



PHOTOGRAPHY, VIDEO AND AUDIO RECORDING – CREATION, RECORDING AND STORAGE GUIDANCE

PURPOSE:

This document provides guidance on the acceptable uses, unacceptable uses, and considerations to determine the appropriateness of photography, video and audio recordings of patients ("Recordings"), in the Nationwide Children's Hospital ("NCH") environment. **THE ENTIRE DOCUMENT SHOULD BE READ AND UNDERSTOOD PRIOR TO MAKING DECISIONS REGARDING THE USE OF RECORDINGS.**

Use of this guidance will help ensure effective compliance with NCH policy and other regulations. NCH may determine at any time that particular uses of Recordings are not appropriate in the environment.

SCOPE:

This guidance applies to Nationwide Children's Hospital (NCH) Workforce Members (as defined in IS Policy and Standard Glossary (XIV – 10A)) or others using or intending to use Recordings for any purpose.

Do not take Recordings unless supporting a legitimate business purpose approved by NCH management.

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Recordings of patients generally include identifiable information and are therefore considered to be protected health information (PHI). Full face photography or videos of patient images are considered PHI. As a result, appropriate precautions such as encryption of Recordings, physical security of devices, destruction of data, de-identification of data, and appropriate process documentation must be taken to comply with HIPAA and NCH policy and procedures.

In order to ensure compliance with the appropriate policies and technical requirements associated with Recordings at NCH the following checklist is provided as guidance for current or future use of Recordings.

☐ **ENSURE APPROPRIATE CONSENT**

Prior to Recording for any purpose (including education purposes), Workforce Members must obtain consent. The General Consent form does allow for capture of photos and videos for patient care purposes, however some scenarios may require specific consent forms beyond just the General Consent form. To ensure proper consent information please contact Legal Services to review the scenario and to decide what consent forms would be appropriate.

Workforce Members **should not be included** in Recordings (Administrative Policy V-26).

If the purpose of the Recording requires Workforce Members to be present in the Recording, Workforce Members are permitted to decline being included in video. Examples include family recorded video where Workforce Members are included as they provide training, NCH marketing video projects coordinated by marketing, and recorded presentations given by staff.

Workforce Members may be recorded as a part of ongoing physical security monitoring without consent.

☐ **ENSURE SECURE RECORDING AND STORAGE OF MEDIA**

Recordings containing PHI must be stored and transported securely from the time the Recording is created until it is destroyed. Approved devices include:

- NCH provided encrypted iPod, NCH provided encrypted Phone, NCH provided encrypted laptop, or other NCH provided encrypted device;
- NCH provided encrypted USB device; and

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- NCH file share location provided by Information Services.

Camera storage cards, unencrypted portable media, and portable hard drives are not likely encrypted or physically secure. In these cases, transfer the Recording to a secure device as quickly as feasible, and delete the recording from the recording device to minimize impact of a theft.

Physically secure recording equipment and storage devices used for Recordings to further secure the information.

Personally owned phones, cameras, or other devices should NOT be used by Workforce Members to create Recordings.

☐ **ENSURE PROPER RELEASE OF INFORMATION**

Prior to releasing Recording to any external entities, a HIPAA compliant release and authorization (MR-9 and/or AM-75) must be signed by the parent/legal guardian of the patient.

A Media Relations representative must be contacted before releasing any information to the media (including YouTube, social media, personal or corporate blogs, e-mail, or other internet sites) regarding NCH, its patients or Workforce Members.

☐ **VALIDATE APPROPRIATE SURROUNDING**

Background images in the Recording must not include non-consented patients, families, and staff.

Minimize identifying features in the Recording (i.e. when trying to photograph a wound on the arm, do not include the face of the patient therefore reducing the likelihood of identifying the patient).

☐ **CONSIDERATIONS FOR FAMILIES RECORDING THEIR CHILDREN**

NCH staff has final authority and may request families stop recording for any reason.

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Families must not include patients, Workforce Members, or patient information in their Recording. Families should be asked to delete recordings if Workforce Members notice the content includes these elements.

NCH supported applications can be used to facilitate family Recordings and access to the family Recordings (i.e. NICView application).

Families assume total responsibility for their Recording equipment. Under no circumstances should NCH assume responsibility for video equipment on behalf of the family.

For the safety of our patients and staff, recording equipment must be battery operated, light sources must be contained within the recording equipment, and tripods are prohibited due to the potential tripping hazard.

☐ **CONSIDERATIONS FOR VIDEO OF PATIENT USED FOR EDUCATION & TRAINING**

1. If purpose is educating or training the parent, family, or patient

- Refer to consent policy for family and Workforce Members (if applicable) (See Patient Family Care Policy – 015-030 Consent Relationships and Requirements).
- Minimize identifiable information in the video.
- Be aware of language and direction provided in the recording.
- Review the video prior to releasing to the family. Use wise judgment and consider the impact if video was made public. Do not release video that would put NCH, Workforce Members, physicians, etc. at risk.
- Do not post on web sites or other public forums.

2. If purpose is for educating or training clinical or non-clinical Workforce Members, students, researchers, or other affiliated or non-affiliated entities (conferences, course work, etc.)

- Ensure content form is available.
- De-identify any PHI if consent does not cover the usage. This includes metadata that could be stored on an image (location, or other image tagging).

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☐ **USE ONLY APPROPRIATE RECORDING DEVICES**

Approved recording devices should be used for recording and storage of Recordings containing PHI. The approved devices (currently iPod camera and/or NCH owned mobile phone) can be obtained by requesting them via the IS equipment request form located on Anchor.

Personally owned phones, cameras, or other devices should not be used by Workforce Members to create Recordings.

☐ **OBTAIN AUTHORIZATION FOR STORAGE OF RECORDINGS**

The ongoing creation and storage of Recordings over time requires expensive storage space. Where Recordings will be stored, a retention period must be documented and the retention managed accordingly.

Processes that require long term storage (longer than (12) twelve months) of Recordings (lengthy video, or many videos) must be approved – approval can be obtained using the Media Storage Approval Form.

A Media Storage Approval Form (see form attached below) should be filled out and turned into HIM anytime Recordings will be stored. All Forms completed should be sent to the Director of Health Information Management.

It is not appropriate to store and transmit Recordings to internet based storage sites, YouTube, social media sites, internet video editing sites, or other internet based sites without a signed Media Storage Approval Form in place. All PHI that is captured in Recordings to be stored in such locations must be deleted, destroyed or encrypted in transit and at rest.

☐ **DETERMINE IF THE RECORDING IS CONSIDERED PART OF THE MEDICAL RECORD**

Generally, Recordings are not considered to be part of the medical record. However, Recordings that are intended to become part of the medical record (used for care/treatment decisions and stored in Epic) must be reviewed by each of the following:

- Director of HIM
- Physician Department Section Chief
- Department Head or Program Manager

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- Legal
- CIO

☐ **REPORT INCIDENTS RELATED TO THE LOSS OF PHI INCLUDING LOSS OF RECORDINGS OR MEDIA CONTAINING RECORDINGS**

Notification can be sent to the Information Security Officer, the Privacy Officer, or reported on the Corporate Compliance Hotline.

☐ **IF STILL UNSURE, REQUEST HELP FROM THE RECORDING REVIEW COMMITTEE**

A committee consisting of HIM, the HIPAA Privacy Officer, the HIPAA Security Officer, Legal, IS and others as required can review questions and provide further guidance. Please contact us by e-mail to "Video Compliance Recording" or vcr@nationwidechildrens.org.

RELATED DOCUMENTS:

A. Authorizations:

<http://moss/sites/HIPAA/SharedDocs/Forms/AllItems.aspx>

B. Policies:

<http://anchor.columbuschildrens.net/webapplications2/DocContent/doccontent.cfm?type=Policies#33>

C. Related Document Names

- Information Security and Privacy Management Policy (ADMIN XIV-3)
- Confidentiality and Technology Use Agreement (ADMIN XIV-6)
- Data Protection Standard (ADMIN XIV-3C)
- Patents and Copyright Policy (ADMIN III-5)
- Internet and Intranet Publishing Policy (ADMIN V-8)
- Publishing Guideline (ADMIN-V-8)
- Use of Social Media Policy (ADMIN-V-34)
- Use of Recording Devices and Audio/Video (ADMIN-V-26)
- Media Relations Policy (ADMIN VII-1)
- Authorization for disclosure of Protected Health Information Policy (ADMIN-XI-3)
- Disclosures to Family & Friends (ADMIN XI-9)

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- Guideline for Use and Disclosure of Protected Health Information (ADMIN XI-11)
- Uses and Disclosures for Research (ADMIN XI-14)
- Uses and Disclosures for Marketing (ADMIN XI-13)
- Patient/Parent Requests for Health Information (ADMIN XI-16)
- Accounting of Disclosures (ADMIN XI-18)
- Importing Data into Epic (ADMIN XII-4)
- Consent Forms
 - MR-9 Authorization for US to Release Protected Health Information
 - AM-75 Authorization for Public Disclosure
- Media Storage Approval Form (See attachment below)
- Non Patient Care Release and Authorization consent form
- IS Policy and Standard Glossary (ADMIN XIV – 10A)

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MEDIA STORAGE APPROVAL FORM

Department _____

Contact Name _____

Contact Phone _____

1. Please explain what specific media you are interested in retaining (i.e. photos, videos, audio recordings, electronic scans, other).
2. What is the minimum retention period for this media? Indicate timeframe (i.e. months/years).
3. Cite any state or federal laws, regulations, or requirements that support the retention timeframe you listed above (include exact citations that dictate retention requirements requested or attach actual citations).
4. Will this media be accessed by external parties/vendors, etc.? Please explain:
5. Provide estimates of volume and file sizes (i.e. *We will see 5000 patients annually and need to store a 30 minute video recording for each patient*).
6. Are you requesting a centralized, secure, online storage location (i.e. shared drive) to access your files?
____ YES or ____ NO
7. Will this media need to be attached directly to the patient's EMR? *
____ YES or ____ NO

** If yes, please complete the section below. In general we do not include media as part of the legal medical record; however, if you wish to be granted an exception please provide a business justification below.*

Complete this section if media is to be attached to the patient's Electronic Medical Record ("EMR").

8. Explain why this media needs to be retained in the patient's EMR.
9. Please elaborate on the location in Epic where you are requesting this media to be housed/attached (e.g. patient level, encounter level, order level, external order/result, patient ID).

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10. How will the media be uploaded into Epic?
11. Describe your process for monitoring the quality and accuracy of all imported media.
12. Describe your process for monitoring the retention period and destroying data that exceeds the approved retention period. (i.e. Who will do this? What process will you follow? What quality controls will be used?)
13. Provide any other information that may be pertinent to your request.

Signature Kept on File

Signature of Department Head or Program Manager

Date

All completed and signed forms **MUST** be submitted to the Director, Health Information Management. HIM approval is required for all EMR storage requests.
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