

Subject: Consent and Authorization for Patient Photography,
Videotaping and Other Imaging for Treatment and Operations

Effective Date: 9/01/2006

NEW

OBJECTIVE

The purpose of this policy is to establish guidelines for the use of cameras and video recording devices at MCG Health System and to protect the privacy and security of patients and their confidential information.

SCOPE

This policy applies to all workforce members, which include employees, faculty, staff, students and volunteers.

POLICY

The use of any device to collect, use, duplicate, disclose, transmit, or store protected health information images, including cell phone cameras, is strictly prohibited in any area of the health system unless it is duly authorized.

PROVISIONS

Any identifiable image of a patient or procedure is considered protected health information, and will be maintained in a secure manner to protect patient privacy. Use of personal devices in obtaining protected health information is discouraged; however, if imaging is necessary to fulfill the MCG Health System mission in a workforce member's role as clinician, researcher or educator, that workforce member may use a personal recording device while applying MCG Health System policies and procedures regarding protected health information. Additionally, if a personal device is used, that workforce member assumes individual accountability for appropriate collection, use, duplication, disclosure, transmission, storage, and deletion of the images that are protected health information.

1) Patient Authorization

- a) Generally, the patient/legal representative should give written consent and authorization before photography, videotaping, or imaging is carried out. In the event that films or photographs are obtained prior to securing patient authorization, the films or photographs should be sequestered from use or release pending receipt of an appropriate authorization. If authorization cannot be obtained, photographs should be destroyed and any videotape of the patient should be omitted/erased.
- b) Unless otherwise required by state law or beyond the purposes of treatment, payment, and healthcare operations, photographs, videotapes, and other images will not be released to outside requestors without specific authorization from the patient/legal representative.

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2) Allowable Circumstances For Patient Photography, Videotaping, and Other Imaging – with Authorization

- a) **Photographs/Recordings to be Used for Clinical and/or Research Publications and Presentations Outside of MCG Health System, or any other Disclosures Outside MCG Health System:** Photographs or recording that contain any patient identifiers or facial images are protected health information. Patients may agree to the use and disclosure of their protected health information for purpose of publication or presentation outside the MCG Health System through signature of agreement on either an "Informed Consent for Surgical and/or Diagnostic Procedures," or the MCG Health System "Consent and Authorization for Photography, Videotaping and Other Imaging." The MCG Health System "Consent and Authorization for Photography, Videotaping and Other Imaging" form should be used to specifically describe the taking and use of photographs throughout an entire "episode of care", which would, e.g., allow for the use of pre-operative, intra-operative and post-operative photographs within that care episode to external audiences.
- b) **Research:** Photographs taken as part of a research protocol must be approved by the MCG Human Assurance Committee. Authorization for photography, videotaping, or other imaging must be incorporated into the patient authorization for participation in the research protocol through the informed consent document. A research subject who is also a patient and executes a procedural informed consent is apprised that photographs or films may be taken or used only for purposes of education and research.
- c) **Marketing/Public Relations/Fund Raising/Media:** Written authorization must be obtained before photographing, videotaping, or taking other images of patients for marketing/public relations/fund-raising/media purposes. Permission to photograph, videotape or record a patient for purposes of publicity, advertising and fund raising may be given if 1) the patient's care provider feels it would not be detrimental to the patient; and 2) the patient/legal representative signs a written authorization form agreeing to the photography or videotaping.
- d) **Law Enforcement:** When representatives from law enforcement agencies ask to photograph or videotape a patient, permission may be given if 1) the patient's care provider feels it would not be detrimental to the patient; and 2) the patient/legal representative signs a written authorization form agreeing to the photography or videotaping.
- e) **Photography of Newborns:** Patients and families are encouraged to bring their own equipment to take photographs; however, if a hospital-owned camera is used, a signed MCG Health System "Consent and Authorization for Photography,

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Videotaping and Other Imaging" form is required. Any hospital owned and operated device shall be used within the guidelines of that department's internal policy and procedures for use, including the collection, use, disclosure, transmission and appropriate deletion of photographic images. Protected health information cannot be transmitted by normal electronic mail systems, as it is not encrypted. Photographs taken by staff by request of the patient, using patient owned equipment, do not require an authorization

- f) **Telemedicine or Internet Transmission:** Images created and transmitted during the course of telemedicine treatment should be transmitted in a technically secure environment, along with the medical record, in order to protect the patient's privacy. Authorization for use and disclosure of these images is addressed by separate policy.
- g) **Performance Improvement Purposes:** Videotaping as a documentation "tool" for peer review or performance improvement activities may be carried out with patient authorization; however, viewing is limited to authorized staff based on a need to know and keeping the minimum necessary standard in mind. The videotapes are not considered a part of the patients' health documentation and will be erased following completion of the performance improvement process.

3) Allowable Circumstances For Patient Photography, Videotaping, and Other Imaging - without Authorization

- a) **Clinical Care:** Electronic images are necessary for clinical diagnosis and treatment, i.e., laparoscopic surgery, and therefore MCG Health System is permitted to obtain patient photographs, videotapes, and other images without obtaining the patient's agreement or authorization for the purpose of clinical care. The Informed Consent for Surgical and/or Diagnostic Procedures addresses the taking and publication of photographs or films for within the MCG Health System education and for research purposes, or if needed, consent and authorization may be obtained using the MCG Health System "Consent and Authorization for Photography, Videotaping and Other Imaging" form.
- b) **Photographs/Recordings Taken for Medical Education and Teaching Purposes Within MCG Health System:** Patient photography, videotaping, or taking other images of patients for medical education and/or teaching activities are included in the definition of MCG Health System Operations; however, written authorizations should be obtained whenever possible. The informed consent document stipulates that photographs or films may be taken or used for purposes of education and research. However, if identifiable, workforce members should obtain consent and authorization using the MCG Health System "Consent and Authorization for Photography, Videotaping and Other Imaging" form for:
 - i) Future use/disclosure requiring authorization; and

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- ii) To meet JCAHO requirements if authorization for internal use is not previously documented.

Individuals obtaining photographs, videotapes, and other images should be aware of the sensitivities of these images and as such, authorization should be obtained.

- c) **Photographs/Recordings Taken for Medical Record Documentation:** An authorization is not required if the photographs are being taken, and will be used, for the purpose of medical record/treatment documentation – regardless of whether the patient is “identified” in the photograph. (See paragraph below regarding identifiers). The same HIPAA/confidentiality requirements apply as with any other part of the medical record.
- d) **Documentation of Abuse and Neglect:** In instances where Georgia law provides for mandatory reporting of suspected abuse and/or neglect it is not required to obtain prior authorization from the patient for photography, videotaping, and/or other imaging. These images may be submitted to the investigating agency without appropriate authorization/court order, but should not be used for other purposes without authorization.
- e) **Photographs/Recordings That Do Not Identify the Patient:** For photographs/recordings that do not in any way identify the patient or include any identifying characteristics of the patient, such as a photograph that *excludes*:
- i) Patient’s name,
 - ii) Medical record number,
 - iii) Patient’s face or any part of the face that would identify the patient, and
 - iv) All other “identifiers” - these photographs do not require authorization by the patient. In other words, the photographs are completely de-identified.

4) Confidentiality Agreement

Any individual photographing, videotaping or imaging a patient at MCG Health System must have a signed Confidentiality Acknowledgement statement on file. For those individuals not employed by MCG Health System the same Confidentiality Acknowledgement should be obtained prior to any filming or photography of patients.

5) Storage, and Retention of Images

- a) All workforce members are responsible for the protection of improper use and/or disclosure of sensitive data contained on PDAs, PCs, digital cameras, and portable storage devices in their possession. Security of the data is subject to the provisions of local, state, and federal statutes and regulations, and the provisions of HIPAA privacy policies.

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- b) It is important that all procedures using devices that store electronic PHI incorporate safeguards to protect the data from virus infection and unauthorized access. Digital image files containing PHI should be stored in a dedicated workspace, not sharing the same space, directory, or memory storage device as personal images. Portable storage media (e.g. CD) should be clearly identified with the patient's name, identification number, date and contain the name of the person who authorized and is accountable for the images taken. Cameras, CD's, and other storage medium containing PHI should be stored securely when not in use.
- c) Digital images should be deleted from the camera when no longer needed. Transmission and/or storage of images containing PHI across the Internet must be compliant with all HIPAA Security standards (e.g. encrypted, password protected) and will require the assistance of the Information Security Office.

RELATED POLICIES

- # 6.02 De-Identification of Protected Health Information
- # 6.17 Use and Disclosure of Protected Health Information for Research Purposes
- # 6.21 Use and Disclosure of Protected Health Information for Marketing Purposes
- # 6.24 Master Policy on the Use & Disclosure of Protected Health Information – with and without an Authorization
- # 6.28 Use and Disclosure of Protected Health Information for Fund-Raising Purposes
- # 8.04 Media Relations – Use and Disclosure of Protected Health Information

RESPONSIBILITY

The Privacy Officer and the Security Officer are administratively responsible for this policy. Departments that use, duplicate, disclose, transmit, store, and delete images that are protected health information are responsible for implementing departmental policy and procedure in support of this corporate policy.

Approved



President/CEO
MCG Health, Inc.

9/28/06

Date



Consent and Authorization for Photography, Videotaping, and Other Imaging

Patient Name	Date of Birth	MR Number or Patient Label
Verification of Identity		

I consent to the taking of and authorize the use and publication of photographs or films (including videotape and television monitoring) of this episode of care occurring on/from _____ to _____. This authorization does not expire and is subject to the following conditions:

1. That said photographs or films be used only for purposes of education and research both internal and external to MCGHI and
2. That the above described use & disclosure may continue without expiration; but that I may revoke this authorization at any time by submitting a written request that it be cancelled.
3. That the name of neither my family nor me be used to identify said photographs or films.

Special instructions:

I understand that authorizing the taking and publication of photographs or films (including videotape and television monitoring) of this episode of care is voluntary. I can refuse to sign this consent and authorization. I need not sign this form in order to ensure treatment.

Signature of Patient or Legal Representative

Date

If signed by Legal Representative, Relationship to Patient

Signature of Witness