



SAINT LOUIS UNIVERSITY

Photo/Videography Policy

Policy Number: OUC-058

Version Number: 1.0

Effective Date: 07/31/2015

Responsible University Official: Privacy Officer

Approved By: Executive Staff
Legal and Compliance Committee

1.0 INTRODUCTION

Saint Louis University (hereinafter the “University”) is committed to provide services in compliance with all state and federal laws governing its operations, incorporating the highest levels of business and professional ethics.

The HIPAA Privacy Rule requires covered entities to take reasonable steps to limit the use or disclosure of protected health information (PHI) to the minimum necessary to accomplish the intended purpose.

The provision of patient care may incorporate the use of patient images to aid in documentation of diagnosis and treatment. Images may also be utilized for purposes of training and documentation of residents’ skills. It is important that clinical staff is aware of the need for appropriate safeguards to assure patient privacy whenever the use of photos occurs.

2.0 PURPOSE

This policy establishes guidance for when and how patient images may be obtained during the process of treatment along with restrictions to prevent the improper use of patient images.

3.0 PERSONNEL AFFECTED

This policy applies to all University workforce involved in the capture and use of patient images.

4.0 DEFINITIONS

Authorization: A document that gives permission for a specific disclosure of protected health information. Authorizations typically include the name of the person or entity authorized to disclose, name of the person or entity authorized for use or disclosure, purpose of the disclosure, expiration of the authorization, and the patient’s signature.

Minimum Necessary Standard: The requirements outlined in the HIPAA Privacy Regulations that mandates use of reasonable measures to limit the use and disclosure of

PHI to that which is needed in performing necessary functions for treatment, payment or health care operations.

Protected Health Information (PHI): Any individually identifiable health information transmitted or maintained in any form or medium, including oral, written, and electronic. Individually identifiable health information relates to an individual's health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI when there is a reasonable basis to believe the information can be used to identify an individual.

Workforce: Employees, volunteers, trainees, contractors, and other persons under the direct control of the covered entity, whether or not paid by the covered entity, who have access to confidential information.

5.0 POLICY

Patient images, videos, or audio recordings may be captured when a valid HIPAA authorization has been obtained from the patient or the patient's legal authorized representative. The authorization must include the purpose (i.e. publication, external presentations, education and training of healthcare professionals) and describe what images will be used or disclosed.

Images and recordings of patients may always be captured without an authorization for documentation purposes related to treatment.

5.1 Use or Disclosure of Patient Images

5.1.1 Authorization NOT Required

Education and training are included in HIPAA's definition of health care operations and is permitted. This means that the faculty may use patient images in lectures, case presentations, or in other classroom settings for educational purposes for students, residents, and other faculty within the university setting. Use of patient images for treatment documentation does not require patient authorization.

- Saint Louis University teaching/training program
- Treatment documentation

5.1.2 Authorization Required

Faculty, residents, or students cannot use patient images in external settings, such as conferences, seminars, publications, or marketing materials, unless specifically authorized to do so by the patient. The students or residents may not take patient images or other PHI with them when leaving their affiliations with the university, unless specifically authorized to do so by the patient.

- Publication, poster, website, or marketing materials
- Presentation used outside of Saint Louis University or Saint Louis University presentation with outside audience members

5.1.3 General Purpose (images that are NOT identifiable)

Any patient photo that is individually identifiable is considered Protected Health Information (PHI) under HIPAA and requires an Authorization for use or disclosure if it does not constitute treatment, payment or operations. The “*SLU Authorization to Use or Disclose Patient Image*” form should be utilized when a patient Authorization is needed.

If there is a possibility that identifiable photos may be used for presentations, publications, or reference material outside of Saint Louis University, they must be de-identified and reviewed before release for use.

Identifiable images includes facial photos, tattoos, images that include medical record, patient name, case id, or any other unique identifying information.

Even when images are utilized for internal training or education purposes, the *Minimum Necessary Standard* should be followed and identifiable information removed or de-identified.

5.2 Departmental Camera Use

Only University designated cameras should be utilized for obtaining patient images. Use of these cameras must adhere to appropriate safeguards to assure patient confidentiality.

Appropriate safeguarding of cameras should include procedures to ensure that cameras are locked away in cabinets when not in use. Maintaining a user log of access will allow for monitoring when cameras were checked out and images were last removed from the camera.

Residents involved in clinical care should expect that they may be taking images when seeing patients in the ER or on rounds with traumatic wounds and plan ahead for the use of designated cameras.

Images should be downloaded from the camera to a secure location as soon as reasonably possible and then deleted from the device.

5.3 Use of Personal Recording Devices

The use of personal recording devices, including smartphones and tablets, are only allowed for capturing patient photos in clinical treatment areas when the University’s mobile device management (MDM) software has been installed and activated on the device. Use of MDM will allow data to be deleted remotely by the University’s IT Department if the device is missing or becomes stolen.

Reasonable effort must be used to inform the patient of the purpose for capturing their image, that it will not be used for any other purpose, and that safeguards are in place to ensure confidentiality.

6.0 SANCTIONS

Individuals who fail to comply with this policy and the procedures associated with it will be subject to disciplinary actions guided by the University's Staff Performance Management Policy, Faculty Manual, or Student Guidelines.

Non-compliance in this Policy can result in disciplinary action, including but not limited to, restricted incentive payments, suspension or termination. It may also result in the enforcement of a corrective action plan, as well as notification of the suspected misconduct and/or violation to government regulatory agencies.

This Policy does not limit the University's ability to impose greater sanctions or impose immediate action against serious violations. Disciplinary actions appropriate to the severity of the infraction will be carried out as needed.

7.0 CHANGES TO THIS POLICY

Changes to this policy may be necessary from time to time. At a minimum, the policy and all other program policies, procedures and guidelines will be reviewed on an annual basis.

8.0 RELATED POLICIES AND DOCUMENTS

- Authorization for Use and Disclosure Policy
- Minimum Necessary Disclosure
- Authorization to Use or Disclose Patient Image (form)

REVISION HISTORY

EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
	1.0	New Policy