



Clinical Photography

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Case study - Dr Anna

Dr Anna is a new registrar on the surgical training program at your hospital.

At induction and orientation (of which she only attended day 1) she was given a list of policies and procedures and the hospital code of conduct to read and sign

The policies included:

- Privacy
- Reasonable use of the internet at work
- Clinical photography (the hospital has a blanket rule banning all use of smart phones for clinical photography)



Clinical images

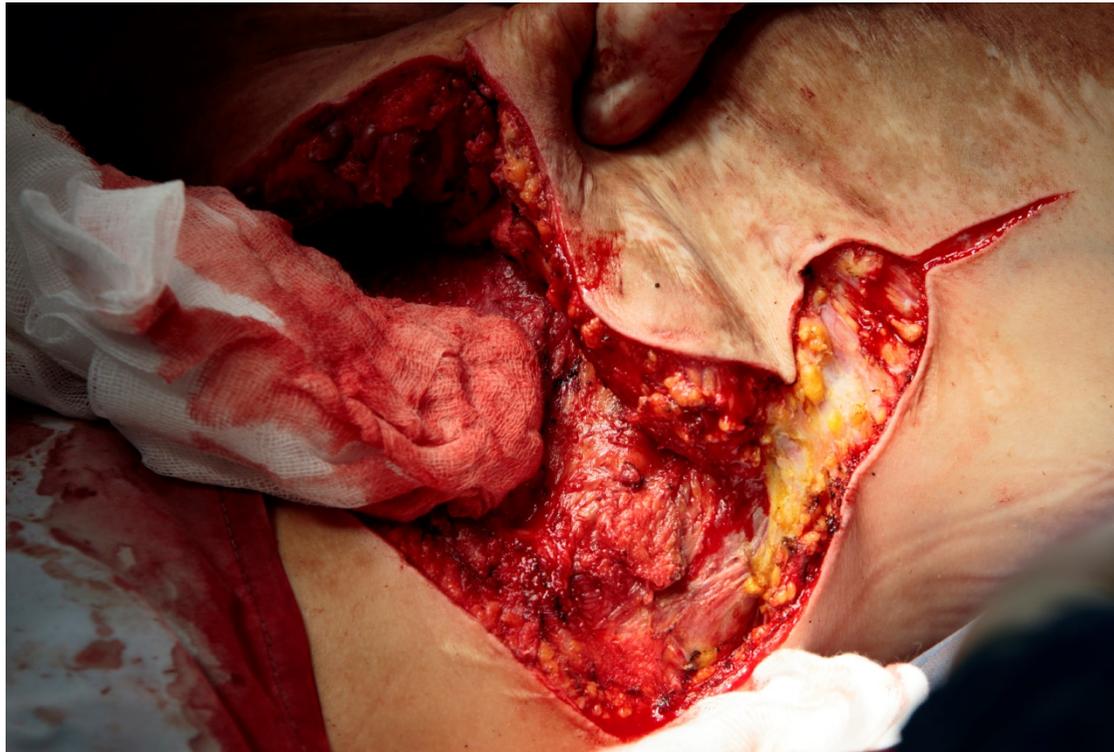
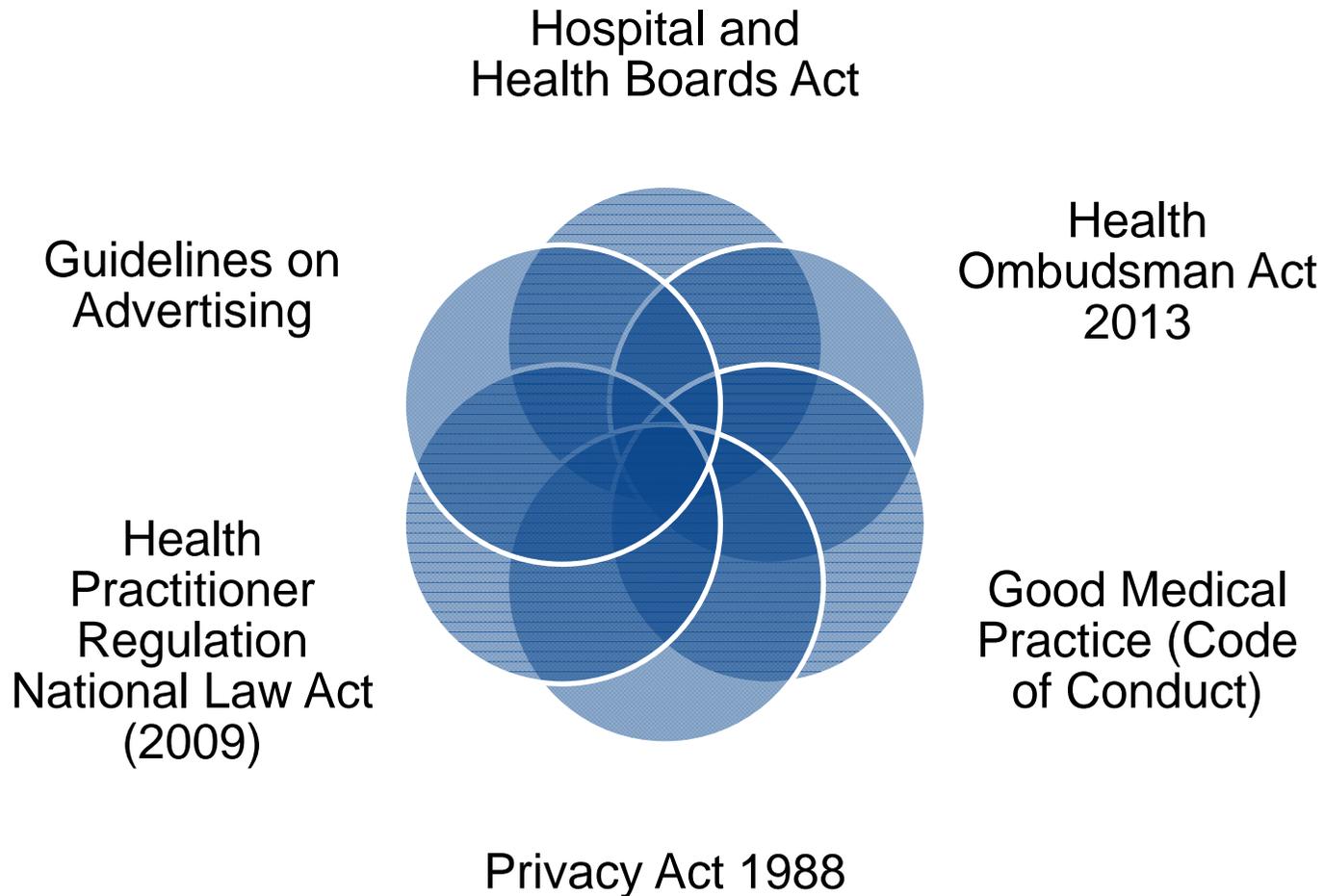


Image from iStock

What law governs clinical photography?



Guide on clinical photography

“Clinical images and the use of personal mobile devices – a guide for medical students and doctors”

- 21 November 2014 - AMA and MIIAA (Medical Indemnity Industry Association of Australia)
- *“The guide outlines the key ethical and legal issues to be aware of before using a personal mobile device to take or transmit clinical images for the purpose of providing clinical care”*
- Clinical images encompass photos, video or audio recordings. A clinical image may be of the patient’s body - such as an injury, skin lesion or body fluid - or an image of a pathology report, diagnostic image, or medication.

Before smartphone photography

You are on night-duty in ED

At 11.30 pm a 21 month old baby is brought in with burns

Due to concern about possible scarring you contact the consultant plastic surgeon on call. The consultant plastic surgeon lives a 40 minute drive from the hospital

In the days before mobile photography the consultant plastic surgeon may have had to drive back to examine the patient



Clinical images on smartphones

A recent study* showed

- > Consent obtained 76% of time but usually verbal
- > Documentation that image taken <23% of cases
- > Most images stored on mobile devices and not deleted
- > Less than half of smartphones were password protected
- > When images shared with another clinician, documentation of this occurred in less than 1/3 of cases
- > Most images considered non identifiable



*The role of smartphones in the recording and dissemination of medical images Journal MTM 3:2:40–45, 2014

Legal considerations – clinical images



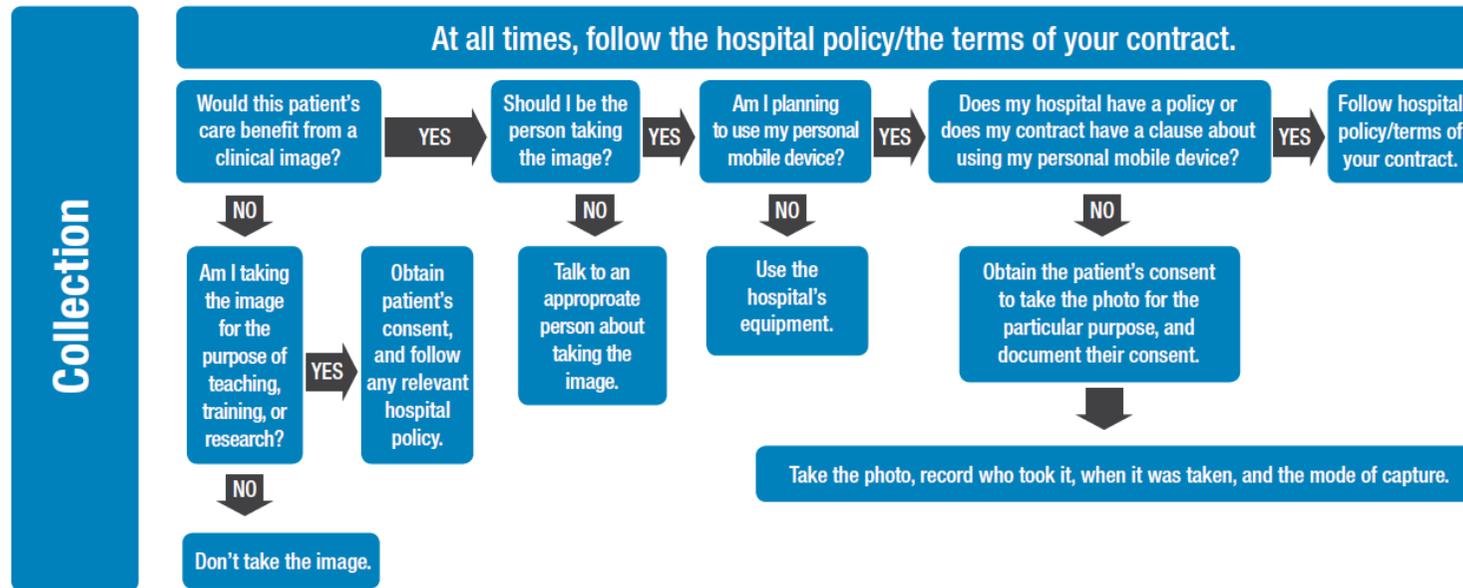
Privacy

You can not use clinical images for other purposes without the patient's consent

Consent

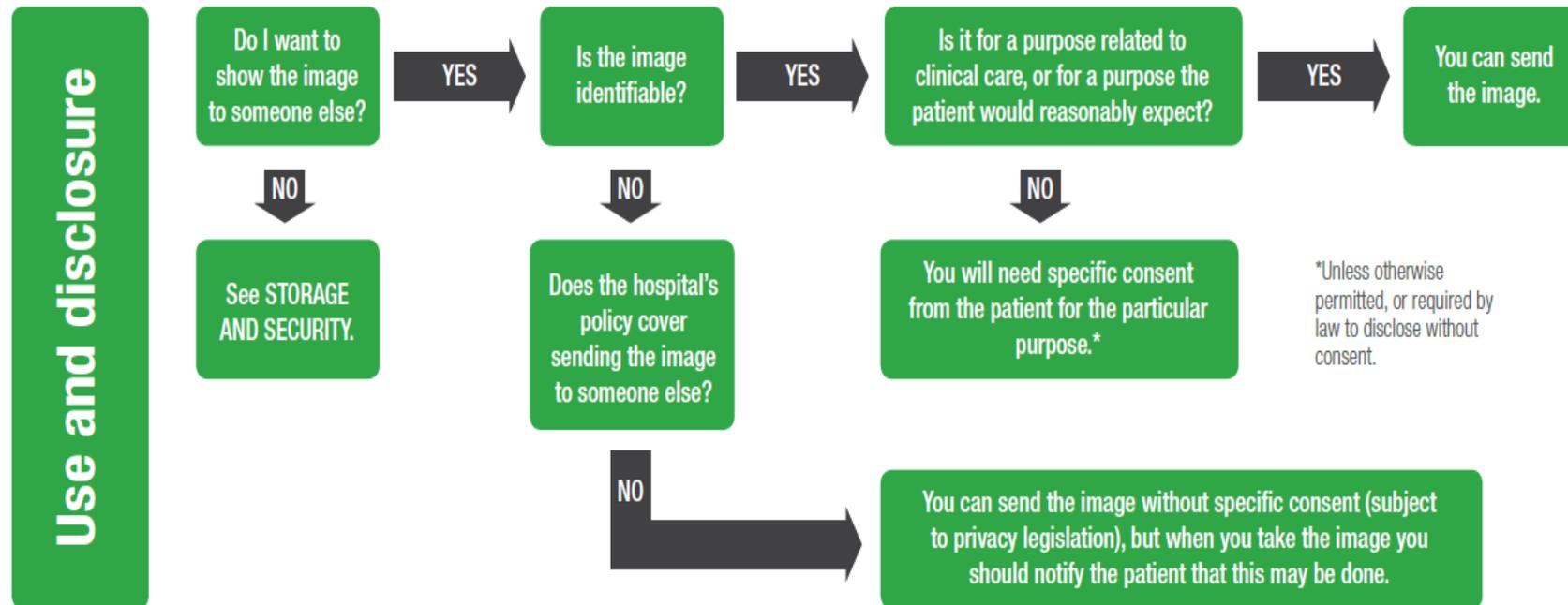
Consent is required for clinical imaging same as for any other procedure

Decision making process for collecting clinical images



“Clinical images and the use of personal mobile devices: A guide for medical students and doctors”; MIIAA and AMA

Use and Disclosure



“Clinical images and the use of personal mobile devices: A guide for medical students and doctors”; MIIAA and AMA

Legal considerations – clinical photography

Photos taken on a phone are part of the patient's medical record and subject to:

Disclosure if the patient applies for a copy of their records

Discovery in legal proceedings

Privacy Laws

The hospital's record retention policy

Case study: Figure 1 app



Case study

A registrar is at home on call. At approximately 11.30pm he receives a telephone call from an intern.

The intern says that he is sending a clinical image on his smartphone to obtain advice about a patient.

The registrar receives and reviews the image and calls the intern back to discuss.

The registrar goes back to sleep and the image is left on his phone.

Any issues?

Storage and Security

Storage and security

Clinical images taken on personal mobile devices for clinical purposes are part of the clinical record and are the property of the hospital.

Are you aware of the hospital policy?

Have you transferred the image to the patient's record?

Have you recorded who took the image, when it was taken, and the mode of capture?

Is your personal mobile device password protected and secure from unauthorised access?

Have you made sure photos on your personal mobile device do not auto-upload?

Have you deleted the image from your personal mobile device once it's been saved to the record?

"Clinical images and the use of personal mobile devices: A guide for medical students and doctors"; MIIAA and AMA

Complex issues

- > Where clinical images are taken of children, consent **must** be obtained and recorded on the child's medical record.
- > If the patient is considered to be a **mature minor**, the means by which the maturity of the child was determined ought to be recorded on the file.
- > For **adults with impaired capacity**, special care needs to be exercised to ensure that consent is obtained from a substitute decision maker and then recorded in the patient's file.
- > Risks arise in cases where **images of intimate areas** of a patient's body are taken on a practitioner's personal smart phone. Controls should be used to ensure that images can not be accessed or disseminated.

"Clinical images and the use of personal mobile devices: A guide for medical students and doctors"; MIIAA and AMA

Take away messages

- Must obtain and record patient consent relating to the clinical image
- Must only disclose image to the extent necessary (check the proposed destination of the communication first)
- Patient images should be de-identified where possible
- Ensure that the image is saved to the patient file
- Must delete the image from the smart phone/device if it is no longer required
- Follow hospital protocols for the secure storage of digital images on the patient file

Important notices

General disclaimer

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