

Subject:	Photography, Videography, Video Recording Policy
Generated By:	Quality Improvement/Risk Management
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Purpose/Policy

Mary Free Bed Rehabilitation Hospital, including its employees, volunteers, patients, patient representatives, family members, visitors and vendors, (collectively referred to as "*Hospital*"), defines allowable purposes for obtaining **film and digital photographs and/or video images and/or recordings using a camera, laptop, cell phone, or other device (collectively "Photography")** as follows:

1. Hospital may utilize Photography to collect patient health information for purposes of identification and patient care and treatment as authorized by the patient or patient's caregiver or guardian.
2. Any member of the clinical team may refuse to allow, or stop, Photography when it may interfere with patient care and/or may affect patient safety, treatment, and/or healthcare operations and compliance.
3. Photography may be permissible with patient consent or as otherwise permitted by law for monitoring clinical condition, documenting abuse or neglect, legal purposes, clinical research, education purposes, publications, quality/performance improvement, telemedicine, personal family/friends, security, and marketing/media purposes.
4. Under no circumstances, except as otherwise permitted by law, can photos or videos of a minor be used for any purpose without written authorization from the parents or guardian.
5. The Hospital community shares the responsibility to see that this policy is followed.

Definitions

1. Consent–Written documentation of the patient's, or responsible parties, agreement to the Photography process (e.g. consent to admit/treat, specialized consent, or documentation of verbal consent).
2. Person/Patient Identifiable Information–Any pieces of information which can potentially be used to uniquely identify, contact, or locate a single person. Such identifiers include, but are not limited to: name, home address, email address, telephone number, social security number, medical record number, driver's license number, credit card number, biometric identifiers, facial photos or images, or any unique characteristic (including unusual tattoos, piercings, etc.)
3. Photography–For purpose of this policy, ***the term Photography includes film and digital photographs, and/or video images or recordings of any kind*** created using a camera or other device (laptop, Skype, smart phone, etc.)
4. Webcasting–Broadcasting or distributing an audio and/or video file over the internet using streaming media or other technology.
5. Telemedicine–Transferring medical information through phone, Internet or other networks for the purposes of providing medical treatment.

6. Teleconferencing—A live exchange of information between persons and machines remote from one another but linked by a telecommunications system, which often includes, audio, video and data services.

Specific Information

1. Circumstances under which Photography is Permissible

a. Patient Care and Identification

- 1) When Photography is used for purposes of identification and/or to document patient care and treatment, the resulting images must be included in the patient's medical record and appropriately labeled and indexed.
- 2) Patient consent to photography used for purposes of identification, diagnosis, patient care and/or documentation of patient care is addressed on inpatient, outpatient and O&P consent forms and on media release forms.
- 3) Separate patient authorization is generally required for use of photography for purposes other than treatment as described below.

b. Video Surveillance to Monitor Clinical Condition

- 1) Video observation of patients may be used in patient care settings where continuous visual observation of the patient and bedside activity is deemed important to provide treatment and a safe environment of care for patients.
- 2) Video monitors used for such surveillance are located at clinical workstations for viewing by hospital personnel only.
- 3) Cameras may be temporarily turned off by staff to protect patient privacy during personal hygiene care (e.g. bathing, toileting). Clinical staff should restart cameras as appropriate.
- 4) Clinical areas employing the use of video surveillance will notify persons within family and visitor accessible areas that cameras are in use by posting signs to that effect.

c. Documentation of Abuse and/or Neglect

- 1) In cases of actual or suspected abuse and/or neglect, video surveillance or other photography may be used by authorized personnel for medical documentation purposes.
- 2) Authorization from the patient or other person(s) present in a patient's room or other area is not required prior to such surveillance.
- 3) Images recorded for documentation of abuse and/or neglect are not normally maintained as part of the medical record unless the images are used for medical treatment purposes. Photography for documentation purposes other than treatment should be maintained according to guidelines for storage, use, disclosure and retention as defined by the department conducting the surveillance.
- 4) Copies of images captured under these circumstances may be released to authorized representatives of an investigating agency and/or pursuant to a valid subpoena or court order.

d. Requests by External Agencies or Law Enforcement

When an outside party (e.g. an insurance company, investigator, law enforcement agency) requests patient photography for purposes other than documentation of abuse/neglect (addressed above), contact Risk Management for assistance.

e. Clinical Research

Photography may not be used for research purposes without patient consent and the approval of the appropriate Institutional Review Board. The patient's consent to photography must be included in the patient consent for participation in the research protocol.

f. Education or Teaching Purposes – Internal and External

- 1) Photography may be used for internal education and teaching purposes with patient/legal representative authorization.
- 2) The written consent of the subject(s) of photography is required prior to creating photography that will be used in external education and/or teaching.
- 3) If the patient or caregiver/guardian/legal representative is not able or present to provide the consent at the time of creation of the photography, no photography may be taken.

g. Publications and/or Digital Media for External Distribution

- 1) Photography of a patient may be published in textbooks, journal articles, other externally distributed publications or digital media with patient/legal representative authorization.
- 2) The written consent of the subject(s) of photography is required prior to creating photography for use in textbooks, journal articles, other externally distributed publications, or digital media.
- 3) If the patient or caregiver/guardian/legal representative is not able or present to provide the consent at the time of creation of the photography, no photography may be taken.

h. Peer Review, Quality and Performance Improvement Purposes

- 1) Photography and videotaping may be used for internal hospital training or performance improvement with patient/caregiver/guardian/legal representative authorization.
- 2) The images recorded for performance improvement purposes are not part of the patient's medical record and are 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 and may not be released to any parties.

i. Telemedicine, Teleconferencing or Webcasting

- 1) Use of photography in connection with telemedicine or teleconferencing is limited to transmission through secure networks or using encryption of the images to protect the patient's privacy and integrity of the data.
- 2) Use of photography in telemedicine for treatment purposes does not require additional authorization by the patient.

- 3) If the use is not for treatment purposes, then the written authorization of the subject(s) of photography is required prior to the transmission and/or use of images which include person/patient identifiable information.
- 4) Photography may not be used for webcasting without separate written authorization by the patient or caregiver/guardian/legal representative.

j. Photography by Family/Friends

- 1) Consent is not needed for photography done by patient's family members or friends. However, the photography area is restricted to the patient and patient's immediate environment, and must not interfere with patient care or include other patients in the unit. The physician or other health care provider has the authority to instruct the photography to be discontinued if deemed necessary in the interest of patient care, respect for privacy and/or dignity of the patient or others, or for purposes of hospital operations.
- 2) Video monitoring (e.g. Skype) by family/friends in a patient's room must be approved by the bedside nurse. The family/friends will be informed that the camera or monitor must be focused only on the patient and cannot be placed in a position that captures staff or other patients or activities in the room.
- 3) Photography by a patient/family taken under circumstances causing concern to staff for any reason should be reported to Risk Management.

k. Requests for Marketing/Publicity/Media Purposes

- 1) Photography for purposes of marketing, publicity, or other media uses is coordinated through the hospital's Communications and External Relations Department.
- 2) A representative designated by the Communications and External Relations Department should discuss the request with the patient or caregiver/guardian/legal representative and obtain written consent using the media release form. The signed consent is kept on file in the Communications and External Relations Department.
- 3) Press or professional photographers on premises in their capacities must be accompanied by the Director of the Communications and External Relations Department or an authorized staff member.

l. Photography for security purposes

- 1) Photography, particularly videotaping, may be conducted in non-private places (e.g. entrances, corridors, parking lots and work areas) for internal and external hospital security monitoring with or without patient/caregiver/ guardian/legal representative, hospital workforce, family, or visitor authorization.
- 2) In cases of actual or reasonably suspected security concerns in a specific area (e.g. theft), special video surveillance or other photography may be conducted by security personnel in places for investigation and documentation purposes.
- 3) Except as otherwise prohibited by law, security photography may be used by the Hospital, in conjunction with Human Resources, to deal with hospital workforce related issues.

- 4) Except as otherwise prohibited by law, security photography may be made available to outside parties (e.g. an insurance company, investigator, law enforcement agency), in conjunction with Risk Management, to deal with internal and external security issues.
- 5) Except in the case of "special video surveillance or other photography," as defined above, in subparagraph (2), appropriate signage will be posted, so that patients, caregivers, guardians, legal representatives, hospital workforce, family and visitors will know that their activities are being monitored. Hospital staff will also be notified that they will be subject to video surveillance and photography, including special video surveillance and photography, in all non-private areas, including work areas.

2. Documentation of Consent/Authorization to Photography

a. Patient or Patient's Representative Consent

- 1) Generally, the patient, or caregiver/guardian/legal representative should give written consent before photography is carried out by anyone other than a friend or family member of the patient. Exceptions (e.g. treatment) are covered in earlier sections of this policy.
- 2) The appropriate authorization form (signed and dated by the patient or representative) must be retained in the patient's medical record or in the Communications and External Relations Department. Verbal authorization is not acceptable.
- 3) The authorization for the use of the photography remains valid unless, and until, the patient/representative withdraws or restricts the authorization for future use. Photography obtained prior to the revocation of the consent and made part of the patient's medical record shall be maintained as part of the Hospital's legal medical record.

b. Hospital Workforce Members Captured in Photography/Digital Media

- 1) A hospital workforce member is an individual performing work on behalf of the hospital and under the direct control of the hospital, whether or not the member is employed by the hospital. Examples include staff, temporary agency workers, students, contractors, and volunteers.
- 2) Photography of workforce members during the performance of patient care or procedures is not permitted, except when the photography is being taken for internal educational/training purposes or approved Communications and External Relations Department purposes and the workforce members have been informed that performance of patient care may be filmed for this purpose.
- 3) Written consent from the workforce member is not required so long as the member has been notified in advance that photography for internal use such as educational/training purposes may occur in the work area. Acceptance of a work assignment in the area where photography is occurring or can be expected conveys implied consent and waiver of any ownership rights or rights to compensation associated with use of the photography.

3. Camera Recording Equipment Requirements

- a. The Hospital staff taking the photography is responsible for using a camera device that is capable of downloading from the camera and uploading to the clinical desktop in an appropriate image format.

- b. Personnel authorized to take photography are responsible for deleting the images from the camera device used to take the photography as soon as the images have been recorded in the patient's medical record/alternative secure location (e.g. the Communications and External Relations Department repository), or when the image is no longer needed for the purpose for which it was created.
- c. No personal equipment may be used to take photography of patients, except during approved Communications and External Relations Department situations when the patient/caregiver/guardian/legal representative has already provided authorization.

4. Storage-Retention of Images and/or Recordings Taken for Treatment or Other Medical Purposes

- a. Digital images taken by or on behalf of the hospital for treatment or other medical purposes are promptly uploaded to the patient's electronic medical record, except when the department or service that creates the image has a policy for alternative documentation and retention due to the sensitive nature of the subject of the image, or unique technical requirements. When the digital image is not stored in the patient's medical record, it must be stored in a secure database and the specific location must be documented in the patient's medical record.
- b. Full motion video or video streaming that cannot be uploaded to the clinical desktop must be maintained in a separate system or file and retained in accordance with Hospital retention policies.
- c. Still photographs and other images taken for treatment or other medical purposes will be scanned into the patient's medical record for safekeeping.
- d. Every image stored in the patient's medical record contains the patient's name and medical record number.
- e. All images stored in the patient's medical record or alternative database include the date/time the photography was obtained and the name of the person who created the image.
- f. Regardless of the modality and equipment used to take and retain images, all such images are and remain the property of the hospital and area not the property of the employee, or other person making the image.

5. Use and/or Disclosure of Photography Images

- a. Viewing is limited to authorized staff based upon a need to know and consistent with the minimum necessary standard.
- b. Images captured in the photography should include no more than the minimum necessary direct personal identifiers, e.g. do not use identifiers such as name, birth date, social security number, medical record number, home address or phone number except to the extent use of these identifiers is necessary to accomplish the purpose of the photography.

- c. Except for purposes of treatment, payment or health care operations or unless otherwise required by law, person or patient identifiable photography will not be released to outside requestors without specific authorization from the patient/legal representative.
- d. Photography sent via internet and any telemedicine or webcasting must be encrypted, along with any attached person/patient identifying information.

6. Behaviors related to Photography of Patients that are not Permissible by Employees or Members of the Medical Staff.

- a. Personal use of photography of patients.
- b. Use of patient photography for entertainment purposes.
- c. Posting of photography of patients in public areas or on internet websites or blogs without written consent from the patient/legal representative prior to the posting.
- d. Sharing photography via any electronic media (including, but not limited to Facebook, Twitter, or other social networking websites) without written consent from the patient/legal representative prior to the posting.
- e. Malicious use.
- f. Including others (besides the consenting patient) in the photography without consent (except as provided in Specific Information, Paragraph 2.b).
- g. Use of photography to defame the hospital.
- h. Taking photography in a way that is disruptive to patient care or the work environment.
- i. Taking photography without the individual's consent except as outlined and allowed in the earlier sections of this policy.
- j. Secretive recording or photography (except for cases identified in Section 1.c.3) and Section 1.l.2) above).
- k. Taking or participating in photography without respect for the patient's privacy and/or dignity.
- l. Including in the photography more patient identification information than is minimally necessary (e.g. SSN, phone number).

7. Disciplinary Action

Employees and/or medical staff failing to comply with this policy are subject to disciplinary action.