


TITLE: Photography and Audio Recording in UF Health Physicians


POLICY: UF Health Physicians reserves the right to prohibit photography and audio recording on its property, either generally or in specific circumstances.

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APPROVED BY:



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DEFINITIONS:

- A. Consent – For the purposes of this policy, consent refers to the written agreement or verbal consent by the patient or employee for an individual/entity to take a photograph or recording.
- B. Individual – The person to whom the Protected Health Information pertains.
- C. Protected Health Information (PHI) – individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI does not include individually identifiable health information that is in education records covered by the Family Educational Rights and Privacy Act (FERPA), in employment records held by a covered entity in its role as employer, and regarding a person who has been deceased for more than 50 years.
- D. Need to Know - Requirement for information that is essential to the provision of patient care and/or the conduct of hospital business as defined by the employment or professional responsibilities. Whether an individual has a need to know confidential information is determined by whether the individual needs the information to care for a patient or perform his or her assigned duties.
- E. Photography – The term “photography” shall include the process of using any device, including Haiku/Canto (Epic mobile apps) or camera phones to produce photographs and/or videos.
- F. Photograph – The term “photograph” shall refer to any image (e.g., still picture, video, and motion picture) that are produced by photography.
- G. Audio Recording – The term “audio recording” shall include electronic communication used for purposes of recording events occurring within UF Health Physicians, including but not limited to discussions before, during, or after examination and at any point during the provision of care and services.

REFERENCE: UFP 8.81 Mobile Device Management

Florida Statute 934.03 – Interception and disclosure of wire, oral or electronic communications prohibited.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0900-0999/0934/Sections/0934.03.html

PROCEDURE:

A. Photography and Audio Recording in Public Areas at UF Health Physicians Practices

- 1. Photography and audio recording are prohibited in all indoor and outdoor public areas on UF Health Physicians property including, but not limited to, atriums, hallways, waiting rooms, driveways, sidewalks, parking lots and entry points, where patients and/or Protected Health Information (PHI) may be captured in the photograph unless consent or authorization is obtained as outlined below.
- 2. UF Health employees, medical staff, and allied health professionals may not be photographed or recorded without their advance verbal permission.
- 3. UF Health Physician staff must ensure that other patients or patients’ information is not inadvertently captured.

B. Photography and Audio Recording of Patients by Family or Friends

- 1. With the patient’s verbal permission, friends and/or family members may take photographs or audio recordings of the patient. The patient may take photographs of himself / herself and may take photographs of other individuals who are not patients only with the permission of those individuals.

2. Any person or entity providing electronic communication may divulge the contents of any such communication with the lawful consent of the originator or any addressee or intended recipient of such communication.
3. UF Health Physicians staff must ensure that other patients or patient information is not inadvertently captured in these photographs or audio recordings.

C. Photography and Audio Recording of Patients by UF Health Physicians Staff

1. Identifiable patient photographs or audio recordings may be taken and/or accessed only by authorized individuals who have a professional need to know.
2. UF Health Physicians staff having access to or possession of patient photographs or audio recordings are responsible for maintaining the confidentiality and security of that photograph at all times.
3. UF Health Physicians staff must ensure that other patients' PHI is not inadvertently captured when taking photographs or audio recordings.
4. Identifiable patient photographs or audio recordings should only be taken when necessary. If an identifiable photograph is not needed, then such a photograph should not be taken.
5. Photographs or audio recordings taken per this policy, except for patient or visitor use or per written agreement by UF Health Physicians, shall be taken with UF Health approved equipment and/or software (e.g., Haiku, Canto). See also UFP 8.81 – Mobile Device Management.
6. Patient photographs and/or audio recordings may be taken at the direction of the patient's physician or the physician designee. However, physician approval is not required for patient photographs taken for either safety/security purposes or as approved by the IRB.

D. Photography and Audio Recording of Patients for Medical Treatment

1. The standard UF Health Physicians Consent and Authorization to Treat form addresses patient photography for medical treatment. Additional patient authorization is not required, provided that the patient has signed the Consent and Authorization to Treat form.
2. These photographs and/or audio recordings shall be taken only when approved by the patient's physician, the physician's designee, or by UF Health Physicians staff.
3. These photographs or audio recordings may reveal the identity of the patient and become part of the legal medical record.

E. Photography and Audio Recording of Patients for Medical Education

1. The standard UF Health Physicians Consent and Authorization to Treat form addresses patient photography for educational purposes. "Educational purposes" consists of education for and by UF Health Physicians or UF staff only (i.e., not for use in publications or at symposiums).
2. These photographs or audio recordings shall be taken only when approved by the patient's attending physician.
3. This section of photography of patients for medical education refers to photographs taken at the present time rather than the review of previously taken and stored photographs.
4. These photographs should not reveal the identity of the patient and do not become part of the legal medical record.

5. If the photograph identifies an individual, the photographer or his / her representative shall obtain the patient's / patient representative's written authorization (see Section IX Patient Photographs Intended for Public Use or Display).

F. Photography of patients for Patient Identification in Epic

1. Photographs for patient identification purposes (e.g., a patient's photograph may be added to their demographics in Epic for identification in clinic) may be taken with the patient's verbal consent. These photographs should not be further disclosed without the consent of the patient / patient's representative.
2. These photographs may identify the patient and become part of the patient's medical record.

G. Photography and Audio Recording for Research Purposes

1. Photographs taken for research purposes require IRB review and approval.
2. Patient Authorization shall be governed by IRB policies and/or the Informed Consent.
3. These photographs must adhere to the requirements and safeguards detailed in the IRB-approved protocol. For additional information, see UF IRB-01.

H. Photography and Audio Recording of Patients by External Videographers and Photographers

1. All interactions with the media and release of information to the public should be handled through the UF Health Public Relations Department. These photographs may include print, broadcast, and electronic news media, external videographers and photographers, or any group that will release information to the public.
2. Patient care observers may not take patient photographs.

I. Photography and Audio Recording Intended for Public Use or Display

1. Photographs or patient information to be used or displayed publicly and that may identify an individual patient require the patient's / patient representative's written authorization. This may include photographs, images or information displayed in a UF Health Physicians waiting room, lobby, nursing station, website, or at an educational event or symposium.
2. The department or person seeking to use or display patient photographs publicly will secure written authorization before using or publicly displaying a patient's photograph. Written authorization is required regardless of whether the patient / patient representative provided the photograph to UF Health Physicians.
3. Patient authorization may be obtained by using the Authorization to Use and Disclose Protected Health Information (PHI) for Education, Publication, or Public Relations form (PS68138).
 - a. A new authorization may be required if the photograph is to be used for purposes not specified in the authorization form.
 - b. Completed authorizations should be uploaded to epic media tab.
4. Unless permitted by this policy, the UF Health Privacy Office should be consulted for guidance about obtaining consent or authorization for patient photographs.

J. Photography and Audio Recording Taken in Error or in Violation of Policy

1. In the event that a patient or visitor takes a photograph or audio recording in violation of this policy, staff should instruct the person to immediately stop taking the photograph or audio recording. If the person refuses, staff should contact the UFHP Manager, Patient First.
2. Staff should instruct the person to destroy any photographs (i.e., delete any image from their phone), videos or audio recording taken in violation of this policy. If the person refuses, then staff should contact UF Legal Services.

K. Photography and Audio Recording – Law Enforcement and Safety / Security

1. Law enforcement agents may take photographs of patients with the patient's verbal consent, an approved court order, or a subpoena.
2. Photographs for safety and security purposes may be taken without the patient's expressed consent, as set forth in the procedure for this policy.

L. Photographs for the Purpose of Litigation

1. Photographs for the purposes of litigation (e.g., of accident victims) may be permitted with the patient's verbal consent and after advance notice is provided to University of Florida Legal Services.