

Social Media for Health Care Employees: It's Not All Song and Dance

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A jury in Atlanta, Georgia, recently cleared an anesthesiologist of liability for his role in a 2017 video made during a surgical procedure by a cosmetic surgeon, Dr. Windell Boutte, who came to be known as the "Dancing Doctor" for the music videos she posted to social media.

The video at issue was filmed at the direction of the cosmetic surgeon who can be seen singing and dancing while performing liposuction on a patient. In the video, the anesthesiologist in the operating room also briefly participated in the video by singing and dancing. The video was posted on social media and went viral. The patient in the procedure brought a professional liability suit against the anesthesiologist, which went to trial in Fulton County, Georgia, in July.

On July 31, 2023, the Georgia jury found the anesthesiologist had not committed malpractice by participating in the video. He acknowledged his participation in the video was unprofessional but argued that the conduct was not a breach of the standard of care. He further testified that he believed the patient had consented to the making of the video and that he knew the patient's face would not be disclosed in the video.

The jury did, however, find Dr. Boutte liable for directing the production of the video, although she was not a defendant in that particular action. She still faces a number of civil lawsuits as a result of her conduct and agreed to a two-and-a-half-year suspension of her license back in 2018 after the state licensing agency learned of her videos.

This jury trial comes roughly seven months after a social media post got several labor and delivery nurses fired after their video about patients who give them "icks" [went viral on TikTok](#).

Even though the anesthesiologist was absolved of liability by the jury, the fact that this case proceeded to trial is a stark reminder that improper use of social media by healthcare providers can result not only in bad publicity for institutions but also the potential for civil liability. All institutions that hire and employ healthcare providers should ensure they have robust social media policies in place, that the providers are educated and reminded about these policies, and that the policies are enforced. If anyone needs assistance drafting such policies or guidance on how to ensure compliance, please contact Partner [Peter Faben](#), Attorney [Tasha Stoltzfus Nankerville](#) or any member of the Barley Snyder [Health Care Industry Group](#).

WRITTEN BY:



Peter J. Faben

Partner

Tel: (717) 208-8844

Email: pfaben@barley.com



Tasha R. Stoltzfus Nankerville

Associate

Tel: (717) 208-8836

Email: tnankerville@barley.com