



Is Consent Required For Publication of Medical Errors?

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Abstract

Publication of information about medical errors is critical to error prevention and shared learning among health professionals and institutions. While some countries have error reporting systems in place, journal publications are still essential reference tools for learning about error, and editorial policies about when to publish errors are needed, as these provide important guidance to journal editorial boards.

While there is a *prima facie* moral requirement to obtain consent to publish patient information, publication without patient consent may be justified if certain criteria are met. Justification will involve consideration of a variety of principles, rules and conditions grounded in ethics, law and policy. Except in exceptional circumstances of overriding importance to public health, a patient's personal information should not be published over the patient's refusal. But what constitutes "exceptional circumstances of overriding importance to public health"? We argue that medical error is one such circumstance and present an argument in favour of a specific policy stance on publication of medical errors.

INTRODUCTION

Current literature about medical error reflects a debate about how "error" should be defined in medicine (Quality Interagency

Coordination Task Force 2000; Grober and Bohnen 2005). Regardless of the exact definition, publication of information about medical errors is critical to error prevention and shared learning among health professionals and institutions. While some countries have error reporting systems in place, the systems are not always utilized by, or accessible to, healthcare providers who need to know about errors. These reporting systems will hopefully reach their full potential in the future as sources of education and warnings related to error, and will undoubtedly contribute to the development of acceptable definitions. In the meantime, journal publications are still essential reference tools for learning about error, and editorial policies regarding when to publish errors are needed, as these provide important guidance to journal editorial boards and authors.

In general, and regardless of whether or not an article is about error, there is a *prima facie* moral requirement to obtain consent to publish patient information. Alternatively, publication without patient consent may be justified if certain criteria are met. Justification will involve consideration of a variety of principles, rules and conditions grounded in ethics, law and policy, most often including the following:

- Will an onerous degree of effort be required to contact the patient to obtain consent?