• Ethical issues
• Misuse of technology
• Legal issues
• SARS patients photographed by press
• Published in newspapers as well as TV
• Caused inconveniences to patients
• Families suffered socially.
• Need to follow quarantine procedures
• But no need to widely publish pictures
• Disclosure of pregnancy, an abortion, plastic surgery or the contraction of a sexually transmitted disease

• Social embarrassment of the patient

• Legal proceedings against the hospital.
Editorial
BMJ 1995 311: 1240-1

• 3 doctors charged with professional misconduct for publishing case report without taking proper consent.
• BJ Psychiatry 1993 → Local news paper
• GMC did not find them guilty but radical changes in guarding confidentiality
Basic Principles of Ethics

- Autonomy of Patients
- Beneficence
- Do NO HARM TO PATIENTS.
- Justice
GMC GUIDELINES

- Every reasonable effort must be made to inform the patients concerned

GMC 1995, 2003
Patients (and relatives) have a right to anonymity.

"If identification of patients is unavoidable, informed consent should be obtained."
• The emphasis of editors' policies has, however, been on achieving anonymity rather than gaining consent.
• Editors have been lax in allowing the publication, without gaining consent from patients.
Informed consent of patients / relatives

The informed written permission of the patient must be obtained before photography is undertaken after carefully explaining to the patient purpose and terms.

Issues in Medical Ethics 2003
Eighty five patients (85%) continue to give consent for publication despite explicit discussion of possibility of image becoming available on internet.

http://www.bris.ac.uk/Depts/Secretary/clinicalphoto.htm Sept 2004
Informed consent of patients / relatives

- In all cases of recording, care must be taken to respect the dignity, ethnicity and religious beliefs of the patient.
Informed consent of patients / relatives

- Photographs of the unconscious patient may be taken provided consent is obtained from the patient before the photographs are released.
- The patient must be told that the recordings have been taken. If such a patient does not consent, the records must be destroyed.
Right to withdraw

- Patients have the right to withdraw consent for use of their recordings at any time. If a patient decides to withdraw consent, the records must not be used (and, if made in the context of teaching or publication, destroyed).
Should Patients’ see final draft of the paper???
Photography of internal organs at operation or in the post-mortem room as well as in the endoscopic, pathological or microscopic documentation, permission of the patient is not necessary, as identity is not revealed.

• Care should be taken in reproduction of x-rays, ECG or EEG tracings, temperature charts and similar records for publication or use outside the hospital, that the name of the patient is not shown.
• Negatives, master transparencies, original digital camera files and videotapes must be logged and stored appropriately.
Preserving anonymity

A traditional way includes blacking out of eyes
Preserving anonymity

Distinguishing marks, tattoos, posture and gait may all reveal identity
Psychological Impact

“They made me be naked in a room and taken pictures of me.

I was shocked when I saw the pictures.

I had no idea he would publish them.”

BJU International 2002, 89:69-72
• Ethical issues

• Misuse of technology

• Legal issues
Digital manipulation of pictures
Fradulent management of endodontic images
International Endodontic Journal 37:214-20, 2004
Histopathology and the `third great lie'. When is an image not a scientifically authentic image?
Pixel-Byte Syndrome

- A glutea aplasia cutis totally cured in one minute

Pediatric Dermatology 2001; 18: 523-6
Before and after
• Ethical issues
• Misuse of technology
• Legal issues
Copyright

• A copyright comes into existence automatically the moment a photograph is created

• Copyright belongs to photographer or the photographers studio - not the person who owns the photograph.

www.aerialimages-photo.com/ copyrite.htm
Copyright Permissions

For any material which is not original, copyright permission to reproduce the material must be obtained in advance in writing by the author(s) from those concerned.

Appropriate acknowledgements should be included in the text.
• Any person who copies any photograph through any means, be it xerographic, photographic or computerized, without a copyright release is in violation of law

No Copyright →
• Avoid copying or otherwise using images you find on web pages without permission of the copyright owner. These and other uses violate Federal copyright law. The copyright owner can sue infringers for damages.
Myths of Copyright

- I CHANGED THE IMAGE AFTER SCANNING
- I PAID FOR IT .. THEREFORE I CAN SCAN IT!
- I REQUEST NO PAYMENT NOR ATTEMPT TO CLAIM CREDIT, IT'S LEGAL..
- THE IMAGE HAS NO (C) MARK, IT’S OK TO SCAN
Myths of Copyright

I CHANGED THE IMAGE AFTER SCANNING
I PAID FOR IT .. THEREFORE I CAN SCAN IT!
I REQUEST NO PAYMENT NOR ATTEMPT TO CLAIM CREDIT, IT'S LEGAL..

THE IMAGE HAS NO (C) MARK, IT’S OK TO SCAN:

Even if you have scanned an image from a copyrighted work (book, magazine, album cover, etc.) and have manipulated the image, if you distribute the work in any way (upload, etc.) you are probably guilty of federal copyright infringement.
What about Fair Use?

If your use of copyrighted work is for:

- teaching, scholarship or research
- criticism or comment on a copyrighted work
- news reporting
What about Fair Use?

- How much of a copyrighted work you use
- How important that part of the work is to the whole?
- The effect of your use upon the value or potential value of the copyrighted work.
- It is best to get a legal opinion.

Fair Use

- Up to 100 words or 10% (whichever is less) of an off-site article, book, or other document.

- If it's 105 words, or 11%, don't sweat it -- we're asking primarily for good faith and sound judgment.

http://forums.egullet.com/
Photographic Images, Digital Imaging, Dermatology, and the Law

• Images can be used as evidence in court. Issues regarding digital images include (1) authentication, (2) manipulation, (3) audit trail verification, and (4) data compression.

• The Health Information Portability and Accountability Act requires that health care providers control and track those who have access to identifiable digital medical information.

*Arch Dermatol. 2004;140:473-476*
The copyright act 1957 – India

Published in Gazzette – 6\textsuperscript{th} June 57

- Interpretation- Definition.
- Ownership of copyright
- Rights of owner
- Registration
- Offences

http://www.indiainfoline.com/lega/cont/cr15.html
In India

- **Term of copyright in photographs**
- In the case of a photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.
Summary

- Consent should be requested from patients for all medical photography and for the subsequent use of their images.
Summary

• Specific consent should be obtained if an image will be used in print/electronic publishing

• Majority patients continue to give consent for publication of their image despite explicit discussion of the possibility of the image becoming available on the internet