

## A Question of Patient Consent

A manuscript you are editing as an institutional editor contains a group photograph of patients receiving treatment within a group neurology session, all of whom have signed a release for publication of the group photograph in a research article. However, the narrative of the report describes specific symptoms of several of the patients depicted, none of whom has seen the text. The author did not obtain consent for use of this narrative and would now find it difficult to track down the patients. You ask a representative of the institutional review board whether consent is necessary for use of the narrative. You are asked in turn whether the narrative compromises patient confidentiality any more than other case reports that have been published by your institution; the board representative will follow your judgment. What other knowledgeable persons or resources might you call on to resolve your own concern about submitting the manuscript without having signed consent of the potentially identifiable patients from the group session?

### Solutions

Speaking as a publisher, I would say that the case descriptions in this instance are more likely to compromise patient confidentiality than other case reports, simply because they will be accompanied by a group photograph of the patients involved. Presumably the patients are identifiable in this photograph, or their consent would not have been required.

For prudence's sake, I would recommend deleting the photograph from the article to be published. It is not clear from the question that the photograph adds valuable information to what is already in the text, and preserving patients' privacy and avoiding a lawsuit are worth a page of gray, unbroken text.

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This question brings up several issues, and its resolution would vary from institution to institution. If the release form is (as in this

case) inadequate for the purpose, the institutional editor should probably turn to the office of general counsel for advice.

The patient-consent difficulty can be avoided by working with the general counsel's office on a carefully worded release form that generically covers all use of a photograph for research purposes. Tracking patients down to get their consent again, this time to use the photograph with specific wording in a specific article, is complicated, impractical, and bothersome to the patients. Being aware of issues that arise in conjunction with patient photographs, one might avoid taking photographs that will raise problems or might consult the clinician for advice. Some institutions avoid photograph-related pitfalls by using models rather than actual patients in their illustrations.

Faced with an inadequate release form and a tight deadline, how does the institutional editor decide what to do? Before taking the photograph and the text to the general counsel's office for advice, the editor might pause for a moment. Is the photograph really striking and worth the trouble? Are the patients easily identifiable, or did they have their backs to the camera? Can patients easily be linked to the symptoms described in the text? Are the symptoms potentially embarrassing? Finally, is the photograph critical to understanding the text? If it does not add specific illustrative detail to the text, perhaps it is only decorative and can be omitted. If it does provide specific details about the nature of the disease or treatment, it could be effective; however, consent was not given to use it in conjunction with this narrative. Would use of the photograph compromise patient confidentiality more than a case report? It would if readers could match the face of a patient with the text.

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The most obvious person to consult is the editor of the journal the manuscript is intended for. He or she can refer to the

statement on protection of patients' right to privacy by the International Committee of Medical Journal Editors (the Vancouver Group), ([http://jama.ama-assn.org/info/ainst\\_req.html](http://jama.ama-assn.org/info/ainst_req.html)), which begins, "patients have a right to privacy that should not be infringed without informed consent. Identifying information should not be published in written descriptions, photographs, and pedigrees unless the information is essential for scientific purposes and the patient (or parent or guardian) gives written informed consent for publication. Informed consent for this purpose requires that the patient be shown the manuscript to be published." You have two options:

1. Getting informed consent, with or without difficulty.
2. Deleting the potentially identifiable information.

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## **New Question: A Question of Participation**

As principal author of a manuscript, you initially signed a coauthor agreement with several other authors. The manuscript was rejected by one journal, and another rejected it on first submission and first revision and requested a second revision. Most of the coauthors have been actively involved in reviewing and revising the manuscript. But one of them, a resident, having participated in data analysis and in writing an initial draft, moved to another setting and has not assisted in any of the later rewriting or response to the latest reviewers' comments. That coauthor's name appeared on the first submission to the journal that requested extensive revision. You feel that you and the other coauthors have done much more work and that the most practical and accurate way to credit that coauthor is to provide an acknowledgment. How do other authors or journal editors manage the all-too-common situation of the departure of an author who is no longer involved in the project?



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