# Patient Photography and Video Imaging

**Key Words:** Photography, Videotaping

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## Approved by

<table>
<thead>
<tr>
<th>Colleen Conway Welch, PhD CNM FAAN FANCMD</th>
<th>April 2010</th>
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<tbody>
<tr>
<td>Nancy &amp; Hilliard Travis Professor of Nursing</td>
<td></td>
</tr>
<tr>
<td>Dean, Vanderbilt School of Nursing</td>
<td></td>
</tr>
<tr>
<td>David Raiford, MD</td>
<td>April 2010</td>
</tr>
<tr>
<td>Associate Vice Chancellor for Health Affairs</td>
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</tr>
<tr>
<td>Senior Associate Dean for Faculty Affairs</td>
<td></td>
</tr>
<tr>
<td>Marilyn Dubree, RN, MSN</td>
<td>April 2010</td>
</tr>
<tr>
<td>Executive Chief Nursing Officer</td>
<td></td>
</tr>
<tr>
<td>C. Wright Pinson, MBA, MD</td>
<td>April 2010</td>
</tr>
<tr>
<td>Deputy Vice Chancellor for Health Affairs</td>
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<tr>
<td>CEO of the Hospitals and Clinics for VUMC</td>
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## I. Purpose:

To define allowable purposes for obtaining film and digital photographs and video images or recordings of patients created using a camera or other device (defined collectively as Photography) at Vanderbilt University Medical Center (VUMC) and standards for the creation, use and retention of the images.

## II. Policy:

VUMC may utilize Photography to collect protected patient health information for purposes of identification and patient care and treatment or as otherwise authorized by the patient or the patient’s legal representative. Photography may be disallowed or discontinued at the discretion of the responsible health care provider when it may
interfere with patient care and/or is in the interest of patient safety, treatment, and/or healthcare operations and compliance.

III. Definitions:

A. **Consent** - written documentation of the patient’s agreement to the Photography process (e.g. admission consent, specialized consent, or documentation of verbal consent).

B. **Person Identifiable Information** - any piece 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 (including finger and voice prints), facial photos or images, or any unique characteristic (including unusual tattoos).

C. **Photography** - for purposes of this policy the term Photography is used to include film and digital photographs or video images or recordings created using a camera or other device.

D. **Webcasting** - broadcasting or distributing an audio and/or video file over the Internet using streaming media technology.

E. **Telemedicine** - transferring medical information through phone, the Internet, or other networks for the purpose of delivering medical care or enhancing consultation between medical specialists.

F. **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.

IV. Specific Information:

A. Circumstances under which Photography of Patients is Permissible

1. Patient Care and Identification
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** Policy Effective Date June 1, 2010 **

a. Patient consent to Photography used for purposes of identification, diagnosis and/or documentation of patient care is addressed in the consent paragraph contained in the applicable standard consent for treatment form: Consent for Treatment and Authorization for Release of Information; Consent for Treatment and Agreement to Pay (Adult); or Consent for Treatment and Agreement to Pay (Pediatric).

b. When Photography is used for purposes of identification and/or to document patient care and treatment, the resulting images are included in the patient’s medical record and appropriately labeled and indexed. Images taken for purposes of identification including scanned photo IDs are indexed as “ID Photo.” Images used to document patient care and/or treatments are indexed as “Image (patient photo).”

c. Separate patient authorization is generally required for use of Photography for purposes other than treatment as specifically described below.

2. Video Surveillance to Monitor Clinical Condition

a. Video observation of patients may be used in critical care, post-anesthetic recovery, and certain other clinical areas where continuous visual observation of the patient and bedside activity is deemed important to provide treatment and a safe and responsive environment of care for patients.

b. Video monitors used for such surveillance are located at clinical workstations for viewing by hospital personnel only.

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

d. Clinical areas employing the use of video surveillance notify persons in family and visitor accessible areas of the unit that cameras are in use by posting signs regarding the use of the cameras in those areas.
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3. Documentation of Abuse and/or Neglect
   
   a. In cases of actual or suspected abuse and/or neglect, video surveillance or other Photography by authorized personnel may be used for medical documentation purposes.

   b. Authorization from the patient or other person(s) present in a patient’s room or other area is not required prior to such authorized surveillance or Photography.

   c. Images recorded for documentation of abuse and/or neglect are not normally maintained as part of the patient’s medical record unless the images are used for medical treatment purposes. Photography for documentation purposes other than treatment is maintained according to security protocols for storage, use, disclosure and retention as defined by the department authorized to engage in surveillance or Photography for this purpose.

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

4. 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 and/or neglect (addressed above), the appropriate VUMC representative discusses the request with the patient/legal representative and obtains written consent. See section IV. B. below. Cross reference also OP 10-40.28, Releasing Patient Information and Coordinating Access to Patients by External Law Enforcement Officials and Investigators.

5. Clinical Research

Photography may not be used for research purposes without the approval of the VUMC Institutional Review Board. The patient’s
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consent to Photography is required to be included in the patient consent for participation in the research protocol.
6. Education or Teaching Purposes
   a. Photography that does not contain any Person Identifiable Information may be used for education and teaching purposes without patient/legal representative authorization.
   b. The written consent of the subject(s) of Photography is required prior to creating Photography that will include Person Identifiable Information for use in education and/or teaching.
   c. If the patient/legal representative is not able or present to provide the consent at the time of creation of the Photography, such written authorization for the use of the Photography is required prior to using any existing images. See section IV. B. below.

7. Publications for External Distribution
   a. Photography that does not contain any Person Identifiable Information or any associated Person Identifiable text may be published in textbooks, journal articles and other externally distributed publications without patient/legal representative authorization and without a Business Associate Agreement with the publisher.
   b. The written consent of the subject(s) of Photography is required prior to creating Photography that will include Person Identifiable Information for use in textbooks, journal articles or other externally distributed publications.
   c. If the patient/legal representative is not able or present to provide the consent at the time of creation of the Person Identifiable Photography and/or associated Person Identifiable text, such written authorization for the use of the Photography and/or text is required prior to using any existing images or text.
   d. A written contract with the publisher of any external publication containing Person Identifiable Photography...
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and/or text must be executed by an authorized official of VUMC and must include a HIPAA compliant Business Associate Agreement.

8. Trauma Certification and Performance Improvement Purposes

   a. Photography, particularly videotaping, may be obtained for training and/or performance improvement without advance patient/patient representative authorization; however, images that include Person Identifiable Information may not be used prior to securing patient/legal representative authorization. See section IV. B. below.

   b. The images recorded for performance improvement or trauma certification 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 as defined under TCA 63-6-219 and are not subject to release to any parties.

9. Telemedicine, Teleconferencing, or Webcasting

   a. 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.

   b. Use of Photography in telemedicine for treatment purposes does not require additional authorization by the patient.

   c. The written consent of the subject(s) of Photography is required prior to the transmission and/or use of images that will include Person Identifiable Information for teleconferencing purposes other than treatment.

   d. Photography that does not contain any Person Identifiable Information may be used for teleconferencing without patient/legal representative authorization.
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e. Photography used for Webcasting must be fully de-identified of any elements of Person Identifiable Information. Patient images created for or used in Telemedicine or Teleconferencing must be de-identified before using the images in a Webcast.

10. Photography by Family/Friends

a. Consent is not needed for Photography done by the patient’s family members or friends. However, the Photography must not interfere with patient care and the physician or other health care provider or nurse has the authority to instruct that the Photography be discontinued if deemed necessary in the interest of patient care, respect for privacy and/or dignity of the patient or others, or for efficient hospital operations.

b. Video monitoring by family/friends in a patient’s room must be approved by the bedside nurse. The family/friends are 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.

c. Photography by a patient/family taken under circumstances causing concern to staff/faculty for any reason should be reported to the Office of Patient Affairs or the Administrative Coordinator (AC). Risk Management, General Counsel, and the Administrative Director of the area are notified as appropriate.

11. Photography of Newborns and the Delivery

a. VUMC protects the confidentiality of the patient and newborn, while preserving and supporting the patient’s decision to record the birth process.

b. Patients and/or family members are generally allowed to photograph or video record deliveries in accordance with limitations specified by the mother and with the agreement of the attending health care providers in conjunction with the
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Labor & Delivery unit policy, videotaping/Photography During Childbirth.

c. The patient and family members may be asked and are expected to comply with the request to discontinue recording at any time if the attending physician, nursing or staff deems it necessary.

d. Written consent of the parent must be obtained prior to taking of photographs of newborns as a courtesy or for sale. Consent to release the newborn information to the vendor providing the service is secured using the Patient Authorization for Security Photographs form (MC3642).

12. Courtesy Photography Programs Made Available to Patients/Families

a. Consent 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. Examples include: Holiday Photos, Family Photo Night, or Bereavement Photos.

b. Participation by patients and/or families in courtesy photography programs is voluntary.

c. Images produced as part of these courtesy programs are not maintained by VUMC and do not become part of the patient’s medical record.

13. Requests for Marketing/Publicity/Media Purposes

a. Photography for purposes of marketing, publicity, or other media uses is coordinated through the News & Public Affairs Office consistent with policy OP 10-10.06 Media Access.

b. A representative designated by News & Public Affairs discusses the request with the patient/legal representative and obtains written consent using the “Media Relations-Authorization to Create, Use, or Disclose Photographs or
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Videos for Media Releases and Public Relations” form (MC6690). The signed consent is kept on file in the News & Public Affairs Office. The designated photographer must sign the “Confidentiality Agreement for Media” which is also kept on file in the Media Department.

B. Documentation of Consent/Authorization to Photography

1. Patient or Patient’s Legal Representative’s Consent
   
   a. Generally, the patient/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 delineated in earlier sections of this policy.
   
   b. The appropriate authorization form that has been signed and dated by the patient/legal representative or used to document verbal consent as noted below is retained in the patient’s medical record. A new authorization form is required for each new series of images taken.
   
      i. Permission to Take and Use Photographs or Videos (MC3930): used for Photography for education/training, performance improvement, or for other non-media related acceptable purposes;

      ii. Media Relations-Authorization to Create, Use, or Disclose Photographs or Videos for Media Releases and Public Relations (MC6690): used for public relations, media, and marketing purposes coordinated through VU Media and Public Relations staff;


   c. When consent from a patient’s legal representative is obtained verbally by phone, such consent is audibly witnessed by at least two VUMC staff members and documented on the appropriate authorization form.
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d. The authorization for use of the Photography remains valid unless and until the patient/legal 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 a part of the VUMC legal medical record.

2. Family or Other Visitors Captured in the Photography

a. Family members, friends, or other visitors that may be captured in Photography for treatment or other internal use such as education and training must be given an opportunity to move out of the range of the image.

b. Individual consents from each person captured in large group Photography to be used for internal uses and limited educational non-commercial uses is not required so long as the individuals have been notified and given the opportunity to move out of the range of the image.

c. If a family member or other visitor is to be featured in Photography as an individual, written consent from that person is necessary.

3. VUMC Workforce Members Captured in Patient Photography

a. A VUMC Workforce Member is an individual performing work on behalf of VUMC and under the direct control of VUMC, whether or not the member is employed by VUMC. Examples include staff; faculty, temporary agency workers, students, contractors, and volunteers.

b. Photography of staff/faculty during the performance of patient care or procedures is not permitted, except when the Photography is being taken for educational/training purposes and the staff/faculty has been informed that performance of patient care may be filmed for this purpose.

c. Written consent from the workforce member is not required so long as the member has been notified in advance that
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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 expected conveys implied consent and waiver of any ownership rights or rights to compensation associated with use of the Photography.
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C. Camera and Recording Equipment Requirements

1. The VUMC staff or faculty member taking the Photography is accountable for using a camera device that is capable of downloading from the camera and uploading to StarPanel in a web-friendly image format.

2. Personnel who 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 or alternative secure location, or when the image is no longer needed for the purpose for which it was created.

D. Storage and Retention of Images and/or Recordings

1. Digital images taken by or on behalf of VUMC 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.

2. Full motion video or video streaming is not uploaded to StarPanel. Video recording must be maintained in a separate system or file (e.g. PACS or a media server). Discrete video segments limited to 15-20 seconds running time may be uploaded to StarPanel after confirmation from Medical Informatics Officer that it will not derogate the performance of the electronic medical record system.

3. Still photographs and other images taken for treatment or other medical purposes are scanned into the patient’s medical record for safekeeping.

4. Every image stored in the patient’s medical record contains the patient’s name and medical record number.
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5. All images stored in the patient’s medical record or alternative database include the date and time that the Photography was obtained and the name of the person who created the image.

6. Regardless of the modality and equipment used to take and retain images, all such images are and remain the property of VUMC and are not the property of the workforce member making the image.

E. Use and/or Disclosure of Photography Images

1. Viewing is limited to authorized staff based upon a need to know and consistent with the minimum necessary standard.

2. Images captured in the Photography should include no more than the minimum necessary direct personal identifiers. For example, 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.

3. Except for purposes of treatment or health care operations or unless otherwise required by law, patient identifiable Photography will not be released to outside requestors without specific authorization from the patient/legal representative.

F. Behaviors related to Photography of Patients that are not Permissible by VUMC Staff or Faculty

1. Personal use of Photography of patients.

2. Use of patient Photography for entertainment purposes.

3. Posting Photography of patients in public areas or on internet websites or blogs without written or documented verbal consent from the patient/legal representative prior to the posting.

4. Malicious use.

5. Including others (besides the consenting patient) in the Photography without consent.
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6. Use of Photography to defame VUMC.

7. Taking Photography in a way that is disruptive to patient care or the work environment.

8. Taking any photos without the individual’s consent except as delineated in earlier sections of this policy.

9. Surreptitious recording or Photography except for cases covered in IV. A, 3.

10. Taking or participating in Photography without respect for patient privacy and/or dignity.

11. Including in the Photography more patient identification information than is minimum necessary (e.g. SSN, phone number).

G. Staff, house staff, and/or faculty failing to comply with this policy are subject to disciplinary action as defined in the VUMC policy OP 10-40.32, Sanctions for Privacy and Information Security Violations.

V. References:


- **OP 10-10.06** Media Access
- **OP 10-40.15** Use and Disclosure of Protected Health Information
- **OP 10-40.19** De-Identification of Protected Health Information
- **OP 10-40.28** Releasing Patient Information and Coordinating Access to Patients by External Law Enforcement Officials and Investigators
- **OP 10-40.32** Sanctions for Privacy and Information Security Violations
- **OP 10-40.34** Protection and Security of Protected Health Information


- **MC 3642** Patient Authorization for Security Photographs
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** Policy Effective Date June 1, 2010 **

MC6690    Media Relations-Authorization to Create, Use, or Disclose Photographs or Videos for Media Releases and Public Relations

VUMC Patient Care E-Docs. Retrieved April 27, 2010 from
MC 3930    Permission to Take and Use Photographs or Videos

TCA 63-6-219
VI. Contributors:

Lead Author: Gaye Smith, Privacy & Health Record Official
Content Experts: Susan Hannasch, University Counsel
Susan Hernandez, Admin. Dir., Inpt. Nursing, Children’s
Diane Moat, Ass’t. Dir., Clinical Risk Management
Lee Ann Ruffing, Director of Operations, Children’s
Racy Peters, Director of Access Mgmt., VMG
Devin Carr, Admin Dir., Surgery & Trauma PCC
Mary Lou Farinaro, Dir. of Operations, VPH

VII. Endorsements:

Children’s Hospital’s Practice Policy Committee April 2009
Nursing Administrative Board June 2009
Information Privacy and Security Executive Committee October 2009
Health Record Executive Committee November 2009
Medical Center Medical Board February 2010
Kevin Churchwell, MD April 2010
Executive Director & CEO, MCJCHV
Larry Goldberg April 2010
Executive Director & CEO, VUH
David Posch April 2010
CEO, The Vanderbilt Clinic