

# Not Very Social Media | Postings and Other Reviews



By David M. Jones, Esq. and H. Candace DeLapp, D.D.S.



Online review platforms are everywhere these days. Consumers rely on 1-to-5-Star ratings for picking everything from TV shows to toothbrushes, dog food to dentistry. Even with a word-of-mouth referral from a friend, your new patient is likely

to evaluate you online before making an appointment. And it only takes a few reviews for them to form that all-important first impression.

For you and your office, positive feedback feels terrific, and it can make your practice grow. Negative feedback can feel like a gut-punch, and make you ask, “isn’t this libel or defamation of character?” And worse, if you mismanage a response, your words can get you into trouble. Rather than stewing about a negative review, or ignoring it, develop a proactive strategy for addressing negative reviews. This will give you credibility and control the message you put out there every day: you are willing to listen, you’re here to help, and you really do care about your patients.

As a general matter, most authors of online postings engage in “free speech” protected by the First Amendment. (You know those crass clichés analogizing opinions to body parts—“everyone has one”—and in most instances, ratings or reviews state mere opinions that

*“Life is 10% what happens to you and 90% how you respond to it.”*

—Lou Holtz, Hall of Fame football coach

are not actionable as libel or defamation.) It can feel unfair that there are very few rules for online reviewers to follow, and that posts can be anonymous and are almost never fact checked. Unless a poster does things like threaten harm or seek to incite violence, in most cases it probably is not worth investing significant time or energy in forcing the poster to stop or in seeking legal redress for what they have written. Legal claims for defamation against a reviewer in this context are quite difficult to win. The essential elements of a claim for defamation include:

1. A verifiably false statement purporting to be fact
2. Publication or communication of that statement to a third person
3. Culpability for stating the falsity that amounts to at least negligence
4. Damages, or some harm caused to the person or entity who is the subject of the statement.

Developing evidence to establish the first and fourth elements (verifiable falsity of the statements; and quantifiable harm directly resulting from them) is especially challenging.

But does that mean you should simply roll over? No!

First, treat each critique on a case-by-case basis. Read each review in isolation and decide whether a response is warranted at all. Every once in a while, a negative review (or the reviewer) is so far “out there” that it really does not need to be dignified with a response.

Assuming a review is not patently ludicrous, you may decide some response is appropriate. But crafting a response can be tricky. Unlike the general public, you do have rules you need to follow. Here are some considerations for developing your strategy.

- Write only a response you would be willing to see printed on a full-sized billboard standing above your office, illuminated at all hours with flashing lights.
- Anticipate that posting a response may further engage or provoke the patient. Be ready for the patient to reply to your response and be ready to let that go. No matter how tempted you may be, resist the urge to engage in an online debate. Like the farm-yard maxim discouraging mud wrestling with an ornery pig—you both get dirty, but the pig enjoys it—do not engage in a battle you cannot win.
- Never, under any circumstances, share protected health information explaining the treatment the patient is upset about or identifying the reviewer. There is no exception to HIPAA and other confidentiality

## Allow us to make your goal of buying or selling a dental practice a reality.



Jerry Weston, MBA



Tyler Weston  
Licensed Broker

- ▶ Dental Practice Sales
- ▶ Transition Planning
- ▶ Buyer Representation
- ▶ Practice Appraisals
- ▶ Associateships



**WESTON**  
DENTAL TRANSITIONS

303.526.0448 | [www.dentaltrans.com](http://www.dentaltrans.com)

protections for responding to a negative patient review.

- ♦ Remain the compassionate, empathetic and caring professional you are when you see your patients in person.
- ♦ Be authentic. Be yourself.


Applying this algorithm may leave you feeling as if there are not a lot of options for responding. And really, there aren't. In most instances, nothing you write will change the reviewer's mind. The principal benefit to responding is only to show others reading your reviews later that you are paying attention, and that you are responsive. Reasonable responses might say something like this:

- ♦ "We're sorry to hear that you had a disappointing experience. We pride ourselves on always giving our best in every situation. Please contact us so

we can work together to give you an exceptional experience!"

- ♦ "Although we disagree with your statements, we are sorry you were unsatisfied. We wish you good health and happiness."
- ♦ "As we discussed in the office, we would be happy to see you again to address your concerns. Please contact us and we'll schedule an appointment."

Finally, these strategies only work if you know what your patients are posting. We suggest deputizing someone in your office to look at what is posted on a routine basis and bring to your attention any concerning reviews you may wish to address. But beware of delegating the responses entirely to staff! Personalized thank-you responses to positive postings can help build

your reputation and your patients' loyalty. Personally addressing negative responses can minimize the negative impact and even bolster your integrity. And don't worry if you lose that perfect 5.0 Star rating—it means you're human, which is reassuring in today's world. 

*David M. Jones is a trial lawyer who defends dentists and other healthcare providers in professional negligence lawsuits and before the healthcare licensing boards. He can be reached at [jonesd@hallevans.com](mailto:jonesd@hallevans.com).*

*H. Candace DeLapp, D.D.S., is the executive director of the Dentists Professional Liability Trust of Colorado. Contact her at [hdelapp@berkleyrisk.com](mailto:hdelapp@berkleyrisk.com).*