



Whose Story is It Anyway? Using Patients' Images to Promote Your Practice

By TDIC Risk Management Staff

It's never been truer that a picture is worth a thousand words. As websites and social media become increasingly preferred channels for sharing our stories, photographs can be the best way to show exceptional experiences at your practice. Life-changing restorative work, happy patients and healthy smiles are all powerful stories. But whose stories are they to share? Yours or your patients'?

With permission from your patients, you can use their photos to promote your practice on your website, as well as for articles, lectures and advertisements. Without permission, there are significant headaches and legal risks.

In a recent case, a dentist used before-and-after photographs on his practice site to showcase his excellence in restorative work. The images were only of the patient's mouth, and no patient-identifying information accompanied them. However, when the patient saw and recognized her own smile online, she became distressed due to embarrassment about her "before" photos. She also expressed that she didn't want others to know her smile had been restored, and moreover that she hadn't agreed for the practice to use her photographs. Though the patient had signed a release before treatment, the release did not specify possible use of the patient's photos. The patient is now demanding that her before-and-after images be removed from the site, all photos taken of her at the practice be released to her and financial compensation for unauthorized use of her photos. The situation could have been avoided with a simple line specific to use of photos within the dentist's existing release form.

Even with signed authorization, patients can be sensitive to how their images are used. In a separate case, a patient was surprised to see her photo on the website of the practice where she receives treatment, even though she had signed a release which did include permission to use photos. The photo did not show, and no other information revealed, the type of treatment she'd received. She expressed unhappiness simply from the fact that others now knew she was receiving dental care at the practice. Though the dentist in this case was legally protected by the signed release, the issue still created stress for the patient.

The use of patient photographs shouldn't be determined by legal requirements alone. It must also be solidified by patient relationships and practice reputation. For example, if an individual featured on a practice website is no longer an active patient, or the patient rela-

tionship has since changed, it's prudent to replace the photo. And, if a patient will be prominently featured on the site, it's respectful to have an image release on file.

Of course, it's not just patients who need to consent for use of their photos. If members of your practice team are featured on your website, you'll want to have signed releases from them as well. Whether featured in their professional role, or as patients of the practice, the same considerate photo releases measures should be taken.

The Dentists Insurance Company (TDIC) provides policyholders access to a full library of forms and templates to help mitigate risk, including an image release form. Whether you choose to use TDIC's form or create your own, your release should include:

- Language that specifies consent to use photos in print and electronically, including on your practice's website.
- A distinct section with language that specifies use of photos that must be consented to and signed.
- Details on how their images may be used and through which channels.

An image release allows your patients to have more awareness of giving consent to use photographs, instead of "skim-reading" as they complete many other forms. In addition, it allows patients to decline consent to use their photos.

Remember, the stories you share through photos aren't just the stories of your practice's success. They can also be your patients' personal stories of transformational moments of regained confidence in their new smile. Foster trusting relationships by communicating early and gaining consent to share those stories through pictures.

TDIC's Risk Management Advice Line can be reached at 800.733.0634.

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