

Neurologist sanctioned over boundary breaches and inappropriate use of clinical images



Key messages from the case

It can be convenient, and helpful, to use clinical images or video to document a patient's condition over a period of time. However, this case reminds doctors when taking clinical images it is essential to ensure they respect patient privacy, obtain valid consent for all uses of the image, and store clinical images securely.

Details of the decision

Dr G is a neurologist with a particular interest in video-monitoring for diagnosis of epilepsy.

Concerns were raised about images he took of two young women:

- X was the minor daughter (aged 13) of a patient (A) whom Dr G treated over a period of years.
- B was a patient Dr G treated for over 12 years (between ages 17 and 29). He diagnosed her with an extremely rare syndrome.

Boundary issues when interviewing minors

There were concerns that A may have been violent towards her daughter X. On some occasions Dr G interviewed X on her own, asking her about her mother's condition and her relationship with her mother.

The tribunal found it was inappropriate for Dr G to interview X, aged 13 years, who was not Dr G's patient, without a responsible adult present. In the specific case, given the complex nature of X's

relationship with her mother, asking her to report on her mother may have been difficult and stressful for her.

Clinical images of a minor

Dr G observed scratches and bruises on X's legs, and photographed bruising on X's legs without her parent present. On another occasion, Dr G asked if he could take a photograph of X's scoliosis for presentation to other doctors and medical students. X agreed, but Dr G did not ask her parents for consent. He took a video image and asked her to remove her bra to get the best image.

The tribunal strongly criticised Dr G over his photographing of X. Even if Dr G had a clinical interest in photographing X's injuries, taking images of a minor was inappropriate without the presence of a responsible adult and without appropriate informed consent.

If Dr G were concerned about X's welfare, he needed to report it through the appropriate channels.

The tribunal also found that:

- There was no clinical justification for photographing X's back and shoulders. Doing so was inappropriate. If Dr G did have a research interest, there was no evidence of an appropriate protocol or approved research program.
- Consent to the images was inadequate. There was no explanation about the exact nature of the images, how they would be stored and used. Verbal consent was not sufficient, particularly given X's age and lack of adult support.
- Dr G failed to ensure X's privacy while taking the images.

Consent to clinical images for non clinical purposes

Dr G treated B for over 12 years (between ages 17 and 29), for an extremely rare syndrome.

He asked her if he could take a video of her condition which he wished to present as a case at the hospital grand rounds. He asked her to remove her top, she remained clothed in trousers and bra. He explained that he did not offer to have someone else present as she was over 18 by that time.

The tribunal noted that it would be entirely reasonable to use clinical photography to document the patient's condition over time. However, there was no record of any clinical reason to take video rather than still photographs.

It would also be reasonable to take a clinical image for education purposes, with the patient's specific consent for that use.

B did not recall the discussion about presenting the case at grand rounds. Even though she had apparently signed a consent form, the tribunal found that Dr G had failed to ensure she understood the reason for taking the video.

Medical records

Dr G was also criticised for his poor record-keeping in relation to:

- Consent processes
There was no record of X's consent to the images being taken.
There was no record of Dr G discussing with B the reasons for videotaping, or that he had obtained her consent to do so.
- Record-keeping generally
Dr G's medical records were generally scant, and it was not clear why it was necessary to repeat a detailed sensory examination at each review, which was unusual.
Dr G's practice of dictating a letter back to the referring doctor as a primary record of consultation was not criticised. However, his additional notes were sparse and there was minimal documentation of neurological examinations conducted.

Video records were disorganised and casual. Dr G did not keep patient records separate from personal videos, sometimes taking them home.

Outcome

The tribunal found that Dr G's conduct amounted to unsatisfactory professional conduct. The tribunal reprimanded Dr G and imposed conditions including that:

- Dr G be mentored for a minimum of 12 months.
- When seeing patients outside the hospital setting, Dr G was not to be the only person on site.
- Dr G not to take clinical images/videos without obtaining and documenting written consent for the images along with the clinical purpose and intended use of the images.
- Dr G provide a summary of the guidelines and legislation on keeping good records and a report on steps he has taken to create and keep good medical records.
- Dr G provide documented policies on:
 - facilities available for patient privacy when undressing
 - use of chaperones in consultations
 - recording patients
 - obtaining information from family or friends about the treatment and management of the patient and how patients are informed of these policies.

Key lessons

When taking clinical images, always ensure patients understand the reason for requesting the image, how it will be used and stored and who will have access to it.

When taking images of minors, carefully assess their capacity to understand the reason for taking and using images and to provide informed consent.

As with conducting examinations, be particularly sensitive to patient privacy and take appropriate steps to ensure patient privacy when dressing/undressing.

It will usually be inappropriate to take images of a minor without the presence of a responsible adult or chaperone. In the case of intimate images, ensure adult patients are also offered a chaperone.

Always make sure that clinical images are stored and secured as part of the patient record and make sure consent to the images is documented and carefully stored.

References and further reading

- Avant factsheet - [Taking a clinical image](#)
- Avant factsheet - [Clinical images: a snapshot of the issues](#)
- Avant factsheet - [Medical records: the essentials](#)
- Avant factsheet - [Children and consent](#)
- Avant factsheet - [Observers: chaperone, protect and reassure](#)

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