

Negative Online Reviews: The Best Defense



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A recent *Washington Post* article examined the issue of patient privacy complaints after medical providers responded to negative Yelp® reviews about medical care. The issue of how a professional can (or should) respond to negative online reviews is not limited to physicians or medical facilities. While attorneys are not subject to HIPAA, they are all well aware that attorney-client communications are privileged and confidential and only the client can waive that privilege.

In 2013, Illinois attorney Betty Tsamis was reprimanded by the [Illinois Attorney Registration and Disciplinary Commission](#) for responding to a negative Avvo review by a former client in a manner that publicly revealed confidential client information. Similarly, a public reprimand was issued against a Georgia attorney, Margrett Skinner, after she responded to a negative review by discussing details of her representation of her client in a domestic relations matter.

The Pennsylvania Bar Association considered the ethical rules governing attorneys in Formal Opinion 2014-200 and concluded that the best approach for an attorney confronted with a negative review would be to consider whether a response would call more attention to the review *before* responding. If the attorney decided to respond, Pennsylvania suggested an appropriate response would be “proportional and restrained” and included this suggested language:

A lawyer’s duty to keep client confidence has few exceptions and in abundance of caution I do not feel at liberty to respond in a point-by-point fashion in this forum.

Suffice it to say that I do not believe that the post presents a fair and accurate picture of the events.

In a similar vein, attorney Josh King, General Counsel for Avvo Inc., has suggested that attorneys consider negative online comments a marketing opportunity to demonstrate confidence in their abilities and that they care about client confidentiality concerns. For example, Mr. King suggests a professional could post the following:

We're sorry you had a bad experience. We strive for the utmost in client satisfaction, and if there is anything we can do to make things right, contact me directly.

Regardless of the form you choose, the way to avoid posting a regrettable response to a negative review may be the simplest. First, take the time to think through *whether* you want to respond. Second, take the time to think through *how* you want to respond. Never respond rashly or out of anger.

One way to stay out of trouble is to print your proposed comment, stick an exhibit label on the corner of the document and ask yourself how you would react if it was later presented to you by a disciplinary board or at a deposition. If it makes you squirm, delete it before it sees the light of day. If your initial reaction is positive, go one step further and ask yourself whether the post presents you as you want to be seen by a potential client – as a professional who keeps client confidences and thinks before acting.

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