

Taking and Sharing Images: a guide for Otago Medical Students

1. Identifiable images

Images, pictures and any other visual representation of a patient or their record (including notes and investigation results) that can identify that person is *health information* under the terms of the Health Information Privacy Code. Normally, consent from the patient is required for the collection, storage and use of a patient's *health information*. Although you have access to health information for your training, such as patient notes and what patients tell you, because of the ease with which images can be copied and transferred, the risks of breaching patient confidentiality usually outweighs the benefits of medical students taking such images. For these reasons, the following rules are in place:

- Otago Medical Students must not take identifiable images on personal devices.
- Otago Medical Students must not store or share identifiable or potentially identifiable images on personal devices.
- If requested by the clinical team to obtain an image of a patient for treatment related purposes, even if the image itself is non-identifiable, students must not use personal devices to do so. It is generally not recommended that students obtain images for treatment purposes, but if doing so under clinical supervision the student shares the responsibility for ensuring the image is securely transferred to the patient record and deleted from the imaging device.

Patient records/notes:

- Otago Medical Students must not take images of or make copies of identifiable patient records/notes and must not take official records away from the clinical environment/hospital
- Material created by students (paper-based and electronic) which contains patient-related information, either from a student-patient interaction or from existing patient records/notes, must have basic de-identification efforts made including exclusion of any "unique identifiers" (e.g. name, birth date, address or national number)
- It should be remembered however that if there is sufficient detail in the notes to be an accurate and meaningful representation of the case, e.g. for "case history" purposes, then these are potentially still identifiable and should be regarded as *health information* under the HIPC
- If these materials/notes require work outside the clinical environment/hospital (e.g. library) great care must be taken to ensure they remain secure and private
- Work on such records/materials should preferentially be done on University devices/student desktop and not on personal devices and patient-related records should also be password protected
- Once student created reproductions of patient notes are no longer required they should be disposed of in a secure fashion – in a "confidential paper disposal bin" or deletion from the electronic device/server

2. Non-identifiable images for education related purposes

Images which do not, and cannot, identify patients do not count as *health information* for the purposes of the *Health Information Privacy Code*. For example, this might include a photo of a relatively common rash showing only a small area of skin. If you wish to create a non-identifiable image that is in some way of, or relevant to, a patient, or if you are asked to do so, you should ask the patient if they are happy for you to do this. The Code of Rights requires you to treat the patient with respect and you can do this by explaining why you would like to create an image and how you intend to use it.

- Even with patient consent, the creation, storage and use of non-identifiable images has a number of risks, which is why the Otago Medical School encourages you think carefully about the benefits and risks of doing so, and discourages you from using personal devices to create and store images. You should create and store non-identifiable images of patients' health information only for legitimate education-related purposes. You should NOT publicly display the images, except in formal teaching sessions, or otherwise share the images, especially via social media.
- If you wish to create or use a non-identifiable image of a patient or part of their record, seek their agreement and explain the reason for creating the image, how it will be used, and how and when the image will be deleted.
- You must have a legitimate and compelling training purpose for the creation and use of such an image
- You must be able to delete that image
- Once the educational purpose has been met the image should be destroyed.

3. Ensuring an image is non-identifiable

Great care must be exercised to ensure that an image you create does not and cannot identify the patient.

- Digital imaging devices often collect the date, time and GPS location of images. That information could identify the patient. You must ensure that such information is deleted from the image file.
- Some conditions or injuries are rare and an image that identifies such a condition could identify the patient and bring the information within the scope of the HIPC. Similarly, some bodies have distinctive features that may make the person more easily identifiable. Students should avoid using such images.

4. The difficulty of deleting images

Mobile devices tend to back up data to a cloud and share it with other applications. This can make it very hard to delete an image once you have created it.

- You must ensure that any non-identifiable-image you do take is not backed up to a cloud or another location where it might be hard for you to keep track of and delete the image.

5. Contexts where special care is required

Particular care must be taken in the creation of non-identifiable images in clinical contexts where consent is compromised or not possible. For example, it would be inappropriate to create a non-identifiable image of a child without the assent or consent of the child (developmental age permitting), and the agreement of their parents and those supervising you in that clinical environment. You should also be mindful that in the event that there is an investigation under the Vulnerable Children's Act, any image you create could be used as evidence in that investigation.

Other situations where cultural and language influences preclude the usual patient consent, including for example some Trainee Intern electives, may mean that images cannot be obtained and used.

*MB ChB Curriculum Committee
Otago Medical School*

October 2017