

Making and using visual and audio recordings of patients (1997)

This guidance was withdrawn in **May 2002** and is no longer in effect. It is provided here for information only.

**GENERAL
MEDICAL
COUNCIL**

*Protecting patients,
guiding doctors*

**MAKING AND USING VISUAL AND AUDIO
RECORDINGS OF PATIENTS**

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The duties of a doctor registered with the General Medical Council

Patients must be able to trust doctors with their lives and well-being. To justify that trust, we as a profession have a duty to maintain a good standard of practice and care and to show respect for human life. In particular as a doctor you must:

- make the care of your patient your first concern;
- treat every patient politely and considerately;
- respect patients' dignity and privacy;
- listen to patients and respect their views;
- give patients information in a way they can understand;
- respect the rights of patients to be fully involved in decisions about their care;
- keep your professional knowledge and skills up to date;
- recognise the limits of your professional competence;
- be honest and trustworthy;
- respect and protect confidential information;
- make sure that your personal beliefs do not prejudice your patients' care;
- act quickly to protect patients from risk if you have good reason to believe that you or a colleague may not be fit to practise;
- avoid abusing your position as a doctor; and
- work with colleagues in the ways that best serve patients' interests.

In all these matters you must never discriminate unfairly against your patients or colleagues. And you must always be prepared to justify your actions to them.

Making and Using Visual and Audio Recordings of Patients

(Incorporating *Video Recordings of Consultations between Doctors and Patients, and of other Medical Procedures, for the Purposes of Training and Assessment and Filming Patients for Television Programmes*)

1. Before making an audio or visual recording¹ of a patient you should ensure that the patient knows about the recording, is aware of its purpose and consents to it, except in the circumstances discussed in paragraphs 3-6 below.

Records made and used as part of the assessment or treatment of patients

2. Recordings made for clinical purposes form part of the medical record. When considering the disclosure of such recordings you should follow the guidance in the GMC booklet *Confidentiality*.

Patients' consent to recording as part of their assessment or treatment

3. Patients' consent to a recording being made may be implicit in their consent to treatment, for example in laparoscopic surgery. In other cases consent may be understood from patients' co-operation with a procedure, for example when x-ray images are taken. In such cases you need not obtain explicit consent before making a recording.

¹ In this guidance we use the terms 'record' and 'recording' to describe video and audio recordings, photographs and other visual images of patients. Images taken from pathology slides are not covered by this guidance.

4. In other cases, for example when recording a consultation, you should seek the patient's explicit consent, explaining why the recording is being made and how it will be used. In exceptional circumstances, you may judge that it is in the patient's best interests to record a patient without first seeking consent. Such circumstances may arise, for example, where you believe a child to be the victim of abuse. Before recording a patient without consent you should discuss your decision with an experienced colleague. You must be prepared to justify your decision to the patient and, if necessary, to others.

Using records made for treatment or assessment of patients for other purposes

5. If you have made a recording in the course of treating or assessing a patient, and wish to use it for another purpose, you must obtain the patient's consent. You must first ensure the patient understands what the recording will be used for, and who will have access to it. In particular, you must not publish or broadcast such recordings in any form without obtaining explicit, written consent from the patient. The only exception to this rule is described in paragraph 6.

6. You may use effectively anonymised records for medical education and research and clinical audit without obtaining consent. But you must obtain consent before publishing such records in textbooks or journals or otherwise agreeing to allow public access to them. Where patients can be identified from recordings which are to be used for clinical audit, education or research within a hospital or other

professional medical setting, you should ensure that the patients are informed that the recordings may be used for these purposes and that they have a right to object.

Recordings made for purposes other than assessment or treatment of patients

7. The advice in the following paragraphs applies to recordings of patients made for the training of doctors or the assessment of their performance; or for publication or broadcast on television², in books, journals or electronically. Such recordings do not usually form part of the patient's medical record.

8. If patients can be identified from the recording, you must ensure that the interests and well-being of patients take precedence over other considerations. This applies in all circumstances, but you should be particularly vigilant if you are involved in recording patients who are mentally ill or disabled, the seriously ill, children, or other vulnerable people, for television or other publicly available media.

Before the recording

9. You must ensure that patients:
- a. Understand the purpose of the recording, who will be allowed to see it - including names if they are known - the circumstances in which it will be

² The BBC (BBC Television Centre, London W12 8QT) and Independent Television Commission (33 Foley Street, London W1P 7LB) issue guidance for programme makers.

shown, whether copies will be made, the arrangements for storage and how long the recording will be kept.

b. Understand that withholding consent, or withdrawing consent during the recording, will not affect the quality of care they receive.

c. Are given time to read explanatory material and to consider the implications of signing the consent form. Consent forms and explanatory material should not imply that consent is expected. They should be written in language that is easily understood. If necessary, translations should be provided.

d. Understand, where a recording is made for a television programme or other publicly available media that, after the filming process has been completed, those who own the recording are not bound to accept withdrawal of consent to use the recorded material. If they wish to restrict the use of material, they should get agreement to this in writing from the owners of the recording before recording begins.

10. When disability prevents patients from giving informed consent, you must get agreement from a close relative or carer. Where children who lack the understanding to consent are to be recorded, you must get permission from a parent or guardian. People agreeing to recordings on behalf of others must be given the same rights and information as patients acting on their own behalf. Children under 16 who have

the capacity and understanding to consent to recording may do so. you should make a note of the factors taken into account in assessing the child's capacity.

11. If you propose to invite, or make arrangements for, a television company or other external individuals or organisations to film patients in a health care setting, you must inform your employing authority and the organisation in which the patients are being treated if this is different, and obtain appropriate permission to do so.

During the recording

12. When you are in control of a recording, you must stop the recording at once if a patient asks you to, or if you fear it is having an adverse effect on the consultation or on treatment. If the recording is controlled by a third party, for example a television company, you must take steps to see that filming stops. You could, for example, suspend the consultation and seek a written assurance that the recording will not be screened.

After the recording

13. If the recording is in your control, you must ensure, after it has been made, that:
- a. Patients are asked if they want to vary or withdraw their consent to the use of the recording.

b. Recordings are used only for the purpose for which the patients have given consent.

c. Recordings are given the same level of protection as medical records against improper disclosure.

d. If a patient withdraws - or fails to confirm - consent, the recording is not used and is erased as soon as possible.

e. Patients' instructions about erasure or storage are followed unless you decide the recording includes material which you need to disclose in accordance with the advice in the booklet *Confidentiality*.

14. If you think a recording may be shown to people not involved in the patients' care, you must ensure that patients:

a. Know this.

b. Are given the chance to see the recording in the form in which it will be shown.

c. Are told they have the right to withdraw their consent.

15. You must not participate in a recording made against a patient's wishes.
16. You must ensure that patients are under no pressure to give consent.

Recordings from which the patient cannot be identified

17. When you are satisfied that the patient will not be identifiable from the recording, and it is to be used only within a medical setting, you need give only an oral explanation of the purpose of the recording. You should record in the medical notes that the patient has given consent. You must not use the record for any additional purpose without seeking specific consent from the patient.

Recordings of emergency treatment and of unconscious patients

18. If recordings are to be used for training or clinical audit, you may record patients who need emergency treatment but cannot give consent. You do not need a relative's agreement before starting the recording but must stop it if a relative objects. Before these recordings are used, the patient's consent must be obtained or, if the patient has died, a relative must agree to it.
19. When no recording has been planned, but a record of an unexpected development would make a valuable educational tool, you may record patients undergoing treatment. If you cannot get consent at the time because, for example,

the patient is anaesthetised, you must ensure the patient is later made aware of the right to object to the use of the recording.

20. With recordings made in these circumstances, you must follow patients' instructions about erasure or storage unless you think the recording includes material you need to disclose because of the advice in the booklet *Confidentiality*.

21. Hospital policy on recording the treatment of unconscious patients should be adequately publicised, for example through notices in waiting areas.

Copies

22. This guidance applies to all copies of records.