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## When Does Previous Disclosure Become a "Prior Publication" Problem?

Elise Langdon-Neuner

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Elise Langdon-Neuner, BSc

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**Key words:** embargoes; e-prints; press releases; prior publication; scientific meetings

**Abbreviation:** ICMJE = International Committee of Medical Journal Editors

How much of the substance of a paper can be made public before a peer-reviewed biomedical journal will consider the paper no longer sufficiently newsworthy for publication? We are talking here about where there has been a “prior publication” somewhere other than in another peer-reviewed journal. The considerations are different from publication that is duplicate/redundant/salami/repetitive/overlapping/multiple—all terms referring to where a paper, part of it, or its data have been published in another peer-reviewed journal.<sup>1</sup>

Peer-reviewed journals implement the Ingelfinger “rule” to claim their prerogative to publish original material.<sup>2</sup> The rule is that journals will refuse to peer review research that has been published elsewhere. In addition, it provides that a scientific claim should be validated before dissemination to the public. Accordingly, authors are required to undertake only to submit material to journals that has not been presented substantively elsewhere. Editors argue that peer review provides critical evaluation of scientific results that improves reporting and is conducted in the aspiration of scientific integrity. Without peer review, the importance of the findings can be exaggerated and limitations of the

research overlooked. Not only is coverage in newspapers often incomplete and inaccurate, but articles also have lower methodologic and reporting quality in physician’s “throwaway” journals, which are seldom peer reviewed, than in peer-reviewed journals.<sup>3</sup> Journals moreover want to protect their commercial interests. If their material is not original, readers might prefer other sources.

*CHEST* incorporates its policy on prior publication by inclusion of the words “any medium” and “elsewhere” under the heading “Duplicate/Salami Publication” in the Information for Authors.<sup>4</sup> The journal follows guidelines produced by the International Committee of Medical Journal Editors (ICMJE),<sup>5</sup> which form the backbone of most journals’ policies. *CHEST* obliges authors to sign an author agreement with the statement: “I have not and will not report scientific information described in the manuscript to the public media, governmental agencies, or drug manufacturers.”<sup>4</sup>

Most editors distinguish between publication of material in a final form, which constitutes an undesired prior publication, and publications that do not amount to a prior publication because they report work in progress. A subsequent manuscript reporting the final data and conclusions will still be interesting for their readership. Additionally, certain practices, *eg*, presentations at medical meeting, publication of meeting abstracts, and circulation of draft manuscripts to colleagues, are recognized as important to science and viewed as not constituting proper publication. The advent of mass media reports of meetings complicated but did not destroy this idea.<sup>6</sup> The emergence of e-prints, which are preliminary versions of papers posted on Web sites and accessible by everybody, however, stretches the concept to its limits, and beyond them for some journals. Press releases are another “knotty” problem for journals.

### MATERIAL MADE PUBLIC AT SCIENTIFIC MEETINGS

Meeting sponsors, scientists, their institutions, and funding agencies welcome press coverage of scien-

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tific meetings.<sup>7</sup> Journals in the field of accounting also encourage authors to circulate their papers among colleagues and give seminars before submission, believing that exposure and constructive criticism from colleagues improves papers and increases their influence.<sup>8</sup> However, these journals need not fear wider publication because less-attractive newspaper headlines can be gained from accounting than from medical papers.

According to ICMJE guidelines, the prior publication policies of medical journals do not preclude consideration of a complete report that follows publication of a preliminary report from a professional meeting such as an abstract or poster, a paper that has been presented at a meeting but not published in full, or a paper that is being considered for publication in a proceedings or similar format. Press reports of meetings are also precluded, but additional data or copies of tables and illustrations should not amplify such reports.<sup>5</sup>

The “work in progress” status of presentations is supported by findings that 25% of those reported in the media have not been published in medical literature 3 years after the meeting because promising hypotheses fail, early results change, or important methodologic issues arise.<sup>9</sup> A survey of presenters at orthopedic meetings found 31% of studies were still in progress 5 years after presentation.<sup>10</sup>

Problems arise when articles written by journalists elaborate on the data presented at the meeting, leaving little original information for a biomedical journal to report. Journalists seek out newsworthy stories and often want more information from presenters. Some journals, *eg*, *Annals of Emergency Medicine*, advise presenters to give journalists copies of posters and abstracts and answer questions at the conference to enable them to produce an accurate report.<sup>11</sup> Answering questions during the week following the meeting as well will not jeopardize publication in the *New England Journal of Medicine*, but authors are told not to say that they have submitted or plan to submit an article to the journal.<sup>12</sup> To avoid the amplification of reports discouraged by the ICMJE guidelines, tables or figures should not be distributed but can be used in a presentation. *Science* advises authors to clarify specifics of their presentation but not to part with copies of the presentation.<sup>13</sup> The *New England Journal of Medicine* acknowledges that meeting organizers may publish an abstract and/or post the presentation on their Web site, but authors, their institutions, and other organizations sponsoring the research should not promote presentations to a wider audience. The *New England Journal of Medicine* permits posting of audio recordings on the Internet because this allows people who were unable to attend the meeting to

hear the presentation and see the slides. In contrast, the *Archives of Ophthalmology* advises presenters against granting permission for recording of presentations and suggests presenters ask journalists to withhold information until an impending article is published in a peer-reviewed journal.<sup>14</sup>

A helpful article that advises scientists how to deal with the media, and in particular whether interviews should be given to journalists, issues an apt warning: in agreeing to be interviewed by a journalist, you should not be overconfident that you can withstand their strategies for extracting more information from you about your study than you had intended to give.<sup>15</sup> More advice on talking to the press is available from The Science Media Centre.<sup>16</sup>

## REGISTRATION OF RESULTS OF CLINICAL TRIALS

Registration of trial results in clinical trials registries has been considered prior publication by some journals. However, as from September 2008, the Food and Drug Administration Amendment Act requires disclosure of all—except phase I—controlled clinical trials in [clinicaltrials.gov](http://clinicaltrials.gov) within a year of trial completion. Investigators will face penalties for failing to comply. Results published in the registry will not have been peer reviewed. The *British Medical Journal* asks if journals will want to publish results that after registration have been widely published in the media with comments from experts in the field.<sup>17</sup> They answer the question for their journal by stating that they will fast-track papers reporting important trial results to publish them with open access on [bmj.com](http://bmj.com) before the registration deadline. Although they will consider papers reporting trials after the results have been registered, authors would be well advised to submit their papers without delay and defer registration until near the deadline.

## E-PRINTS

Circulating draft articles to colleagues for comment before submission to a journal hardly constitutes proper publication. However, some biomedical journals have reacted strongly against systematic circulation of drafts as so-called *e-prints* (electronic preprint) to a wider group via the Internet, while others make concessions. The *New England Journal of Medicine* draws the line here and will not consider papers for publication where preliminary versions have been posted on Web sites. The *British Medical Journal* will consider e-prints for publication provided their posting on the Internet was accompanied by a notice stating that the posting is intended for

review and comment only and not for citation, quotation, or any other use. The draft should be removed when the article is submitted to the journal.<sup>6</sup> *Science* allows postings on not-for-profit preprint servers, but authors should contact them for advice about specific cases. *Tobacco Control* points out that while they would not consider publication on the World Wide Web as prior publication, it would be taken into account in assigning priority to papers for the limited journal space<sup>18</sup>—a notion that will always apply in prior publication issues.

*Nature* takes a pragmatic approach. Scientists should not cooperate with the general media before publication, but communicating freely with other researchers is an integral part of scientific research.<sup>19</sup> It views preprint servers, common in the physics and mathematics community whose journals have nevertheless continued to flourish, as “online meetings” for discussion and feedback among a wider scientific audience.<sup>20</sup> Indeed, *Nature* has set up its own preprint server. This, however, has not been taken up with enthusiasm by the competitive biomedical community, which is large and generates high volumes of material.<sup>19</sup> *Nature* allows postings on its own and recognized preprint servers such as the physics ArXiv, which also has biological categories, and on collaborative Web sites such as wikis or the author’s blog. The Web site and uniform resource locator must be identified to the editor in the cover letter accompanying submission of the paper.<sup>21</sup>

The general rationale among journals is that posting on the World Wide Web, whether in a preprint server, institutional Web site, or self-archiving, for interaction with the biomedical community is acceptable even when the public can access the site. What journals ask is that authors avoid actively attracting a wider audience to the site by directing traffic to it via links on other sites or soliciting attention with press releases. The site should be one controlled by the researchers or their academic institutes, not one belonging to a commercial enterprise such as a publisher (except in the case of *Nature*). Authors can take additional precautions against the circulating of manuscripts being considered a prior publication by marking the drafts as subject to revision as detailed by the *British Medical Journal* above.<sup>18</sup>

#### FOUNDATIONS, GOVERNMENT AGENCIES, AND RESEARCH INSTITUTES

ICMJE guidelines mention that some journals consider not only preliminary reporting by the media and manufacturers violates prior publication policy but also by governmental agencies unless a major therapeutic advance or health hazard is involved, and

then the editor should be consulted in advance.<sup>5</sup> Papers based on reports from foundations, government agencies, and research institutes will be of little interest to journals if they have been widely publicized. A comprehensive prior publication policy developed by editors in the public health sector suggests that publication of the reports be timed to coincide or follow journal publication; otherwise, the authors will need to persuade the journal that their paper has a different focus, more analysis of the data, or adds new information.<sup>22</sup>

#### PRIOR PUBLICATION BETWEEN ACCEPTANCE AND PUBLICATION

Once an article has been accepted for publication by a peer-reviewed journal, the embargo policy of the journal comes into play. The justification for an embargo is to ensure accurate information is made available to the public by allowing accredited journalists to read the peer-reviewed article before publication and allow them time to prepare a report and interview experts. Embargoes also protect scientists from being asked to explain information that has leaked to the public before they have seen the peer-reviewed article. An embargo is a contract between journals and journalists. A report on an article in the media promotes peer-reviewed journals, increases their article citation<sup>23</sup> and is a marketing tool. Journals pay a fee to place embargoed content and press releases on news service Web sites such as EurekAlert and Alpha Galileo. Journalists can access the Web sites with a password but agree not to publish reports on articles until the embargo is lifted. Breaching an embargo results in removal from the journalist list. The *Journal of the American Medical Association* removed the *Detroit Free Press* from its list when it publicized the risks revealed by estrogen-plus-progestin hormone therapy a day before the *Journal of the American Medical Association* was due to publish research on the topic.<sup>24</sup>

Authors are informed of the embargo dates when their manuscripts are accepted. Embargoes are not a binding contract with an author unless the author has specifically agreed to it. Nevertheless, journals with such policies call on authors not to speak to the press before the embargo is lifted. *Nature* allows authors to speak with the media during the week before publication provided they tell journalists to comply with the embargo. During this period, the authors can distribute preprints of the final article to colleagues, but not direct to the press. If reports appear in the media or editorials are published in other peer-reviewed journals based on a paper presented at a meeting the editor attended, *Nature* will assess



the extent to which authors have solicited this interest or cooperated with journalists or editors and may reject a paper that is in press.<sup>21</sup>

#### COMPANY WEB SITES AND PRESS RELEASES

Scientists working with pharmaceutical companies can experience pressure directly or through sponsorship to immediately reveal research results to shareholders and investors through company press releases and postings on the company Web site. *The Lancet* discourages divulging results at investors' meeting.<sup>25</sup> Newspaper reports cite press releases of the manufacturer twice as often as journal articles.<sup>26</sup> It is therefore unsurprising that such publication contravenes prior publication policies of journals.

However, the stance of journals toward press releases does not always align with the principles that underpin the Ingelfinger rule detailed above in the second paragraph of this article. Press releases are typically written by press officers trained in communication rather than science. A study<sup>27</sup> found that only 23% of releases issued by journals or their publishers for their own Web sites or EurekaAlert mentioned study limitations, data were frequently exaggerated, and industry support was not declared in 78% of studies that had received support. Similar problems arise with press releases issued by conference organizers, which are not viewed as prior publication. These press releases are based on conference abstracts. A study<sup>9</sup> of 147 conference abstracts found 43 had been promoted through official press releases. While these were more likely to receive front-page newspaper coverage, among the 147 abstracts the research in the 43 was ultimately less likely to be published in peer-reviewed journals.<sup>9</sup> The investigators recommended abstract selection for media promotion should be based on scientific merit, and care should be taken to ensure press releases were scientifically accurate and highlighted the preliminary nature of the work.

#### TIPS FOR AUTHORS TO AVOID CONTRAVENING JOURNAL PRIOR PUBLICATION POLICIES

The following are tips to avoid contravening prior publication policies: (1) check prior publication/embargo rules in the author information of the target journal; (2) detail any prior reports or presentations at a conference in a covering letter; (3) when presenting at conferences, emphasize that the material has not been peer reviewed and could be subject to change; (4) confine information given to journalists to posters and abstracts, and answering questions at

the conference; (5) endeavor to submit articles reporting on clinical trial before the 1-year deadline in which trial results have to be registered; (6) if articles are posted on public servers, ensure the provider is a scientific rather than a commercial entity and refrain from attracting a wider audience by hyperlinks; (7) be aware that journals are reluctant to publish papers based on reports from pharmaceutical companies, foundations, government agencies, and research institutes; and (8) avoid issuing press releases, which are a prior publication unless published by conference organizers or journals.

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### **Erratum: Chest 2008: 133:62–71**

In the January 2008 issue, in the article by Lucangelo et al, titled “Prognostic Value of Different Dead Space Indices in Mechanically Ventilated Patients With Acute Lung Injury and ARDS” (Chest 2008: 133:62–71), the correct affiliation for Lluís Blanch, should be as follows: Lluís Blanch, MD, PhD; Critical Care Centre; CIBER Enfermedades Respiratorias; Hospital de Sabadell; Corporació Parc Taulí; Sabadell.

### **Erratum: Chest 2009; 135:233–237**

In the January 2009 issue, in the article by Langdon-Neuner titled “When Does Previous Disclosure Become a Prior Publication?” (Chest 2009; 135:233–237), the last sentence of the first full paragraph on page 234, the sentence should read, “Press

reports of meetings are also not precluded, but additional data or copies of tables should not amplify such reports.”

### **Erratum: Chest 2009; 135:276–286**

In the February 2009 issue, in the article by Lellouche et al, titled “Humidification Performance of 48 Passive Airway Humidifiers” (Chest 2009; 135:276–286), in Table 1, the manufacturer of Device Nos. 1 and 3 should be listed as Medisize.

### **Erratum: Chest 2009: 135:330–336**

In the February 2009 issue, in the article by Tonelli de Oliveria et al titled “Diagnosis of Obstructive Sleep Apnea and Its Outcomes with Home Portable Monitoring” (Chest 2009; 135: 330–336), the name of the third author is misspelled. It should be Luiz Felipe Teer-Vasconcellos.

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