



Photographic Evidence

2013 Q6

Medical Leader	
Medical Expert	•
Communicator	•
Advocate	•
Scholar	
Professional	<input type="checkbox"/>
Collaborator	
Manager	

You are the Deputy Director of Medical Services for a 450 bed metropolitan hospital. Your Director is on annual leave when you are approached by a distressed first-year medical officer (Intern). She is worried about the possible medicolegal ramifications of an incident that had taken place two weeks previously as she worked on a surgical rotation.

One of her patients is an obese 57 year-old woman who had undergone surgery for a rectal carcinoma. She had been having problems with a minor post-operative wound infection. On the day in question, the full dressings had been taken down and the Intern had been instructed to phone her Registrar to let him know how the wound looked before the dressings were replaced.

The Registrar was not happy with the Intern's assurances that the wound had improved, and asked her to take a photograph of the wound and surrounding area and send it as an SMS to his phone as he was unable to come to the ward personally. The Intern objected to doing this as she had recently read an article in the Medical Journal of Australia regarding the medicolegal implications of the spread of clinical photography using smart phones. The Registrar insisted and told her that verbal permission from the patient would be fine. He hinted to the Intern that he did not appreciate her attitude which would be noted on her end-of-term report.

Reluctantly, the Intern agreed. She spoke with the patient whom she describes as "passive and disempowered" and obtained verbal consent. She then sent the photograph by SMS and instantly deleted the photo from her phone. She does not know what the Registrar has done with the photograph and, in fact, the Registrar did not provide any feedback or instructions to her after the photo was sent.

The Intern just wanted to bring the matter to your attention and did not want to complain about the Registrar.

What are the issues here and what will you do?



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Three (3) core requirements for this question

1. Ethical issues around the use of modern electronic devices in clinical care. Clinical record management and the inclusion of clinical photographs in the clinical record.
2. Patient consent issues
3. Workplace bullying and harassment

Ethical issues around use of electronic devices

Clinical photography consent. Risk analysis. Clinical photographs as part of the patient record. Security of clinical photographs and potential for breach of privacy / confidentiality. Candidate should highlight that most likely the camera phones were most likely personally owned by the Intern and the Registrar, therefore outside the security of clinical record.

Consent issues

Candidate should say they would establish what consent was obtained. However, is consent valid if there is no effective protection of confidentiality through the transmission of clinical images particularly through privately owned electronic devices. Education of medical staff about patient privacy and confidentiality and use of electronic devices.

It could be an interesting angle to consider if the patient had recently been given significant pain relief prior to this redressing of her wound, and the impact on the validity of her consent. That would be something a good candidate might raise and a good point for questions.

Workplace bullying and harassment

Involvement of directors of training in support of the Intern. Candidate should highlight that the behaviour of the Registrar needs investigation. Interview registrar.

Performance management of registrar who seems to be less than effective in role. Supervision and support of interns – is this a possible risk for accreditation for JMO training

Points I would cover would be why the intern didn't seek other advice and pointing out to her in a supportive way about the avenues that were available to her to do so, getting her (significantly "her" and the registrar is "he" - that still brings back memories nearly 40 years on) to complete an incident form, promoting your policy about digital photography to all staff and ensuring that the appropriate person calls the registrar to account over this aspect. Both the photograph and his behaviour to a subordinate would appear on what is in the question, to justify the first steps in the organisation's disciplinary process.

Where were the nursing staff in this incident? The nurse caring for this patient could have supported the intern, and advocated for the patient's rights - one would need to follow this up with senior nursing staff in the service? Has this happened before? Is this registrar always unpleasant and demanding of others?

Both these concerns also raise the question as to whether or not such behaviours are widespread - culture issues again. Who leads the culture in your organisation, and who are potential leaders and influencers for cultural change?? How does the DMS get a feel for prevailing RMO culture? Nurses, clerical staff, orderlies and the like are often a good barometer.

Patient considerations

How does the absence of the image for the medical record potentially harm the patient? Eg. Medical records exist inter alia to serve best interests of patient's health and actions which reduce this arguably can affect patient welfare.

Potential psychological distress if patient concerns re dissemination, publication, Facebook, etc of their image(s)