



Sharing of Patients' Data on social media by Indian Dentists- Current Status and Future Recommendations

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ABSTRACT

The aim of this article is to summarise the concerns and recommendations about sharing patients' data on social media by Indian dentists. It identifies a need for formulating policy at institutional and national levels for sharing and storage of clinical data on social media. Dentists commonly post patients' photographs on social media like Facebook, WhatsApp, Youtube, and many more. Many dentists are not aware of obtaining patients' informed consent before taking photographs and do not conceal patient's identity. Smartphones have made photography easy and inexpensive. However, the security and storage of this data are extremely important. Governments worldwide have recognized this issue and have framed policies for the same. Social media is an effective tool for communication that can be used for dental education without compromising patients' interests and should not lead to legal problems for dentists.

Keywords: social media, Consent, Data Protection, Policies, Dental Photography.

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INTRODUCTION

Social media includes forms of electronic communication (such as websites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other content (such as videos) [1]. This includes blogs, wikis, and social media networking sites such as Facebook, Twitter, Snapchat, LinkedIn, WhatsApp, Instagram, youtube, etc. Publications/commentary on social media carries the same obligations as any other kind of organizational publication or commentary.

There is a saying "a picture is worth a thousand words". Dentists worldwide have realized this long ago. They have tried to take patients' photographs and have always tried to improve their photography skills. There are many courses available that will teach dental photography but seldom do they tell about its legal and ethical background. As far as dentistry is concerned clinical photographs have a dramatic & drastic effect on patients and are often used as a testimonial for the dentist's work, in convincing new patients to accept the treatment. Dental photography is also a very important tool in the documentation. Way back in 1890 authors considered the importance of the ethical- legal relationship between a dentist and the patients as far as clinical photography was concerned [2].

Clinical photography is used as a teaching tool in dentistry. Social media sites like youtube are flooded with videos and photographs showing clinical dental procedures which can be used as an educational medium. Digital cameras and mobile phones with good cameras are available easily and this has led to rampant clinical photography. It is easy now to store these photographs with the availability of storage

devices like hard drives, pen drives, memory cards, and more such options. When these devices and phones are lost, sold, or discarded there are possibilities of the data being leaked and sensitive information being lost. Good practices about the use of mobile phones, laptops, desktops, USB sticks, SD cards, cameras are necessary to be defined and followed. The ultimate responsibility of any leaked/stolen records lies with the person and with the organization regarding such mishaps. When such data is easily available then it is usually important to consider patients' privacy and data security.

Patient's photographs are being widely shared across social media platforms like Facebook, Twitter, Whatsapp, Instagram, etc. This is done for various reasons like an advertisement, getting opinions from peers, to showcase one's own surgical/ treatment skills, sometimes even just to "show off" treatment results amongst others within the fraternity. This has resulted in a huge amount of data of patients' clinical photographs being freely available for anyone to use. Patient's photographs can be of three types- 1. Identifiable photographs, 2. Non-identifiable photographs, 3. De-identifiable photographs. An identifiable photograph is any photograph that identifies the individual or any photographs by which there is a reasonable basis to believe the information can be used to identify the individual. A non-identifiable photograph is any photograph that does not fit the description of an identifiable photograph. A de-identifiable photograph is any photograph that has been de-identified but may become identifiable as a result of the restoration of the photograph to its original identifiable form or by linkage to specific patient identifiers [3]. There is a need to develop a protocol at the institutional & national level which will look into the protection of privacy and storage of patient's photographs and videos in dentistry. The first logical step in this direction would be getting an informed consent from patients about the use of his / her dental photographs specifically for social media. The aim of this paper is to find out if there are any guidelines available in India regarding the capture, storage, and transmission of clinical dental photography to be used for social media and to suggest recommendations for the same.

SOCIAL MEDIA AND DENTAL PHOTOGRAPHY- WORLDWIDE SCENARIO

HIPAA- Health Insurance Portability and Accountability Act of 1996 in the United States has clearly defined rights & responsibilities of health professionals. The "privacy" rule by HIPAA establishes a set of National standards for the protection of certain health information in the US. Its goal is to protect the health information of patients, at the same time allowing the flow of information which is needed to provide quality health care, thereby striking a balance between the two. According to HIPAA unauthorized use of " identifiable" personal information is punishable.

1995 Council of European Union Directive (EU Data Protection Directive or DPD) offers similar prohibition in European countries [4]. Such laws are not very well established in developing countries. Hence there is a possibility that dentists may fall prey to legal problems with respect to patients' dental photographs.

The code of ethics prescribed by the Dental Council of India does not provide any guidelines in regards to the collection/posting of any patient-related materials/ photographs on social media. To our knowledge, there are no published guidelines for the capture, storage, and distribution of patients' dental photographs on social media which takes care of patient's privacy.

In 2016 Government of India Ministry of Health & Family Welfare came up with Electronic Health Record (EHR) Standards. The objective of this document was to introduce a uniform standard-based system for the creation and maintenance of Electronic Records by healthcare providers. The document gives detailed information about technical (software and hardware) requirements needed to capture and store medical data. This document also mentions who has the right to access this data and how it can be transferred to different stakeholders in the system. However, it does not provide guidelines for posting or sharing medical records or photographs specifically on social media. (5)

The Australian Medical Association (AMA) and the Medical Indemnity Industry Association of Australia (MIIAA) have published a guide for the proper use of personal mobile devices when taking clinical images. This guide is for medical students and doctors in Australia. It gives detailed recommendations about a collection of clinical images, informed consent for images, storage, and security of these pictures.

According to these guidelines before taking the pictures students/ doctors should discuss the following information with the patients. (6)

1. The purpose of the clinical image
2. How the clinical image is going to be used.
3. Who will have the authority to access to the image?
4. Will the image be shared with anyone and if yes for what purpose.
5. Whether de-identification of the image will be done.
6. Details about how and where the image will be stored.

The Dental Board of Australia too has developed and implemented guidelines on a similar platform. On 30th September 2013, the GDC (General Dental Council), UK came up with "Guidance on Using Social Media". This document highlights various ways in which social media, digital communication & online activities can adversely impact professional practice including posting of photographs on social media. (7)

Clinical photography requires informed consent just like in any other clinical procedure. Informed consent is defined by Beauchamp and Childress as "giving informed consent to an intervention if (and perhaps only if) one is competent to act, receives a thorough disclosure, comprehends the disclosure, acts voluntarily, and consents to the intervention." [3]. It means that patients should be provided with enough information so that they can make a rational choice. This information also includes possible risks involved and any alternatives that are available to the patient. While taking the informed consent a patient should be given enough time to make a decision and if the patient has any queries they should be sufficiently answered. [8] No one should be filmed or photographed without his / her consent. This applies to even dental photography even if it is for the purpose of dental education or documentation. There has to be a separate consent form for dental photography other than that used for dental treatment. This form has to be signed by the person himself or herself. However, there could be some exceptions to this, like when the concerned person is a minor or he or she is mentally incapable to do so. In the first case, the consent form can be signed by the minor's parent or guardian. In the latter case, the informed consent can be signed by the patient's legal guardian or one appointed by the law authorities. Laws and ethics about informed consent for dental photography in Bulgaria and European countries are very well explained by Radostina Vasileva. In this article, the authors have explained in detail the need for informed consent in dental photography and the legal implications of the same. [9]

General Recommendations- Do's & Dont's while taking posting Dental Photographs on Social Media:

Patients have autonomy over their bodies and they have the right to choose the medical treatment as well as allow themselves to get photographed. They have the right to know for what purpose these photographs will be used. Videos and photos available on social media & multimedia educational platforms like youtube and Slideshare also pose potential threats to patients' rights & privacy. When the photographs are used for scientific research purposes like publications, the journals would inevitably require consent from the patients before they are published. [8]

There are certain criteria to be followed while taking clinical photographs. These are as follows:

1. Obtain informed consent for each image, explain to the patient or guardian the purpose of the image.
2. The patient can withdraw the consent at any time.
3. A doctor/bonafide trainee/trained medical photographer must do clinical photography.
4. Maintain the rights and dignity of the patient during the photography session.
5. All images should be stored safely and access to these images should be controlled.
6. Anonymity should be maintained.

Anonymity cannot be maintained by placing mere boxes or dots or shades over eyes. Eyes are an important recognizable feature and should only be included when absolutely essential. Any tattoos and birthmarks should be avoided in the frame and should be included only if they are the area of surgical intervention. The same applies to identifiable jewelry and hospital name tags [11]. The availability of digital cameras has made recording and storage of images and videos very easy. At the same time digitalization has made the images vulnerable and prone to tampering. Digital manipulation of images should be limited to minor changes like adjustments in brightness, contrast, and sharpness.

Since the use of social media has become so rampant amongst dentists, their behavior as professionals needs to be monitored. The younger generation of dentists and dental students probably need to be guided in this aspect.

CONCLUSION

The use of social media is rampant and dentistry is not untouched by it. In this context, it becomes extremely important to protect patients' rights. Sharing of patients' photos and videos on social media by dentists is being done without taking consent from the patients. This can lead to legal as well as psychological implications. Many nations have realized this and they have made rules, laws, and guidelines for posting photographs and videos on social media by the medical fraternity. It is time for us to do that too on an institutional as well as national level. Dentists should be made aware of the fact that without consent from the patients they cannot share their data/ photographs/ videos online. This will safeguard them from any legal complications and at the same time protect patients' rights and dignity.

DECLARATION OF CONFLICT OF INTEREST

The authors declare that there is no conflict of interest.

REFERENCES

1. Merriam-Webster Dictionary. (2018). Social Media | Definition of Social Media by Merriam-Webster.
2. A Brief History of Early Medical Photography – Clinical Correlations [Internet]. Available from: <https://www.clinicalcorrelations.org/2016/09/30/a-brief-history-of-early-medical-photography/>
3. Stieber JC, Nelson T, Huebner CE. Considerations for Use of Dental Photography and Electronic Media in Dental Education and Clinical Practice. *J Dent Educ.* 2015;79(4):432–8.
4. Srinivas N, Biswas A. (2012). Protecting Patient Information in India : Data Privacy Law and Its Challenges. *Nujs Law Rev* [Internet].5 *NUJS L.*(2010):411–24. Available from: http://www.mit.gov.in/sites/upload_files/dit/
5. Ministry of Health & Family Welfare. EHR Standards for India. India, M H F W G eHealth Sect (2016) *Electron Heal Rec Stand India* [Internet]. 2016;1–48. Available from: <http://www.mohfw.nic.in/showfile.php?lid=4138>
6. Medical Indemnity Industry Association of Australia, Australian Medical Association. Clinical images and the use of personal mobile devices. 2014;18. Available from: https://ama.com.au/sites/default/files/documents/FINAL_AMA_Clinical_Images_Guide.pdf
7. General Dental Council. (2016). Guidance on Using Social Media. ;44(0):1–3.
8. Gambhir R, Singh S, Kaur A, Nanda T, Kakar H.(2014). Informed consent: Cornerstone in ethical medical and dental practice. *J Fam Med Prim Care.*;3(1):68.
9. Vasileva R, Petrova G, Kolarov R, Nikolov N. (2017). Informed consent in contemporary dental photography – ethics and law. *J Med Dent Pract.* 4(1):531–43.
10. Bhattacharya S. (2014). Clinical photography and our responsibilities. *Indian J Plast Surg.* 47(3):277–80.

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