

# Patient Photography Videotaping Imaging

**This Policy is Applicable to the following sites:**

Big Rapids, Continuing Care, Corporate, Gerber, Outpatient/Physician Practices, Pennock, Reed City, SH GR Hospitals, SHMG, United/Kelsey, Zeeland

<b>Applicability Limited to:</b>	N/A
<b>Reference #:</b>	19365
<b>Version #:</b>	2
<b>Effective Date:</b>	08/08/2016
<b>Functional Area:</b>	Privacy and Information Security
<b>Department Area:</b>	Risk Management

## 1. Purpose

To define allowable purposes for obtaining film and digital photographs, video images, audio files, and other recordings of patients using a camera, phone, or other device, and to define the standards for the creation, use and retention of the images or recordings.

## 2. Definitions

- **Consent:** Written documentation of agreement by the patient (or the patient's Personal Representative) to the Photography or Recording process (e.g., general consent for treatment plus Spectrum Health's Notice of Privacy Practices, or a specialized consent/authorization).
- **Photography:** Film and digital photographs or video images or recordings created using a camera, phone or other device.
- **Telemedicine:** The transfer of medical information through the phone, the Internet, or other electronic means for the purpose of delivering medical care or enhancing consultation between medical specialties.
- **Recording:** Audio files and other recordings that do not create a visual likeness of the patient, but otherwise record or duplicate a means of identifying the patient (i.e., through voiceprint or other biometric identifier). Recording also includes use of webcasting technology and media to broadcast or distribute audio, video and/or other files over the Internet using streaming media technology.

The definitions to the following terms used within this document may be found in the [Information Services Glossary of Terms Used in Policies and Procedures](#).

- Personal Representative
- Personally Identifiable Information
- Protected Health Information

## 3. Responsibilities

All Spectrum Health staff members, physicians and entities within Spectrum Health who are using or allowing Photographs and Recordings of patients must do so in accordance with this Policy.

#### **4. Compliance**

Any person in violation of this Policy is subject to corrective action, up to and including termination of employment by Spectrum Health.

#### **5. Policy**

##### **5.1 General**

Spectrum Health may use or permit the use of Photography and Recording to collect patient health information for purposes of identification, patient care and treatment, and education and quality purposes, or as otherwise authorized by the patient or patient's Personal Representative. Photography and Recording may be disallowed or discontinued by any Spectrum Health staff or provider when it may interfere with patient care and/or is in the interest of patient safety, treatment, and/or healthcare operations and compliance.

This policy is not intended to replace or supersede any other Spectrum Health policies and procedures regarding the use and disclosure of patient information. Staff who use or disclose patient Photography/Recording must comply with all such policies and procedures, including, but not limited to, [Authorizations for Use or Disclosure of Protected Health Information Policy](#).

##### **5.2 Patient Care and Identification Purposes**

5.2.1 Consent for Photography used for purposes of identification, diagnosis and/or documentation of patient care is obtained and documented by way of the General Consent for Treatment and Spectrum Health's Notice of Privacy Practices.

5.2.2 The resulting image(s) for identification and/or documentation of patient care must be included in the patient's medical record and must be appropriately labelled.

5.2.3 Any electronic image obtained and shared for purposes of identification, diagnosis and/or documentation of patient care must be transmitted via a Spectrum Health secured network. Once the transmission is completed and the image uploaded to the EMR, the image must be deleted from the user's device.

##### **5.3 Photography (Video Surveillance) to Monitor Patient Safety and Clinical Condition**

5.3.1 Video surveillance may be used in certain clinical areas where continuous visual observation of the patient and bedside activity is deemed important to provide a safe and responsive environment of care for patients.

5.3.2 Such video surveillance must be conducted in real time, with no retention or recording of the video feed/images. Video monitors used for surveillance must be located at clinical workstations for viewing by clinical staff only.

5.3.3 Cameras may be temporarily turned off by staff to protect patient privacy during personal hygiene care (e.g. bathing, toileting).

5.3.4 Clinical areas employing the use of video surveillance for monitoring patient safety and clinical condition must notify patients and family that cameras are in use by posting signs regarding the use of the cameras in those areas.

#### **5.4 Photography for Documentation of Abuse and/or Neglect**

5.4.1 In cases of actual or suspected abuse and/or neglect, video surveillance or other Photography or Recording by authorized personnel may be used for medical documentation purposes, only if permitted by the appropriate departmental leader(s) and Risk Management.

5.4.2 Photography (or Recording) created for documentation of abuse and/or neglect is not normally maintained as part of the patient's medical record unless the images are for medical treatment purposes. Photography (or Recording) for documentation purposes other than treatment must be maintained according to security protocols for storage, use, disclosure and retention, as defined by the department authorized to engage in Photography (or Recording) for this purpose.

5.4.3 Copies of Photography/Recording captured under these circumstances may be released to authorized representatives of an investigating agency and/or pursuant to a subpoena or court order.

#### **5.5 Requests by Law Enforcement or Other External Agencies**

Requests for disclosure of Photography/Recording to law enforcement or other external agencies must be handled in accordance with applicable Spectrum Health policies and procedures.

#### **5.6 Educational Purposes**

5.6.1 Photography and Recording that does not contain any Personally Identifiable Information or Protected Health Information may be used for education and teaching purposes without patient/Personal Representative authorization.

5.6.2 Photography and Recording that contains Personally Identifiable Information or Protected Health Information may not be disclosed to, or shared with, any individuals or organizations outside of Spectrum Health, unless the patient (or the patient's Personal Representative) has provided written authorization. The approved authorization form is Form X06049, [Authorization To Make And Use Patient Photographs And Images](#)

#### **5.7 Performance Improvement Purposes**

5.7.1 Photography and Recording may be obtained and used internally for provider and staff performance improvement purposes without the patient's (or Legal Representative's) authorization.

5.7.2 Photography and Recording that contains Personally Identifiable Information or Protected Health Information may not be disclosed to, or shared with, any individuals or organizations outside of Spectrum Health, unless the patient (or the patient's Personal Representative) has provided written authorization. The approved authorization form is Form X06049, [Authorization To Make And Use Patient Photographs And Images](#)

5.7.3 Photography and Recording obtained for performance improvement purposes are not part of the patient's medical record. The Photography and Recording are protected by State law (MCL 333.21075; 333.21513; 333.21515; 333.531; 331.533; 331.532). As such, the Photography and Recording are confidential, will be used only for the purposes provided in this policy, are not public records, and are not subject to court subpoena.

5.7.4 Photography and Recording obtained for performance improvement purposes will be maintained according to security protocols for storage, use, disclosure, and retention as defined by the department and only as necessary for peer review or performance improvement files.

## **5.8 Research Purposes**

5.8.1 Photography and Recording that contain Personally Identifiable Information or Protected Health Information may not be used for research purposes without the approval of the Spectrum Health Institutional Research Board (IRB) (which functions as the HIPAA Privacy Board).

5.8.2 The patient's authorization to use Personally Identifiable Information/Protected Health Information in Photography/Recording for research purposes will be included in the patient consent for research study participation.

## **5.9 External Publications (Books, Magazines, Journal Articles, etc.)**

5.9.1 Photography that does not contain any Personally Identifiable Information or Protected Health Information may be published in textbooks, journal article, and other externally distributed publications without the patient's (or Personal Representative's) written authorization.

5.9.2 Photography that contains Personally Identifiable Information or Protected Health Information may be used and disclosed for external publication purposes only if written authorization of the patient (or the patient's Personal Representative) is obtained and documented. The approved authorization form is Form X06049, [Authorization To Make And Use Patient Photographs And Images](#)

Staff should not use images that are so unique in character that the patient may be identified (i.e. birth defects, trauma, burns, x-ray, infections, etc).

## **5.10 Marketing/Publicity/Media Purposes**

5.10.1 Photography and Recording for purposes of marketing, publicity and other media uses must be coordinated through Spectrum Health Corporate Communications and Media Relations.

5.10.2 Written authorization must always be obtained prior to using Photography or Recording that contains a patient's Personally Identifiable Information and/or Protected Health Information for any type of marketing or publicity activity. The approved authorization form is Form X06049, [Authorization To Make And Use Patient Photographs And Images](#)

5.10.3 Staff should obtain the patient's (or Personal Representative's) written authorization before using a patient's photograph, likeness, or similar image for internal publicity and promotional purposes (e.g., on InSite, or other similar means of internal communication).

5.10.4 Spectrum Health Corporate Communications and Media Relations must be notified of any request by news media or another external communication outlet to use a patient's Photography, Recording, clinical information, or personal story.

## **5.11 Courtesy Photography for Patients/Families**

Written authorization is not needed for photography of a patient and/or a patient's family as part of a program or service offering made available as a courtesy to patients and families. An example would be bereavement photos. Participation in courtesy photography programs is voluntary. Images produced as part of these courtesy programs are not maintained by Spectrum Health and do not become part of the patient's medical record.

## **5.12 Photography by the Patient and/or the Patient's Family/Friends**

5.12.1 Written authorization by the patient is not needed for Photography or Recording done by the patient or the patient's family members or friends. However, the Photography/Recording must not interfere with patient care, and the provider/staff member has the authority to discontinue the Photography/Recording if necessary for the purposes of patient care or other hospital operations.

5.12.2 Photography/Recording by family/friends in a patient's room must be approved by a Spectrum Health provider. The patient and family/friends must be informed that the camera, phone or other recording device must be focused on only the patient and cannot be in a position that captures staff or other patients or activities in the room.

5.12.3 Spectrum Health staff and providers have the right to accept or decline a patient's (or friend/family member) request to be photographed or recorded.

5.12.4 Photography/Recording by a patient/family member/friend taken under any circumstances causing concern to Spectrum Health staff and/or providers should be reported to unit leadership. Risk Management, Patient Relations, Security and/or Legal Counsel will be notified as appropriate.

### **5.13 Telemedicine Purposes**

Other than the general consent for telemedicine services, use of Photography/Recording as part of a Telemedicine encounter does not require additional consent or authorization of the patient (or patient's Personal Representative).

## **6. Procedures**

### **6.1 Photography/Recording Equipment and Retention Requirements**

Departments and staff utilizing Photography/Recording that will be retained for purposes permitted by this policy must document procedure(s) to address each of the following:

6.1.1 The type(s) video/photography/recording equipment to be used.

6.1.2 Location(s) of the video/photography/recording equipment while in use and when not in use.

6.1.3 The subject(s) of the Photography/Recording (e.g., patients, family members, visitors, staff).

6.1.4 The purpose(s) of the Photography/Recording (note: the purpose(s) must be permitted by and described by this policy).

6.1.5 The safeguard(s) in place to protect the equipment and the Photography/Recording (e.g., locked door, password protection, limited access, etc.).

6.1.6 Plans to retain and destroy the Photography/Recording (Note: the Photography/Recording should not be retained for longer than 90 days).

6.1.7 List of individual(s) and department(s) within Spectrum Health (and outside of Spectrum Health, if permitted and applicable) who will have access to and use of the Photography/Recording (Note: the list of individuals/departments must be no more than the minimum necessary to accomplish the purpose(s) of the Photography/Recording).

6.1.8 Description of sign(s) and notice(s) to be posted in public and patient care area(s) regarding use of Photography/Recording (if applicable and/or required by this policy).

## 6.2 Documentation of Authorization

6.2.1 If use/disclosure of patient Photography/Recording is permitted by this Policy with the authorization of the patient (or the Patient's Representative), a copy of the signed authorization form must be filed in the patient's medical record. The authorized form is Form X06049, [Authorization To Make And Use Patient Photographs And Images](#)

6.2.2 If permitted Photography/Recording includes individual(s) other than patient(s), efforts should be made to obtain written consent/authorization of those individual(s). Staff should contact the Spectrum Health Corporate Communications and Media Relations Department to obtain the correct form(s) for documenting consent/authorization.

## 7. Revisions

Spectrum Health reserves the right to alter, amend, modify or eliminate this policy at any time without prior written notice.

## 8. Policies Superseded and Replaced

This policy supersedes and replaces the following policies as of the effective date of this policy: [Patient Photography Videotaping Imaging, #756]

## 9. References

[HIPAA Authorizations Procedure](#)  
Form 06049 [Authorization To Make And Use Patient Photographs And Images](#)

## 10. Policy Development and Approval

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## 11. Keywords

Photos, Patient photography, Video tape, Recording, Audio files, Video Surveillance, Educational photos, Photography