

Avant factsheet

Clinical images – a snapshot of the issues

Quick guide

- Obtain and record the patient's consent when taking a clinical image
- Add the image to the patient file if used for clinical care
- Delete the image if taken on a personal device once it's been included in the record
- Only use images for education and research with the patient's specific consent

Using clinical images

Images may be taken and shared for different purposes including providing clinical care and for education or research.

A clinical image may be an image of part of a patient's body or an image of a document. Examples include images of:

- An injury, wound or skin lesion
- A tissue sample or body fluid
- A pathology, imaging or surgical report
- Results of investigations (such as a CTG or ECG)
- A radiological image (e.g. a picture of an x-ray)
- Part of the clinical notes

Privacy and confidentiality

Images are considered health information and should be treated with the same privacy and confidentiality as any other health record or information. When using clinical images, you are bound by the requirements of the privacy legislation that applies in your state or territory and your legal and ethical duty of confidentiality.

The main purposes for taking an image are for clinical care or for non-clinical purposes such as education or research. The purpose will determine what you need to do to use clinical images safely.

Images for clinical care

Before taking an image of a part of the patient's body, you need to consider whether taking an image will help with their clinical care. Once you have decided that an image will assist, you need to obtain the patient's consent first.

Discuss with your patient:

- why you want to take the image
- how the image will be used
- who will have access to it

Consent may be written or verbal. The written consent form should be placed in the records. If the consent is verbal, ensure you document this discussion and that consent was obtained.

If you wish to take an image of a document such as a report or result, diagnostic image or other part of the patient's notes to facilitate the patient's care, you do not need to obtain specific consent to take and share the image.

Images used for clinical care should be included in the patient's medical record. Your organisation may have a policy with guidance about how this should be done (see "Employment obligations" below)

Even if the image is of a document, such as a pathology, imaging or surgical report or records, and even though the original is already a part of the medical record, it is prudent to also retain the photo. This is so there is an accurate record of what was captured in that image.

Images from colleagues

If the image is sent to you by a colleague in the same hospital or practice, the person who sent the image is responsible for obtaining consent and storing the image. If you receive an image from a clinician outside your practice or hospital for the purposes of clinical care or advice, store the image in your records for the patient together with a note of any discussion you had with the other clinician.

Take care when relying on images in the process of diagnosis. Consider the context, size distortion and quality of the image, all of which can lead to misdiagnosis or mismanagement. This is particularly true for images sent from a third party or for a secondary image such as an image of an x-ray: where possible, review these investigations on their original platform.

Images for non-clinical purposes

If you want to use an image for non-clinical purposes such as education or research, you need specific consent for this purpose.

There is a belief that you can use an image without consent if you have removed identifying information, such as the patient's name, date of birth and medical record number. However, this is not necessarily the case.

Sometimes the image may appear to be de-identified but in fact may be recognised by people who know the patient, or know the story, or if the condition is rare. The metadata of an image may also contain identifying information.

Therefore, even if the image appears to be de-identified, it is always prudent to obtain patient consent to use an image for educational or research purposes.

Be particularly mindful of these issues if you are using an image on any social media platform or in an educational setting. It would not be reasonable to show the image at a conference or post it on social media if you had not previously discussed it with the patient and the patient had agreed. For more information see [Avant's factsheet – Social media for doctors: keeping it professional](#).

Images from patients

If the patient sends you an image, consent is implied but only for the purpose for which the image was provided. Usually this would be clinical care. You cannot use the image for any other purpose without the patient's specific consent.

If you need to forward the image to another practitioner for clinical advice, you do not need to obtain specific consent to do so if it is related to the reason the patient sent you the image. If it is for a different purpose, such as education or research, then you should inform the patient, obtain their consent and document this in the medical record.

Security

If you use your personal device, you must take reasonable steps to ensure the security of the device and the information contained on it.

Questions to consider include:

- Do you have adequate password protection?
- Have you disabled the automatic upload function to any cloud storage?
- Is the platform you are using to send any image adequately secure? (e.g does it have end to end encryption?)
- Can you remotely delete the contents of your device if you lose it?

If you are using your personal device, ensure you delete the image after you have stored it in the patient's medical record.

Employment obligations

Some hospitals or practices will have a policy about taking clinical images. The policy may include:

- whether you need to obtain written consent
- whether you can use a personal device or must only use hospital or practice-owned devices
- how you store and share images

Always follow the policy that applies in your workplace.

Further information

[AMA guidelines](#)

[Oaic guidance: Taking photos of patients](#)

[Avant factsheet – Social media for doctors: keeping it professional](#)

[Avant factsheet – Messaging Apps: communicating safely in clinical practice](#)

***IMPORTANT:** This publication is not comprehensive and does not constitute legal or medical advice. You should seek legal or other professional advice before relying on any content, and practise proper clinical decision making with regard to the individual circumstances. Persons implementing any recommendations contained in this publication must exercise their own independent skill or judgement or seek appropriate professional advice relevant to their own particular practice. Compliance with any recommendations will not in any way guarantee discharge of the duty of care owed to patients and others coming into contact with the health professional or practice. Avant is not responsible to you or anyone else for any loss suffered in connection with the use of this information. Information is only current at the date initially published. © Avant Mutual Group Limited 2021 fact-029b 10/21 (DT-2163)

For more information or immediate **medico-legal advice**, call us on **1800 128 268**, 24/7 in emergencies.