

Policy/Procedure: DUHS Photography and Recordings by Patient, Family or Visitors

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Review History: 01/17, 02/22**Applicability:**

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| <input checked="" type="checkbox"/> Ambulatory Surgery Center Arrington | <input checked="" type="checkbox"/> Duke University Hospital (DUH) (both campuses) |
| <input checked="" type="checkbox"/> Davis Ambulatory Surgery Center (DASC) | <input type="checkbox"/> Durham Campus Only |
| <input checked="" type="checkbox"/> Duke Health Integrated Practice (DHIP) | <input type="checkbox"/> Duke Raleigh Campus Only |
| <input checked="" type="checkbox"/> Duke Health Technology Services (DHTS) | <input type="checkbox"/> Patient Revenue Management Organization (PRMO) |
| <input checked="" type="checkbox"/> Duke HomeCare & Hospice (DHCH) | <input checked="" type="checkbox"/> Population Health Management Office (PHMO) |
| <input checked="" type="checkbox"/> Duke Primary Care (DPC) | |
| <input checked="" type="checkbox"/> Duke Regional Hospital (DRH) | |

Definitions:

Personal Recording – the use of any device that can capture broadcast and/or record visual images or auditory content. This may include but is not limited to digital cameras, iPads, cell phones, personal computing devices, camcorders, tape recorders, and video recorders. This also includes applications on devices that transmit or broadcast images or audible signals in real time, such as “Facebook LIVE,” “Skype,” “FaceTime,” or other similar electronic modalities.

Level:**Personnel:****Competencies/Skills:****Required Resources:****Policy Statement:****Introduction**

The purpose of this policy is to provide guidance of patient or visitor’s Personal Recording in the health care environment.

Policy

DUHS understands a patient, loved ones or visitor’s decision to utilize photography and recordings for personal use, such as to record commemorative events for keepsake or bereavement purposes, or to facilitate communication with people who are not present. Such Personal Recording must not interfere with clinical care, teaching, research or any Duke activities. Personal Recordings should not

violate any other person's rights to confidentiality and privacy and be otherwise consistent with applicable as well as accreditation, licensure and other requirements applicable to Duke.

A. Guidelines

1. Whenever possible, Personal Recording should occur in a private location, to minimize the potential to inadvertently include others in the environment. Personal Recording cannot disturb or distract from clinical care, teaching, research or other Duke activities. Personal Recording shall not include other patients, other patients' visitors, or their families. Generally, recording of surgery, procedures, or delivery or in open clinical areas, e.g., PACU, ICU or Nursery is prohibited.
2. It is recognized that the use of real time video communication modalities (i.e. Skype, Facetime) can enhance a patient's ability to communicate with friends and loved ones who are not present with the patient. However, use of such devices is permitted only to occur in private locations to not inadvertently violate the privacy of others in the health care setting.
3. Written authorization is generally not required when the patient has loved ones and/or friends take images of the patient.
4. Tripods, freestanding lights, and electrical cords cannot be used during personal recording because they create safety hazards. Devices cannot be plugged into wall for operation.
5. Personal Recording is prohibited in all Behavioral Health areas, such as a unit that specializes in Psychiatry or within the Emergency Department.
6. A clinician can use a patient's Personal Recording device as a means to record instructions, including patient care education e.g. wound dressing change or states of care. Clinicians shall use their clinical judgment to determine the occasions a Personal Recording is appropriate for provision to record instructions. Personal Recording instructions should not take the place of documentation that usually occurs.
7. Personal Recordings may not be used to take images of hospital equipment, property or medical records.
8. Personal Recordings of admissions meetings, conversations or other means of communication conducted by hospital staff is prohibited.
9. Hidden Personal Recordings of any kind of patients or staff are prohibited. A manager should be informed immediately upon observation or report of such behavior and the activity should stop (or be stopped) immediately.
10. Any third party visitor (other than the patient, their friends, or loved ones) at Duke to visit the patient for personal reasons, e.g. media representatives, attorneys or vendors, must obtain administrative approval in advance of Recording. Approval may be conditioned and the establishment of in safe parameters, confirmation of written patient or legal representative authorization, and sufficient prior communication with

staff. Contact Risk Management or Compliance if you become aware of this type of request.

11. Staff may consent to participate in a Personal Recording. Staff have the choice to refuse to participate in Personal Recordings. Staff must, however, be cognizant that they may be surreptitiously photographed or recorded at any time and should act accordingly.
12. If staff identifies a concern related to the use of Personal Recording, a manager should be informed. Concerns may include:
13. Photography of a patient without the permission of the patient or a surrogate.
14. Personal Photography, Recording, or Broadcasting that threatens the privacy of persons, including patients, their friends or their loved ones or DUHS staff.
15. Photography or recording that compromises clinical care, teaching, research or other Duke activities.
16. Any other effort to photograph or record that is not consistent with the guidelines above.
17. For instances where hospital staff are considering photography or recording of patients (i.e. for purposes of clinical care or education), refer to the policy, “Photographing/Videotaping/Audiotaping Patients”.
18. For issues related to social networking and/or social media sites, refer to the “Social Media Policy”.

Questions about this policy should be addressed to the Risk Management or Compliance Departments.

Frequently Asked Questions

Someone I do not recognize is taking a picture of my unconscious patient. What should I do?

Answer: You need to make sure that a surrogate decision maker (i.e. spouse, Health Care Power of Attorney) gives permission for this to occur. It would be best to inquire with the person who they are and whether permission has been granted.

A patient wants to Skype with his daughter who lives out of state...is that okay?

Answer: As long as the communication occurs in a private location where other patients are not located.

What if that same patient wants to introduce me to his daughter while he is Skyping?

Answer: That is up to you whether you want to participate in that conversation.

Can a loved one video record a procedure being performed?

Answer: No, photographing or recording a procedure is prohibited. We do not want our staff to be distracted by recordings because it could compromise safe patient care.

What about filming infant deliveries in the Labor and Delivery Unit?

Answer: The experience of childbirth is an important family event and we recognize that people like to photograph or videotape expectant parents and newborn infants. We will make every effort to accommodate family wishes. However, staff should ask family members and support persons to stop recording when a delivery is imminent. This is out of concern for the safety of our patients. Encourage patients and support persons to discuss their plans with the nurses, physician or midwife caring for them. Staff can inform support persons about how and when to photograph once a baby is born.

What if I observe a new father videotaping his newborn and spouse while they walk in the hallway of a Mother/Baby unit?

Answer: Gently instruct him that we must honor the privacy of other patients in the hospital and recording is limited to private areas, e.g., the patient room

Should I try to stop someone who is taking pictures of the outside of the hospital, or taking pictures in the lobby?

Answer: It can be difficult to control photography that occurs in some of the very public areas of the hospital. However, if you observe activity that seems suspicious to you, inform Duke Police or a Security officer.

I work with patients in a Rehabilitation Unit. Sometimes the patients develop relationships with each other and may want to have pictures taken together. Is that okay?

Answer: If DUHS staff organizes or takes the photograph, an authorization is required. The patients may independently take the photograph of patients who agree to participate in the photograph.

The daughter of a patient asks if she can record a care conference in order to share the information with her brother, who cannot be present. What should I tell her?

Answer: Inform her that we want to do all that we can to provide as much information and communication with concerned loved ones. However, we cannot allow that communication to occur through a Personal Recording. Offer alternatives to the daughter, such as arranging a better meeting time that will accommodate the brother participating in the meeting in real time, e.g., arranging a “conference call”, or just speaking with the brother separately when it is convenient.

You heard a rumor amongst staff that the son of your patient in the Intensive Care Unit is angry with the hospital and he is secretly recording all of the conversations we have with him. Should I avoid talking in his presence?

Answer: This can be an uncomfortable situation for staff. If you have a concern that someone is recording your conversation, it is best to politely stop the discussion and inform the individual that that is not permitted here. The principal issue in these scenarios is one of trust. If you have a concern that loved ones are secretly filming or recording in the hospital as a result of some animosity they may have, it is best to inform a manager, in order to assess how best to intervene with the intention not only of enforcing our policy, but also to determine if there are ways we can improve our relationship with the loved ones.

I have been working with my patient for several weeks and his spouse asks if she can take my picture? Is that allowed?

Answer: Whether you have your picture taken should always be up to you. One thing you should consider is how the information will be used. For instance, is it okay with you that the loved one takes your picture and includes it in social media? This might be something to consider or even clarify with the loved one if you are concerned.

If a patient’s loved one is using his cell phone to take pictures in a way that concerns me, should I report that to someone?

Answer: If you have a concern about an issue that involves personal photography or recording, begin with informing a manager. If you believe there is suspicious activity, you may notify Duke Police or a Security officer.

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May I use a patient's cell phone to record my patient's instruction to permit reference for the patient at home? This recording is permitted.

Answer: See # 6 under Guidelines.

What discipline will be taken if the patient or loved ones takes Personal Recording that is not in accordance with this Policy?

Answer: Patients will be made aware of this policy at admission. Staff will remind patients of this policy; staff may restrict loved one's access to clinical areas if loved ones are disruptive.

Citations:

Policies:

Authoritative Source:

Additional References:

Attachment Names:

Photography and Recordings by Patients FAQ's
Patient Recordings Notice.pdf

External Links:

Entities: