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Institute of Medical Illustrators
A Code of Professional Conduct for Members
June 2008
Introduction

In light of new legislation and changing practice, together with the impending legal status of members who practise Clinical Photography and/or Clinical Videography, IMI has revised and brought together “A Code of Responsible Practice” and its “Code of Conduct”\(^1\). The new document “A Code of Professional Conduct for Members”, details the standards required to maintain professional practice.

Within the text, the Code refers to members, and where specifically appropriate, to Clinical Photographers. The title, Clinical Photographer, is used where the code applies to members practising Clinical Photography and/or Clinical Videography.

The Code refers to three new sets of professional practice guidelines. These guidelines inform the development of procedure within the practice of Clinical Photography. The following new guidelines are available on the IMI website: -

Consent to Clinical Photography\(^3\)

Patient Confidentiality and Clinical Illustrative Records\(^4\)

The Use of Chaperones in Clinical Photography\(^5\)

The purpose of “A Code of Professional Conduct for Members”

The Code of Professional Conduct aims to inform and guide the professional practice of all IMI members. It is a statement of the values and principles that IMI regards as fundamental to maintaining the highest standards of professional conduct. The Code requires that members practise in an ethical and professional manner.

The Code may be used in IMI disciplinary procedures as evidence of the requirements of fitness to practise. IMI Council may impose reasonable penalties on members who are found in breach of any requirements within this Code.

Footnotes:-
2. IMI, Code of Professional Conduct
http://www.imi.org.uk/about/code.pdf
3. IMI National Guidelines - Consent to Clinical Photography
http://www.imi.org.uk/
4. IMI National Guidelines - Patient Confidentiality and Clinical Illustrative Records
5. IMI National Guidelines - The Use of Chaperones in Clinical Photography
http://www.imi.org.uk/natguidelines/guidelines01.asp
Summary of Statements

**Statement 1 - Responsibilities and scope of practice**
Members should recognise their responsibilities to maintain professional standards and an appropriate scope of practice.

**Statement 2 - Duty of care**
Clinical Photographers shall avoid causing harm or distress to patients, recognise their beliefs and cultural practice and protect their rights and dignity.

**Statement 3 - Reporting concerns or risks to appropriate person(s)**
Members must report to an appropriate authority, circumstances that might put patients or others at risk.

**Statement 4 - Collaborative practice**
Members shall work collaboratively with other healthcare professionals in the interests of patient care, teaching and research.

**Statement 5 - Health and safety**
Members must identify and employ safe working practices and ensure compliance with legislation and health and safety policy.

**Statement 6 - Identifying limitations of knowledge and skills**
Members must continually evaluate personal skills and knowledge and ensure that training and learning processes address the specific requirements of practice.

**Statement 7 - Confidentiality, security and copyright**
Clinical Photographers must protect the confidentiality, security, and copyright of images and information to conform to legislation and protect the rights and dignity of patients.

**Statement 8 - Remuneration and payment for services**
Members should not accept unrecognised forms of payment or remuneration from patients, patients’ relatives or commercial organisations. Employees should conform to organisational standing financial procedures.
Statement 1 - Responsibilities and scope of practice

“Practitioners should recognise their responsibilities to maintain professional standards and an appropriate scope of practice.”

1.1 Clinical photography, clinical videography

The title, “Clinical Photographer” and “Clinical Videographer” is expected shortly to be recognised as a profession and protected in law. The Health Act 1999 seeks to secure and regulate professionals and the services that they provide.

Unlike many health care records and diagnostic medical images, clinical photographs and video recordings can be easily understood by the general public. The practitioner must ensure that patient’s rights and interests are safeguarded within working procedures.

For Clinical Photographers, professional registration is maintained by participation in an HPC-approved Continuing Professional Development programme.

1.2 Medical artists, graphic designers and illustrators

As members of IMI, practitioners are required to work in accordance with principles in the Code that relate to maintaining professional standards. In addition, Medical Artists who work with patients must follow principles relating to the Duty of Care to patients.

All IMI members must maintain skills and knowledge that meet the requirements of their clients and employing organisations. Medical Artists, Graphic Designers and Illustrators should participate in an appropriate Continuing Professional Development scheme. It is expected that the profession will join the Health Professions Council and that registered members will need to undertake CPD to maintain HPC registration.

1.3 Delegation of duty

Practitioners who delegate duties to others, such as students, support workers or volunteers, must be satisfied that the person is competent to undertake that duty and provide, where necessary, an appropriate level of supervision. Practitioners delegating duties will retain responsibility for the patient or client at all times.

Clinical Photography Departments employing or providing placements for students must attain IMI Quality Assurance Level 1.
Statement 2 - Duty of care

“Clinical Photographers shall avoid causing harm or distress to patients, recognise their beliefs and cultural practice and protect their rights and dignity.”

Clinical Photographers have a duty of care to ensure that while they are undertaking any procedure with a patient, they maintain that duty and do nothing which could cause harm. This is especially true of invasive procedures such as dental and paediatric cleft lip and palate photography, which require the introduction of dental mirrors and retractors into the oral cavity (Bolam Test).

This duty of care extends to harm which may be caused by disclosure of images as a result of inappropriate consent, handling and or storage procedures. The Institute of Medical Illustrators (IMI) has developed guidelines for Confidentiality and Consent.

2.1 Informed consent

The process of informed consent for clinical recordings is something that hospitals throughout the United Kingdom have now recognised as conforming to ‘best practice’.

The key aspect of informed consent is that any proposed procedure has been explained to the patient, in language or form that he/she can understand so that the patient is able to make an appropriate decision.

The responsibility of obtaining informed consent rests with the clinician treating the patient and is not a function of the Clinical Photographer. However, the clinical photographer has a duty to ensure that such consent has been obtained prior to undertaking clinical photography.

There is no legal requirement for consent to be in writing, but it is considered ‘best practice’ to do so and may well be stated in local hospital policy documents. However, a patient’s consent may not be required if he/she has certain notifiable diseases. In such circumstances the clinician is legally bound to disclose information for the greater good of the public. The patient must be told about the disclosure under the Data Protection Act 1998.

Attempts to make clinical photographs anonymous (e.g. by blacking out eyes) should never be undertaken in place of obtaining informed consent.

Footnotes:-
2.1.1 Refusal to consent

A patient has the right to refuse to consent to any procedure and it must be made clear that doing so will not prejudice their future care.

2.1.2 Children’s consent

There are some exceptions to normal consent procedures involving children. In addition to this there are also legislative variations between different parts of the United Kingdom.

In England & Wales a person who has attained the age of 16 years has the legal capacity to consent to treatment (Family Law Reform Act 1969). In Scotland a person under the age of 16 years has legal capacity to consent (Age of Legal Capacity (Scotland) Act 1991). In Northern Ireland, a minor who has attained 16 years shall have effective consent to treatment (Age of Majority Act (Northern Ireland) 1969).

The Children Act 1989 does not deal specifically with consent, but makes provision for a minor to refuse medical or psychiatric examination.

In addition to legislation, there is case law which determines if a minor is competent to consent to treatment (Gillick v West Norfolk and Wisbech AHA, 1985). This case law led to the establishment of Gillick Competence. However, this has subsequently been updated following a ruling by Lord Fraser.

Footnotes: -
The assessment of a child’s competence is now referred to as Fraser Competence. This assessment is clearly the responsibility of the requesting clinician. In a court of law, any decisions regarding competence are potentially open to challenge. It is debatable whether Medical Photography can be defined as a treatment.

The child may decide, after consent has been obtained, and prior to or during the photography session, that he or she does not want to be photographed. In this situation, the photographer must refer back to the requesting clinician.

Non Accidental Injury (NAI) cases involving a minor may be photographed without consent, where it is unlikely that the parent or guardian will give consent and the recording of injuries is demonstrably to the patient’s benefit of care.

2.1.3 Vulnerable adults

Vulnerable adults may be defined as those who are not in a position to make judgments and/ or consent on their own behalf regarding medical treatment or procedures. These may include certain categories of psychiatric patients and those suffering from dementia.

It is recognised (by the clinician) that some psychiatric patients may not have diminished ability to understand, in which case consent will remain with them.

In Scotland patients can be photographed without consent providing they have an active incapacity certificate (Adults with Incapacity (Scotland) Act 2000). However, no healthcare worker, other than a registered medical practitioner, has the power to complete and sign the certificate.

In England, Wales and Northern Ireland, no one can legally give consent by proxy if a patient over 18 years lacks mental capacity. Treatment, however, may be given in the best interests of the patient, provided that a body of responsible medical opinion agrees. Preferably, decisions on treatment would include a relative or guardian.

Footnotes: -
2.2 Cultural / religious / ethnic beliefs and issues

Respect for the patient as an individual is fundamental to the ethical practice of Clinical Photography. In addition, the rights of the patient are protected in law (Human Rights Act 1999, Disability Discrimination Act 1995, Sex Discrimination Act 1998 and Race Relations Act 1976). Clinical Photographers must be sensitive to cultural and lifestyle diversity and ensure that services respond to the needs of multicultural society. The IMI National Guidelines – Clinical Photography and Cultural Diversity, seek to identify best practice in this area. All Clinical Photographers should be familiar with these guidelines. Photographers should appreciate the importance of appropriate personal attitude, effective communication, maintaining eye contact and ways of addressing language barriers.

Footnotes: -
http://www.disability.gov.uk/dda/
19. Race Relations Act 1976
http://www.homeoffice.gov.uk/docs/racere1.html
20. The IMI National Guidelines – Clinical Photography and Cultural Diversity
http://www.imi.org.uk/natguidelines/guidelines01.asp
2.3 Contact with patient

The Clinical Photographer must approach the patient in a professional manner and must not undertake any practice that may cause physical or psychological distress.

It is advisable to avoid unnecessary physical contact with the patient. However it is inevitable that, during some photographic sessions, close contact will occur. The photographer should carefully explain his intentions prior to contact. Poor communication might contribute to patients and their carers misunderstanding and misinterpreting the actions and intentions of the photographer. The potential for allegations of assault might arise.

In many cases, it is essential for the patient to remove clothing in order to record the entire area requested by the clinician. However, some patients may have valid reasons for not wishing to remove clothing and clinical photographers need to be sensitive to this possibility. In these cases, it is possible to preserve the patient’s dignity by allowing garments to be worn during photography. Although the session may result in the production of records that do not match the clinician’s preferences regarding the removal of distracting clothing, the needs of the patient must be respected at all times.

It is the duty of the Clinical Photographer to exercise professional judgement and common sense and to recognise the unspoken signals from the patient that might demonstrate their feelings during the photographic session.

2.4 Chaperoning

It may sometimes be necessary to invite a chaperone in to the photographic session. All Clinical Photographers should be aware of the issues surrounding the use of chaperones;

- When to use a chaperone?
- Who may or may not be used and what to do when a chaperone is unavailable?

The IMI National Guidelines - The Use of Chaperones in Clinical Photography addresses these issues and should be familiar to all Clinical Photographers.

Footnotes: -
5. IMI National Guidelines - The Use of Chaperones in Clinical Photography
http://www.imi.org.uk/natguidelines/guidelines01.asp
Statement 3 - Reporting concerns or risks to appropriate person(s)

“Practitioners must report to an appropriate authority, circumstances that might put patients or others at risk.”

Members have a duty to report, to an appropriate authority, circumstances that might put patients or others at risk.

Clinical Photographers work within a variety of environments, within and outside the clinical setting. All environments can present risks for the patient, staff or visitor. Members should make sure that any procedures undertaken are safe for the patient, visitors, staff and self.

Any risks identified in the course of practice must be reported to the appropriate authority within their organisation.

Members should ensure that they maintain their own competence and assist colleagues to maintain their standards and levels of practice and to report incompetent practice to the appropriate authority.

Statement 4 - Collaborative practice

“Members shall work collaboratively with other healthcare professionals in the interests of patient care, teaching and research.”

It is widely recognised that working within multi-disciplinary teams improves the quality and effectiveness of the work of all practitioners within the various disciplines. Sharing of information and collaboration contributes to improving and maintaining services that support patient care, teaching and research.

Members must co-operate and communicate effectively with colleagues and other healthcare professionals to ensure that patients receive the highest possible standards of care. Members have a responsibility not to undermine or bring the reputation of other staff into disrepute. However, when working within a multidisciplinary team, members must only undertake those tasks for which they are competent.
Statement 5 - Health and safety

“Practitioners must identify and employ safe working practices and ensure compliance with legislation and health and safety policy.”

Members have a responsibility to maintain safe working practices and a safe working environment and to understand the extent of that responsibility. Members are expected to be aware of health and safety rules, local infection control policies and procedures, and relevant legislation. Members must work in compliance with health and safety law and organisational policy, in order to protect patients, relatives, colleagues, carers and the general public.

Employing organisations have a legal obligation to protect their employees as well as the general public who access the organisation’s property. Employees must report, to an appropriate person and/or appropriate authority, circumstances that might appear to put patients or others colleagues at risk.

It is a member’s duty, while at work, to:

• Take reasonable care for his / her own health and safety and that of anyone else who may be affected by his / her acts or omissions at work. All members are required to conform to the standards demanded within their organisation.

• Co-operate with Heads of Department and anybody else with specific safety duties, so that they can comply with relevant health and safety legislation and the organisation’s Health and Safety Policy.

• Not interfere with or misuse anything provided in the interests of health, safety or welfare.
5.1 Relevant legislation

Control of Substances Hazardous to Health Regulations 2002 (COSHH)

Electricity at Work Regulations 1989

Fire Precautions (Workplace) (Amendment) Regulations 1999

Health and Safety (Display Screen Equipment) Regulations 1992

Health and Safety (First Aid) Regulations 1981
http://www.firstaidtraining.org.uk/law.htm

Management of Health and Safety at Work Regulations 1999 (Management Regulations)
http://www.hmso.gov.uk/si/si1999/19993242.htm

Manual Handling Operations Regulations 1992

Noise at Work Regulations 1989 (Noise Regulations)
http://www.hmso.gov.uk/si/si1989/Uksi_19891790_en_1.htm

Personal Protective Equipment Work Regulations 1992 (PPE)

Statement 6 - Identifying limitations of knowledge and skills

“Members must continually evaluate personal skills and knowledge and ensure that training and learning processes address the specific requirements of practice.”

6.1 Recognising and maintaining competence

Being a professional requires recognition of personal limitations and maintenance of appropriate National Occupation Standards and standards of proficiency.

It is an individual’s responsibility to achieve and continuously maintain a high level of professional competence. Maintaining professional competence helps to maintain the confidence of patients, clinicians, healthcare professionals and the general public.

Clinical Photographers have a duty to identify and comply with the standards, policies, procedures, professional guidelines and legislation relating to medical photography practice.

Clinical Photographers should practice to the best of their ability, while exercising professional judgment, skill, and care.

6.2 Undertaking Continuing Professional Development (CPD)

Clinical Photographers should adopt an attitude of life long learning. The integration of CPD into day-to-day practice benefits the individual by enhancing and developing his/her own performance. Enhanced personal performance will benefit the service and ultimately the patient.

The practice of Clinical Photography is subject to constant development and rapid change. In order to keep up with these changes it is important that Clinical Photographers undertake CPD. They should engage actively in a constant process of learning and development.

The maintenance and development of professional standards is a requirement of continued practice.

Individuals should take personal responsibility for actively maintaining and developing their professional competence. IMI has published a statement of its CPD requirements on its web site.

Footnotes: -
Statement 7 – Confidentiality, security and copyright

“Clinical Photographers must protect the confidentiality, security, and copyright of images and information to conform to legislation and protect the rights and dignity of patients.”

Detailed guidance can be obtained from these IMI guidelines: -

- Consent to Clinical Photography
- Patient Confidentiality and Clinical Illustrative Records

7.1 Confidentiality

Clinical Photographers shall ensure the confidentiality and security of information and images acquired in the course of their professional practice.

Audiovisual records of patients will be made only in accordance with local procedures for obtaining informed consent.

The disclosure of confidential information should be on a ‘need to know basis’ in line with the six key Caldicott principles. Records will normally only be shared with the knowledge and consent of the patient.

7.2 Security

All records shall be kept securely in accordance with national legislation, policies and guidelines, and local policies and protocols. Records will only be made available to those who have a legitimate right to see them.

Access to the records by the patient will only be made in accordance with current statutory provision. Reference should be made to current codes of practice and other national and local guidance on access to personal health records.

Footnotes: -

3. IMI National Guidelines - Consent to Clinical Photography
4. IMI National Guidelines - Patient Confidentiality and Clinical Illustrative Records
http://www.imi.org.uk/natguidelines/guidelines01.asp
http://www.dh.gov.uk/PolicyAndGuidance/InformationPolicy/PatientConfidentialityAndCaldicottGuardians
7.3 Copyright

The Copyright, Designs and Patents Act (1988) makes it clear that copyright in any artistic work is vested in the original creator, e.g. photographer, videographer or artist. However, for those working as employees, the copyright remains with the employer.

The copyright of patient record material cannot be assigned to another party, such as an external contractor and remains with the authority responsible for the patient’s care. This is not, itself, a provision of the 1988 Act, but is a reasonable assumption because of the need of the authority to retain control over confidential medical material.

7.4 Relevant legislation

Access to Personal Files Act 1987, London: HMSO.
Access to Medical Reports Act 1988
Access to Health Records Act 1990
Data Protection Act 1998
Human Rights Act 1998
Freedom of Information Act 2000

Also applicable are: -

Department of Health. Patient’s Charter. HMSO.
http://www.pfc.org.uk/medical/pchrt-e1.htm
Data Protection (Subject Access Modification) (Health) Order 2000

Footnotes: -
Statement 8; Remuneration and Payment for Services

“Members should not accept unrecognised forms of payment or remuneration from patients, patients’ relatives or commercial organisations. Employees should conform to organisational standing financial procedures.”

Members should not accept favours, gifts or hospitality from patients or patients’ families. Members should abide by their employing organisations’ policies when considering accepting benefits or hospitality provided by commercial organisations.

Members should not be influenced by commercial or other interests that might conflict with carrying out their duty.

Employing organisations may have local standing financial instructions that govern financial accountability and responsibility. Management procedures should ensure that financial transactions conform to these instructions.
References and Bibliography

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Access to Medical Reports Act 1988


Adults with Incapacity (Scotland) Act 2000

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http://www.bma.org.uk/ap.nsf/Content/consenttk2

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http://www.hmso.gov.uk/si/si1989/Uksi_19891790_en_1.htm


Patient’s Charter 1994
http://www.pfc.org.uk/medical/pchrt-e1.htm

Personal Protective Equipment Work Regulations 1992 (PPE)

Protection of Children Act 1978
Protection of Children Act 1999

Race Relations Act 1976
http://www.homeoffice.gov.uk/docs/racerel1.html

Sex Discrimination Act 1998


The Caldicott Report 1997
http://www.dh.gov.uk/PolicyAndGuidance/InformationPolicy/PatientConfidentialityAndCaldicottGuardians


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