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	SECTION: Medical - Legal	DATE: 11/2016
	SUBJECT: <b>4.21 Photographing, Filming, or Recording of Patients</b>	Page 1 of 5

**Policy**

Photographing, filming, or recording in any way, patients, staff members or any Highland Hospital data, equipment or property by patients, visitors, staff or others is prohibited except as described in this policy. Photographing, filming or recording an image of a patient (for purposes of this policy, hereinafter referred to as “recording”) can be useful for many purposes. However, in order to preserve the privacy and confidentiality of our patients and staff, recordings may only be made for permitted purposes, by authorized individuals.

In the context of treating patients, recordings should be taken only if the provider has determined that they will add value in treating or diagnosing the patient. Either the patient or, when the patient is unable to consent, their personal representative may consent.

**See section F for the list of exclusions to this policy and section G for the appropriate form to use for consenting/authorizing.**

**Written consent** is required prior to recording any patient for the purpose of:

- Internal organizational uses such as education of workforce members or quality improvement (operations). **Use form SH1411**
- Treatment or payment **Use form SH1411**

**Written authorization** is required prior to disclosing patient recordings outside of URMC and Affiliates, including publishing. **Use form SH48GP**

Verbal consent is required prior to recording any patient for the purpose of treatment or payment.

**Description**

**A. Recording of Patients**

1. Recordings taken for treating and diagnosing patients must be taken using the eRecord technology available through the Haiku and Canto applications or other secured medical record systems, such as axiUm. The patient’s written consent should be obtained and documented in the medical record by the provider taking the recording (for example, use the HH 660, SH1411 or provider simply documents verbal consent in provider notes).
2. Recordings for other purposes, including research, education, quality improvement, documentation of abuse or neglect, insurance, or general public release, and which will not be placed in the medical record should be taken by the Medical Center’s photography staff or other authorized workforce member, using an encrypted medical center approved recording device. Recordings should be moved to a secure network drive and deleted from the encrypted camera within two days of completing the recording.

Anyone involved in the production of recordings for the hospital that is not already bound by the hospital’s patient privacy policies must sign a confidentiality statement to protect the patient’s identity and protected health information.

3. When recording is for internal purposes other than treatment, including education of staff or performance improvement activities, the patient’s written consent should be obtained (form SH1411).



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4. Any external disclosure of a patient recording (e.g., for external conference presentation, research, academic uses, marketing, to news or other media, etc.) requires that a HIPAA compliant authorization (form SH48GP) be signed by the patient as the recording may contain protected health information. A copy must be provided to the patient. The authorization must be maintained in the patient's medical record for six years beyond the effective date.
5. If a recording may be used for an internal or external purpose other than identification, diagnosis or treatment of the patient, the consent or authorization must explain that the patient has the right to withhold consent or authorization or request cessation of the production of the recording, if consent or authorization is given, and that the hospital will accommodate the patient if the patient chooses to withhold or rescind consent or authorization.

If a patient or their representative is unable to give consent or authorization before recording, the patient's recording cannot be used until and unless consent/authorization is obtained.

6. Recordings of patients taken for nonclinical purposes other than education and quality improvement (such as for promotion) should be coordinated through Public Relations. Public Relations will ensure that the appropriate authorizations are obtained from patients who will be recorded.
7. Workforce members are prohibited from recording any patients except as specifically permitted under this policy.

**B. Recording of Patients or Staff by Patients or Visitors**

1. Patients may allow family members or visitors to photograph, film or record (for purposes of this policy, hereinafter referred to as "record") the patient while in the hospital, subject to the specific limitations on this privilege described in paragraph B.2 below, and subject to any restrictions that may be imposed by hospital staff related to patient safety and/or disruption of patient care. The hospital expressly reserves the right to suspend this privilege if in the judgment of hospital staff the care of any patient may be jeopardized and/or any time hospital operations may be impaired. Whether or not the request is related to a care issue, the staff member receiving the request should seek assistance through his/her manager or other appropriate resource to evaluate and develop an appropriate response to the request. Patients, family members and visitors involved in requests to record a patient should be informed of the rules applicable to this privilege.
2. If a patient requests a family member or visitor to record the patient, the recording may take place provided the following conditions are met:
  - a. Staff may not be recorded without their specific knowledge and permission.
  - b. Recording is not to take place when staff is providing treatment (other than noted in B.2.d below), or having a discussion with any patient, including other patients in the room or area, such as in a semi-private room.
  - c. Patients, family or visitors may not record any other patients without their specific knowledge and permission, or authorization where required.
  - d. Specific rules apply to requests to the recording of obstetrical and newborn infant patients. If a maternal patient wishes to have a family member or support person record her and her

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newborn during the perinatal period, including during labor and delivery, it shall be permitted regardless of the type of delivery, provided the patient agrees and subject to the limitations of sections a, b and c of this paragraph. However, the anesthesia evaluation interview, anesthesia block procedures and all aspects of general anesthesia in OB may not be recorded. As a general rule, family and visitors approved by the patient will be permitted to record during vaginal delivery procedures, and during cesarean delivery procedures with spinal or epidural anesthesia. However, any member of the OB health care team has the right to direct the location of the activity, and to limit or suspend the activity. Any member of the OB health care team may request and if necessary direct that recording be stopped if the process is interfering with or threatening the safe care of the patient or her newborn, or disruptive of hospital operations.

**C. Recording of Staff and Other Non-Clinical Images of Highland Hospital**

1. To protect the privacy rights of our workforce members, all patients, visitors and staff members are prohibited from recording members of the workforce without their express permission while they are on the hospital premises or working off-site. Employees may photograph areas of Highland Hospital that are public spaces, and public events, but are prohibited from recording other areas of the hospital premises, hospital equipment, or the hospital environment unless otherwise authorized under this policy.
2. Recordings of staff while on Highland Hospital premises, hospital equipment, or the hospital environment for nonclinical purposes other than education and quality improvement should be coordinated through the Office of Public Relations, which will ensure that the appropriate authorizations are obtained.

**D. Law Enforcement-Body Cameras**

**For staff who work in patient care areas and Public Safety Officers when the need arises.**

1. To ensure patient safety and confidentiality Law Enforcement Officers should turn their body cameras off in patient care areas, except for those areas open to the visiting public.
2. This does not apply to in-progress emergency calls.
3. This does not apply to Law Enforcement interviews conducted at the bedside as long as patient is in a private room.
4. Staff should provide Law Enforcement officers with the above section of policy or reinforce this message for those officers who may be in a patient care environment. Law enforcement officers have the trust and confidence of the hospital and therefore are responsible for compliance once they are notified of this policy. It is not staff's responsibility to insure compliance, but to notify officers of the requirement.

**E. General Provisions**

1. Nothing in this policy will be construed to prevent the Highland Hospital from using security monitoring equipment.



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2. Violations of any aspect of this policy by any member of the workforce may have serious employment consequences.
3. Any staff member with a question or in need of assistance in determining whether a request to record a patient may compromise privacy or confidentiality should contact HH Privacy Officer, who can be reached at 341-6467 or Office of Counsel at 758-7600.

**F. Exclusions**

1. This policy does not apply to the following:
  - a. Photo identification taken at the point of registration
  - b. Radiology Images (X-ray, MRI, CT Scan, etc.); covered under general consent
  - c. Ultrasound images; covered under general consent
  - d. Images of internal body part(s) that are taken during a procedure using specialized equipment (e.g., through a lumen). Examples include, but are not limited to Arthroscopy, Endoscopy, Colonoscopy, Colposcopy, Bronchoscopy, Laparoscopy, etc.; covered under general consent
  - e. EEG Monitoring, EEG Video Monitoring, EEG Intraoperative Monitoring, etc.; covered under general consent
  - f. Pathology slides and Surgical Pathology; covered under informed consent.  
**NOTE:** Whenever possible, Surgical Pathology should be asked to photograph specimens from the Operating Room or other procedural areas when this is required. This can take place either during the procedure, or upon arrival of the specimen in Surgical Pathology.
  - g. Autopsy photographs or recordings taken for purposes of death investigation by a County Medical Examiner's Office; refer to policy 4.15 Consent for Autopsy
  - h. Video monitoring of premises for security purposes, governed by other policies

**G. Reference Table**

Original Purpose of Recording	Consent or Authorization Required?	Comment
Patient treatment or payment	Verbal consent	Provider documents in note received consent from patient
	Written consent	Use SH1411
Education, safety or quality assurance (operations)	Consent	Use SH1411
Research	Authorization and IRB approval	IRB approved consent/authorization
Publicity, Marketing, Media	Authorization	SH48GP
External Conference Presentations	Authorization	SH48GP
Child Abuse or Neglect	No	See policy 3.5
Adult Abuse or Neglect	Consent	See policy 4.19
Elder Abuse or Neglect	Consent	See policy 3.8
Patient/family	No	Refer to sections B and C above

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**References:**

- HH Policy [4.15 Consent for Autopsy](#)
- HH Policy [4.0 Informed Consent](#)
- HH Policy [3.5 Abuses to Children – Reporting of Suspicion of Abuse](#)
- HH Policy [4.19 Domestic Violence](#)
- HH Policy [3.8 Elder Abuse](#)
- HH Policy [3.3 Release of Patient Information to the News Media](#)

C.P.L.R. section 4504

Civil Rights Law sections 50, 51

URMC & Affiliates HIPAA Policy 0P7.1 Uses & Disclosures Requiring Authorization

URMC and Affiliates HIPAA Policy 0P-15-2 Organizational Requirements Affiliated Covered Entities

URMC & Affiliates HIPAA Policy 0P16 Personal Representatives

Joint Commission Ethics, Rights & Responsibilities 2004 Standard.2.50

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