



Vice President and Chief Executive Officer of the Medical Center

MEDICAL CENTER POLICY NO. 0030

- A. SUBJECT: The Use of Cameras and other Electronic Devices and Media
(formerly, "Use of Photography and Video Technology in the Medical Center")
- B. EFFECTIVE DATE: April 1, 2012 (R)
- C. POLICY:

The Medical Center strives to protect patient privacy and to prevent the interference with patient care, the creation of safety concerns, and the disruption of business operations which might result from the use of cameras, video-cameras, cellular telephones (including but not limited to smartphones), tablets, personal computers, and other electronic devices or media used to record and/or transmit visual images and audible sounds (collectively referred to in this policy as "Photography").

This policy describes how persons providing patient care or other services within or for the benefit of the Medical Center, regardless of employer ("Covered Persons"), may produce and use photographs, electronic recordings, video and audio recordings, digital imaging, digital recordings, and video chatting (collectively referred to in this policy as "Photographs"). It also describes how patients, family members and visitors¹ may use Photography at the Medical Center. Finally, this policy addresses the use of Photography at the Medical Center by vendors and other external persons, organizations or entities, including but not limited to trade or professional organizations (collectively referred to in this policy as "External Entities").

Note: As used in this policy, the terms "Photography" and "Photographs" do not apply to the following items or media, but Covered Persons are expected to follow all relevant Medical Center and University policies and procedures related to their use:

- Paper documentation
- Video conferencing related to clinical operations, including but not limited to telemedicine;
- Video conferencing related to business operations of the Medical Center (e.g., job interviewing or procurement);
- Pathology slides;
- Medical equipment or devices which include, but are not limited to, MRIs, CTs, X-rays, echocardiography, and minimally invasive scopes and the images such equipment or devices produce

¹ The term "visitors" excludes news organizations (see [MCP Policy 0038 Requests by News Organizations for Patient Information and Access for Photography or Electronic Recording](#)), and External Entities. For policy regarding External Entities, see Section 12 below.

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1. Covered Persons must use devices or media owned by the Medical Center or personal devices or media encrypted by Health System Technology Services:

Regardless of intended use, all Photographs of patients must be produced using Medical Center devices or media, or on personal devices or media which have been encrypted by Health System Technology Services (HSTS; formerly HSCS). The use of equipment that is not owned by the Medical Center or encrypted by HSTS (including but not limited to personal cameras, cellular telephones, smart phones, and tablets) to produce Photographs of patients is prohibited.

2. Covered Persons' must comply with Privacy and Confidentiality Policies:

All Photographs containing protected health information (PHI) (see [Medical Center Policy 0021, "Confidentiality of Patient Information"](#)) or other confidential content must be handled in compliance with all applicable University, Medical Center and School of Medicine privacy and confidentiality policies; see, for example:

Medical Center Policies:

[0024, "Informed Decision-making"](#)

[0084, "Health Information Request for Non Patient Care Usage"](#)

[0092, "Release of Patient's Protected Health Information"](#)

[0201, "Patient Identification"](#)

[0163, "Access to Electronic Medical Records and Institutional Computer Systems"](#)

[0245, "Minimum Necessary Use and Disclosure of Protected Health Information"](#)

School of Medicine/University of Virginia Policies:

[School of Medicine Policy No. 1.430, "Required HIPAA Privacy Training"](#)

<http://www.medicine.virginia.edu/administration/office-of-the-dean/administration/school-policies/HIPAA-Violations-Sanctions-7-23-07.pdf>

Electronic Storage of Highly Sensitive Data

<https://policy.itc.virginia.edu/policy/policydisplay?id=IRM-015>)

See also the University of Virginia Medical Center Corporate Compliance website at:

<https://www.healthsystem.virginia.edu/intranet/corporate-compliance.cfm>).

3. Photographs produced for patient identification, diagnosis or treatment must be incorporated into the EMR (Informed Consent not required):

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All Photographs produced for patient identification, diagnosis or treatment must be incorporated into the patient's electronic medical record (EMR); such Photographs do not require a patient's informed consent ("Informed Consent"²).

Medical Center HIM (Health Information Management), or Covered Persons who have been granted appropriate access to the EMR and have participated in the patient care encounter, must use prescribed technology to incorporate Photographs into the patient's EMR; this should be accomplished as soon as possible.

Photographs must be identified *via* the sending system or by a patient sticker within the Photograph itself containing patient information.

4. Patient monitoring via Photography does not require Informed Consent

Where Photography (e.g., video camera) is necessary to monitor a patient for clinical, behavioral or safety reasons, Informed Consent is not required

Patient monitoring may occur in such areas as hallways, doorways to patient rooms, and other general patient activity areas (excluding bathrooms) that can be accessed by patients without staff assistance or that may not be easily observed.

Viewing monitors must be placed in areas where the screens are visible only to persons who are responsible for providing care and treatment to the patient or providing security or an administrative service related to the provision of care and treatment.

Signs informing patients of the use of monitoring Photography shall be posted in each patient monitoring area.

5. Photography for certain purposes requires Informed Consent:

Informed Consent is required for Photographs of patients to be used for the following purposes, unless the Photograph is de-identified (for a list of patient identifiers, see [Medical Center Policy 0021, "Confidentiality of Patient Information"](#)):

- Education and training of University of Virginia Medical Center professionals, administrators or students;
- External presentations or publications by Covered Persons;
- Patient and/or family education;
- Medical Center marketing or promotional purposes;
- Photography by External Entities (see Section 12 below)

² Informed Consent is written consent by a capable adult patient, or, if the patient lacks capacity, by his/her surrogate decision maker (see [Medical Center Policy 0024, Informed Decision-making](#)). When Informed Consent *is* required, it must be in writing; it must also be signed, dated, and timed by the patient or the patient's surrogate decision maker, and placed in the EMR.

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Note: Photographs are not considered de-identified if they contain a facial image or are otherwise identifiable; stickers on Photographs must be obscured in order for the Photograph to be de-identified.

When a patient is unable to give written Informed Consent prior to being Photographed, and a surrogate decision maker is not available, the Photograph shall remain in the possession of the Medical Center and may not be used until Informed Consent is obtained.

When a patient or patient surrogate decision maker is unable to give Informed Consent prior to the production of Photographs, and Informed Consent for use cannot subsequently be obtained, the Covered Person/s responsible for production of the Photographs shall be responsible for destroying the Photographs or removing the non-consenting patient from them.

Patients have the right to request cessation of Photography, and reserve the right to rescind Informed Consent before the Photograph is used.

Covered Persons shall obtain a patient's Informed Consent using forms available in Patient Care Areas (or which may be ordered from UVA Printing and Copying Services) and shall forward the completed consent forms to HIM for inclusion in the EMR. Specialized forms are required for Photographs to be used for Medical Center marketing purposes (see next section).

6. Photographs produced for Medical Center marketing, public relations, and internal/external communications or publications require Informed Consent:

When the Medical Center wishes to produce Photographs of a patient, or of a particular procedure involving a patient, for its own marketing, public relations, internal or external communications or publications, the patient's physician shall first discuss the request directly with the patient. Following this physician/patient discussion:

- A representative from Marketing/Public Relations shall also meet with the patient to further explain the nature and purpose of the Photographs, including whether any patient identifiers would be used;
- Patient Informed Consent shall be documented on a "Patient Photo/Video/Story Release;"
- Marketing/Public Relations shall send the Patient Photo/Video/Story Release to HIM for its inclusion in the patient's EMR;
- Marketing/Public Relations shall obtain the permission of any Covered Persons who may be included in the Photographs

7. Research Photography must follow University of Virginia Institutional Research Board ("IRB") requirements:

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For Photographs produced or used for research purposes, Covered Persons shall follow the specific requirements of the IRB relating to consents or waivers of consent by patients and Covered Persons <http://www.virginia.edu/vpr/irb/hsr/index.html>.

8. Covered Persons acting in their official/employment capacities are assumed to consent to their own participation in Photographs produced for certain purposes:

In the absence of express objection, Covered Persons acting in their official/employment capacities are assumed to consent to inclusion in Photographs produced for the following intended uses:

- Patient identification, diagnosis or treatment
- Education and training of University of Virginia Medical Center professionals, administrators, or students
- Patient and/or family education

9. Covered Persons may not take Photographs of Patients for their own Personal Use:

Covered Persons may not produce Photographs of patients for the Covered Person's personal use (i.e., uses unrelated to patient care, research, education and training, marketing or any other Medical Center or University activity or function). Covered Persons may, for personal use, produce Photographs of persons other than patients (e.g., other Covered Persons), provided they have the permission of the person/s being Photographed.

10. Security Surveillance must be approved by Senior Management:

The installation of security surveillance technology equipment requires the written approvals of the Chief Environment of Care Officer and the Chief Health Information and Technology Officer, and for security surveillance conducted in patient care areas (as distinguished from clinical monitoring described in Section 4 above), the additional written approval of the Chief Nursing Officer.

For requests from law enforcement agencies to view such Photographs, see [Medical Center Policy 0220 "Interactions with Law Enforcement Authorities"](#) and [Medical Center Policy 0223 "Government and Regulatory Investigation Response."](#)

11. Patients, families and visitors to the Medical Center may use Photography, provided it does not interfere with patient care, create safety concerns or disrupt business operations; special circumstances of Labor and Delivery:

Patients, families and visitors to the Medical Center may use Photography, provided it does not interfere with patient care, create safety concerns or disrupt business operations. Furthermore, patients, families and visitors must first have the permission of other individuals (i.e., other

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patients, family members or Covered Persons) whose images or voices might be included in a Photograph.

Parents may Photograph their own children, provided the Photography does not interfere with patient care, create safety concerns or disrupt business operations, and the parents have permission from other persons whose images or voices might be included in the Photograph.

Patients, families, and visitors should not produce Photographs of public spaces such as common areas, cafeterias, or ambulatory clinics, where images or voices of other individuals maybe be recorded, without such individuals' permission. Photography in bathrooms and changing rooms is not permitted.

Covered Persons should remind patients, families and visitors wishing to produce Photographs in inpatient rooms or bed spaces of the privacy rights of those around them.

Covered Persons may, upon request, use a patient's or family member's personal device to take, for the patient's/family member's own use, a Photograph which includes the requesting patient, his/her consenting family members or visitors, and/or another consenting clinician or employee.

In the event that a patient, family member or visitor uses Photography in violation of this policy, Covered Persons should instruct the individual to immediately stop; if the individual refuses, Covered Persons should contact Hospital Security and Risk Management.

Special Circumstances of Labor and Delivery:

In order to provide a safe environment and quality clinical care for both mother and infant in Labor and Delivery, patients and family members or other visitors may, with the patient's permission, take Photographs during the labor process and post partum period. Covered Persons should inform patients and family members that Photography is not permitted during delivery, either vaginal or cesarean, or while any medical procedure is being performed at any time on either the mother or infant.

Covered Persons may, upon request, use a patient's or family member's personal device to take, for the patient's/family member's own use, a Photograph of the newborn, the requesting patient, her consenting family members or visitors, and/or another consenting clinician or employee.

In the event that a patient, family member or visitor uses Photography in violation of this policy, Covered Persons should instruct the individual to immediately stop; if the individual refuses, Covered Persons should contact Hospital Security and Risk Management.

12. Requests from External Entities must be approved in advance by the Medical Center Associate Vice President (AVP) for Hospital and Clinics Operations:

External Entities may obtain access to Medical Center patients and staff to produce Photographs to be used in the External Entities' own marketing, training programs, or educational materials,

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provided: the photography does not interfere with patient care, create safety concerns, or disrupt business operations; the Photography is approved in advance by the AVP for Hospital and Clinics Operations or designee; and patient Informed Consents, as well as the permission of participating Covered Persons, are obtained and documented by the appropriate Medical Center personnel. If the AVP/designee approves the request, Medical Center Procurement and/ or Contracts Management shall be responsible for reviewing and/or preparing any necessary contractual agreements (including but not limited to confidentiality agreements) and for obtaining necessary signatures.

If the External Entity is approved to produce Photographs for his/her/ its own **marketing** or **promotional** purposes, Medical Center Marketing/Public Relations shall:

- explain to the patient the nature of the External Entities' request;
- request and document necessary patient Informed Consent using forms approved by the Compliance and Privacy Officer or the University of Virginia General Counsel; if the Medical Center is to receive any direct or indirect payment for the Photography, the patient's Informed Consent must acknowledge that payment is involved;
- notify Risk Management;
- request consents from clinicians and Medical Center employees who may be included in the photographs or recordings

If the External Entity is approved to produce Photographs for any other purposes (i.e., the **production of training or education materials**), a Medical Center manager of the area where the Photograph is to occur shall follow the same steps outlined immediately above. A Medical Center manager or designee, or a representative from Marketing/Public Relations, as appropriate, shall be present when the Photography occurs.

The Medical Center reserves the right to final review and approval of all Photographs and resulting materials produced by External Entities which display or depict Medical Center patients, employees, facilities, etc.

Related Policies:

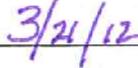
- 0013 [Vendors, Sales and Service Representatives](#)
- 0038 [Requests by News Organizations for Patient Information and Access for Photography or Electronic Recording](#)

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SIGNATURE:



R. Edward Howell, CEO, UVA Medical Center



DATE:

Medical Center Policy No. 0030 (R)

Approved October 1984

Revised August 1990, September 1993, March 1996, June 1998, November 2001, August 2003, June 2004,
June 2007, January 2009, March 2012

Approved by Associate Vice President for Hospital and Clinics Operations

Approved by Medical Center Administration

Reviewed by Ethics Committee