

## Resource Document on Responding to Negative Online Reviews

Approved by the Joint Reference Committee, October 2019

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*APA Operations Manual*

### Prepared by the APA Ethics Committee

The American Psychiatric Association (APA) Ethics Committee occasionally receives inquiries from members who are troubled by negative reviews about them or their practice posted online by patients or other individuals. This often creates a difficult dilemma for the psychiatrist who must respect the patient's voice but also desires to preserve the integrity of the psychiatrist's public image. This resource document is offered to provide guidance to psychiatrists regarding receipt of negative online reviews.

Many posted reviews contain only the opinions of patients (or other individuals) and, as such, are protected speech under the First Amendment of the U.S. Constitution, without exception. Most service providers receive a negative review at one time or another, and it is best not to overreact to a single such posting. If, however, a psychiatrist receives numerous negative reviews (and especially if the reviews repeat similar complaints), the psychiatrist would be well-advised to take time to reflect on the complaints in a thoughtful and constructive manner and to endeavor to make efforts to improve their approach to patients and/or treatment. The "physician-patient relationship is the cornerstone of psychiatric practice, and its goal is to promote patient health and well-being, embodying the key ethical considerations of respect for persons, fairness, and beneficence." *APA Commentary on Ethics in Practice*, Topic 3.1.1.

If a posted review contains false statements of fact, each review site has rules within its terms of use and related policies governing the procedure for initiating removal of such material. However, the decision of whether a psychiatrist can avail him/herself of those procedures depends upon the individual circumstances. If making use of the relevant procedures would require the psychiatrist to reveal any confidential information, including whether the person posting the materials was or was not treated by the psychiatrist, the psychiatrist is prevented from using them by both the legal duty to protect patient privacy (for example under the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA)) and the physician's ethical duty to not reveal a patient's personal or health information without the patient's explicit, informed permission. Medical confidentiality is central to the practice of psychiatry. Section 4 of the *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry (2013)* begins, "A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law." Psychiatrists should always be alert to issues that could interfere with privacy and cannot engage in any proceeding that would inappropriately breach patient confidentiality or otherwise violate psychiatric ethical obligations. If a psychiatrist has a case-specific question about whether it would be permissible to request a review be taken down, the psychiatrist can contact the APA to have the question considered by the APA Ethics Committee.

If the psychiatrist has determined the identity of the person who has posted a negative review and believes the therapeutic relationship can be improved by addressing the situation with the individual, the psychiatrist may wish to engage the patient in a respectful conversation about how to improve the physician-patient relationship. The psychiatrist should not contact the patient directly to request the review be removed; nor is it advisable to hire any professional, including an attorney, to contact the patient on the psychiatrist's behalf. As Section 1, Article 1 of the *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry (2013)* cautions, "A psychiatrist shall not gratify his or her own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that his or her conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient." Section 2, Article 2 adds, "The psychiatrist should diligently guard against exploiting information furnished by the patient and should not use the unique position of power afforded him/her by the psychotherapeutic situation to influence the patient in any way not directly relevant to the treatment goals."

Instead, after first taking time to reflect upon the complaint in a thoughtful and constructive manner, the psychiatrist may speak with the patient about the circumstances giving rise to the complaint, using an approach that respects the patient's voice and neither asks nor implies that the patient should take any action regarding the complaint. The "physician-patient relationship is a collaborative endeavor between two autonomous individuals who establish the professional relationship for the benefit of the patient . . . There may be times when the physician-patient relationship is difficult and when the therapeutic alliance erodes. The psychiatrist should try to find ways to improve the relationship by working with the patient to jointly establish parameters that would enable treatment to continue." *APA Commentary on Ethics in Practice*, Topic 3.1.1. Where possible, the psychiatrist may work together with the patient to formulate concrete steps to alleviate concerns and preserve the therapeutic relationship. Entering these conversations from a place of compassion and empathy impresses upon the patients that their treatment experience will improve. Oftentimes, acknowledging and addressing the issue that resulted in a negative review leads the reviewer to voluntarily remove or revise the review on their own. (See, e.g., <https://www.fundera.com/blog/dealing-with-negative-online-reviews> ("In fact, 33% of negative reviews on Yelp turn positive when you take the time to respond to the upset customer"))).

If a psychiatrist desires to respond publicly online to any negative review (regardless of whether or not the review is from a patient), the psychiatrist may only do so if the posted information complies with the legal and ethical duties to protect patient privacy and medical confidentiality. For example, the psychiatrist might post a statement that notes the importance of medical confidentiality while endeavoring to inform readers about the psychiatrist's practice, such as:

- *The legal and ethical obligations of physicians prevent me from responding publicly to any individual's review. I take seriously the concerns of my patients and encourage anyone who has had a negative experience with my practice to contact me directly at any time.*

Psychiatrists may desire to increase the number of reviews that exist, so that any single negative review will not have as much detrimental effect. Members have inquired of the Ethics Committee regarding the circumstances under which it would be appropriate to ask patients to complete such reviews. Indeed, soliciting feedback from patients about their satisfaction could contribute to subsequent improvements in physician performance and the treatment experience of their patients. Feedback can be obtained through a variety of channels, those of which include:

- Providing mechanisms for patients to submit feedback directly to their psychiatrist (e.g. paper surveys that can be handed to the receptionist or slipped into a locked survey box in the waiting room, electronic tablets in the waiting room that link directly to a patient satisfaction questionnaire, etc.). This approach fosters open communication between the psychiatrist and patient and allows them to address grievances directly with one another before escalating to online commentary.
- Posting information in waiting rooms instructing patients on how to submit online reviews about their experience (e.g. “If you would like to publicly review the service we provided, please go to [link] where you can do so anonymously”).

The Ethics Committee has opined that these solicitation practices are ethical so long as the same information and opportunity to comment is given to all patients without coercion, and no patient is directly asked to provide a review.

Finally, psychiatrists should be ever mindful of their professional ethical responsibilities of acting with honesty and integrity in connection with any online reviews that they themselves author or solicit in any manner. Such responsibilities prohibit ethical psychiatrists from themselves posting, or encouraging any other persons to post, pseudonymous or anonymous review content that is false or misleading.