

Electronic Encyclopaedia of Perinatal Data

Copyright and Perinatal Paper Records and Proformas

In theory copyright laws probably apply to medical records or proformas as much as to any other published work. Indeed in all the main maternity U.K. casenote projects the © sign has been used to indicate that someone, somewhere "holds the copyright" e.g. the original Milton Keynes Green Notes were always marked © Rupert Fawdry). Subsequently, with full verbal but with no written agreement the MK notes became the clear basis for the West Midlands Green Notes which, in turn, contained the note "© West Midlands Perinatal Institute". Yet they were widely used as the basis for other local variants. In turn the National Maternity Record Project casenotes were marked "© NMCP 2002" (quite meaningless since the working party had no official status and indeed no longer exists). Most recently the "Pregnancy Notes" are also all marked © West Midlands Perinatal Institute".

Thus, despite "copyright", usually without any contact with or reference to the original copyright holder, all main national U.K. maternity records have clearly been used as the basis for the creation of similar but not identical local versions.

There are three reasons for this apparent contradiction. Firstly, it is unclear to most health professionals as to what proportion of an existing medical record needs to be used for it to be regarded as a definite copy under such copyright laws. Secondly, on a more practical level, taking out such a court action would be an expensive business, and who would pay for the court action. Finally, and most importantly, on an idealistic level, almost all of those involved in the creation of such records have as their overriding vocation, the reduction of suffering and the encouragement of wellbeing. Those whose records are copied are therefore fully aware that others who have ignored copyright issues are doing so for the very best of motives. Taking other health care workers to court for trying to do their best for their own patients would thus almost certainly be morally unacceptable.

For these three reasons, despite the existence of copyright law, the writer is not aware of any successful legal action, (or even any threat of legal action) to protect copyright in these circumstances. (if anyone knows of a case where this is not true please contact the writer urgently)

In the age of the internet, the editor(s) of this web site does not object to the use of any of the general text found in the EEPD website. It is only requested that the use of such material should include the comment "Based on (or partially based on) material found on the EEPD website" Much of the material being publicised through the EEPD comes originally from other sources. Where this is clearly so, it is requested that a genuine effort should be made by any potential user to obtain permission from whoever may hold the copyright.

Not just a matter of legal rights

Quite apart from any copyright issues, there are two other reasons for care in the use or modification of EEPD or similar material.

The first concerns the fact that much of such material loses value as soon as it is modified. As soon as the wording has been locally changed, standardised questionnaire can no longer be used in comparative research papers. Of equal importance; if a particular form of words or flow-patterning has been used as an integral part of a computer program, alterations may require expensive local re-writing of the computer program which it time makes national upgrading an expensive impossibility.

Of equal importance is the fact that if a modification of the wording is really worthwhile locally it seems likely that the same modification would improve the national (and eventually international) product. If such a change is so good, why keep it a local secret!

Copyright and Patient Information Leaflets

Copyright becomes even more important when leaflets, such as those from an organisation like the charitable organisation APEC, are made available just for viewing through the EEPD. Although clearly such patient organisations exist primarily to improve the public awareness of the particular medical problem with which they are concerned, their commercial survival often depends on the sale of their copyrighted leaflets, hence the comment attached to their leaflets when their text is made visible through the EEPD.

As is made clear in the introduction to the Prescribable Leaflet Collection (EEPD Volume 24), since any leaflet has a much greater value if it is seen by the patient as coming directly from her own professional carers and being directly relevant to her own needs, the text of all the EEPD leaflets is fully available for local editing and authorship so long as such a leaflet contains the phrase "based on a leaflet made available through the EEPD . . ."

Rupert Fawdry (Updated 5 November 2010)

The following was found above a photocopier at St. George's hospital, Tooting. Interestingly, there is no mention of any prohibition of regarding the copying of NHS proformas etc. www.fawdry.info/eepd/00_top/CopyrightStG.pdf