act (PIPEDA),* 2000;
    b. *Right to Information and Protection of Privacy Act and Regulations,* 2009;
    c. *Personal Health Information Privacy and Access Act and Regulations,* 2009;
    d. *Canada's Anti-Spam Legislation,* amended 2015.

Key privacy considerations include:

1. Setup of platform and environment – Dietitians must evaluate the setup of both the online/virtual platform and the physical environment. Appropriate safeguards must be developed and implemented to address any identified risks to their clients' privacy. For example, policies may be needed to address privacy risks for dietitians working in a shared office or providing services through a shared virtual meeting platform account.
2. Security – Dietitians must critically assess the risks associated with the specific electronic communication or social media platform and ensure that there are reasonable safeguards in place to protect clients' personal and health information. For example:

- Using passwords, multi-factor authentication and encryption protocols to protect information on electronic devices or information stored within an online app, social media account or email application;
- Keeping privacy settings on mobile devices and social media accounts to the most secure settings;
- Avoiding using free Wi-Fi services to access networks or accounts, as these services are vulnerable to a variety of security risks;
- Considering using virtual private networks for remotely accessing secure networks.

3. Client consent – Canada's Anti-Spam Legislation, which came into effect July 1, 2014, applies to emails, text, instant messages and any similar messages sent to electronic addresses. This law may impact dietitians who use any of these electronic channels to advertise or promote their services. For more information, visit www.fightspam.gc.ca.

   For other social media platforms, clients will provide consent for electronic communication by explicitly requesting to join or accepting an invitation to join a group.

4. Informed consent – Dietitians have a responsibility to inform clients about how their personal and health information will be handled. To ensure that consent is informed, dietitians may need to explain the security risks with electronic communication and the public nature of social media. For example, clients should be aware that:
   a. email and text messages can be intercepted;
   b. any information posted to a Facebook group may be visible to all other participants;
   c. private messaging functions on social media may not be truly private because social media platforms may retain text, images, and videos permanently.

5. Know when to go off-line – Dietitians should monitor conversations and be alert for situations where it may be appropriate to move off-line. For example, when an individual discloses health information in a Facebook group or requests personalized advice that would require the dietitian to engage in a more fulsome assessment.

Advertising

When promoting or advertising dietetic services, dietitians are responsible to ensure that they adhere to professional standards, as well as any relevant provincial or federal laws, standards or guidelines. The main principle behind advertising standards is ensuring that the public has the information they need to make informed decisions when choosing products or services.

Most advertising standards focus on avoiding false and misleading statements. For example, Standards 2.5 and 5.3 in NBAD's Code of Ethics:

> Standard 2.5 - "Dietitians will avoid misleading statements, omissions, or false entries in any records related to her or his practice."
>
> Standard 5.3 - "The Dietitian will not endorse or take part in or use advertising that is false, misleading, incomplete or liable to mislead the public. If requested the Dietitian must provide accurate and reliable information to support a product or service claim".

The Canadian Code of Advertising Standards (Code) can be found online at https://adstandards.ca/code/the-code-online/. This website includes the full Code, as well as a variety of resources and guidelines to help interpret the Code.

Interpretation Guidelines – Ad Standards
Influencer Marketing – Ad Standards

NBAD is currently working on a separate position statement to address dietetic practice related to the sale, marketing and endorsement of products. The Sales, Marketing and Endorsement Position Statement will focus on avoiding conflict of interest and compliance with advertising standards. The Sales, Marketing and Endorsement Position Statement is scheduled for release in 2023.

Testimonials

Many businesses use testimonials on their websites or social media accounts to help advertise their products or services. A testimonial is any published personal statement from a client about the services they have received from a business or person.

For regulated health professionals, however, using client testimonials raises serious ethical and professional concerns which cannot be properly managed. The ethical and professional concerns related to testimonials include:

- A testimonial may not be representative of the opinion or experience of all clients.
- Testimonials are not evidence-based[5,6]. A member of the public cannot verify information provided in a testimonial.
- Clients may feel pressured to provide a testimonial or to provide consent for disclosure of their information because they fear of offending the dietitian and compromising the care relationship.
- Information provided in the testimonial may be taken out of context by prospective clients. A member of the public could misinterpret information provided in a testimonial and may think

that the information represents guaranteed results. For example, a potential client who views a before and after weight-loss picture or testimonials about another client's clinical outcomes (like reduction in cholesterol or hemoglobin A1C levels) could incorrectly assume that they are guaranteed to achieve similar outcomes.

Because of these risks, NBAD prohibits the use of testimonials for advertising dietetic services/practice. . This includes statements in any form of a registrant's marketing, and before and after pictures.

The following are not considered testimonials:

- statements made on a client's own social media profile.
- Reviews of published material, including books, where a dietitian is not actively promoting professional products or services,
- review of products where there is no potential or current dietitian-client therapeutic relationship established.
- Unsolicited reviews on public forums (Yelp or Google Reviews, for example)

Conflict of Interest

A conflict of interest occurs when an individual has a personal interest that could influence their professional judgment so that they consider their own interest over the client's interest when making a recommendation or decision[7]. A conflict of interest, whether real or perceived, can be damaging to the dietitian's relationship with the client and to the public's trust in the profession.

Dietitians must be aware of and follow conflict of interest guidelines from both NBAD[8,9] and their employer. Dietitians should carefully review NBAD Regulation V – Conflict of Interest when considering the scope of services they will provide through their website, blog, or social media.

The NBAD Code of Ethics includes an Ethical Decision Framework which dietitians may find helpful in determining a course of action when faced with a situation of potential conflict of interest. In some situations, the dietitian may be able to take steps to manage the conflict and ensure the client's best interest is maintained, provided the activity is not prohibited by relevant laws, standards, regulations, or guidelines. In other situations, the best action may be to avoid the situation altogether.

Principle 2: Standards of conduct apply to personal and professional activities

Dietitians must be mindful when using social media that standards of conduct apply to personal activities as well as professional ones. It is important to understand that information posted online,

even if using a private social media profile, could be visible to anyone. NBAD will investigate complaints about the content of a dietitian's social media or electronic communication regardless of whether the account or profile is personal.

The Supreme Court of Canada has confirmed that professional regulators have the authority to investigate and discipline members for off-duty conduct where the regulator can demonstrate a sufficiently negative impact on the profession or the public interest[10,11,]. In Canada, the right to free speech has reasonable limitations and regulated professionals must ensure their behaviour and communications remain professional. This means you should always be mindful of how your comments may be perceived by others when using social media.

The following tips can be helpful to consider before posting anything on social media:

1. Do not use your personal social media accounts for work. Keep personal and professional profiles separate.
2. Even when using personal accounts, behave the same way online as you would at work or in your community.
3. Ensure all information shared, posted and promoted is accurate and evidence-based.
4. Pause before you post:
    a. avoid impulsive, inappropriate or heated comments;
    b. consider whether the comments you are posting would reflect poorly on you, your employer, the profession of dietetics or another profession;
    c. consider whether the comments put you or your employer at risk for legal action (e.g., lawsuits related to libel, slander, defamation);
    d. consider whether your post includes information that could inadvertently identify a client or accidentally disclose a client's health information;
    e. be careful not to make statements that could incite others to make hateful, discriminatory or professionally unacceptable comments;
    f. be aware and follow employers' social media policies.
5. Be transparent; even if you use a false identity, courts can compel disclosure of your true identity.

Principle 3: Be aware of and comply with the laws, standards and regulations in the client's jurisdiction

When providing dietetic services online, the client can be located anywhere. Scope of practice and professional standards can vary by province and country. It is important for dietitians to recognize that they are responsible to ensure they are aware of and in compliance with the laws, standards and regulations in the province or country where their client is located[14].

This includes:

- Contacting the regulatory body in the jurisdiction where the client is located to determine whether the dietitian needs to be registered in that jurisdiction;
- Identifying and understanding any differences in scope of practice or professional standards (What is the scope of practice in the client's jurisdiction? Does the client's jurisdiction have legislation identifying controlled acts or restricted activities?);
- Understanding the laws and regulations governing dietetic practice in the client's jurisdiction (e.g., consent, privacy, record keeping, liability insurance requirements, title protection);

It is also important for the clients to understand the qualifications and responsibilities of the dietitian. The dietitian must inform the client where they are registered and authorized to practise dietetics (e.g., that they are registered with the New Brunswick Association of Dietitians, and any other applicable provincial or federal regulatory bodies). This helps the client access information about the dietitian's standards and, if necessary, how to make a complaint.

Please refer to NBAD's Cross Border Dietetic Practice Position Statement for further information.

Principle 4: Be conscious of professional boundaries

There is an imbalance of power inherent in the relationship between the dietitian and their clients. Dietitians have power over their clients because of their professional knowledge, the authority they have in the health care system, their access to the client's personal health information and the client's dependency on their professional services. Because of this power imbalance, dietitians have a responsibility to ensure that the client's best interests are always served. This includes establishing and enforcing appropriate boundaries so that the relationship between the dietitian and the client remains professional.

When the dietitian-client relationship crosses the line between professional and personal, there is risk of harm to the client, which could damage the trust between the dietitian and the client. The potential risks include:

- Hindering a client's ability to question treatment suggestions;
- Compromising a client's ability to provide voluntary consent or to withdraw consent previously given;
- Interfering with a dietitian's professional judgment to the detriment of the client (because the dietitian values an emotional or other benefit over the client's well-being or because of fears that inappropriate conduct involving the client will be exposed).

Establishing and enforcing professional boundaries in all communication with clients is critical to ensuring appropriate dietitian-client relationships and maintaining the public's trust in the profession. When more casual or informal communication channels are used (e.g., email, text, social media), professional boundaries can begin to blur.

Dietitians must be aware of and take necessary measures to ensure appropriate boundaries. These measures include:

- Avoiding situations that could result in the development of personal relationships with clients;
- Keeping separate personal and professional social media profiles;
- Refusing or ignoring "friend" requests from clients on personal social media accounts;
- Avoid "following" clients using the dietitian's personal social media accounts.

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