

**3364-90-14 Photographing, videotaping, filming, video recording.**(A) Policy statement

The university of Toledo “UT” permits photographic imaging, video/audio recordings, filming, utilizing negatives or films prepared from such photographs and/or other means of recording and reproducing images, to be referred to as “photographs” going forward, for purposes of teaching, staff development, medical/healthcare education, documentation, to enhance patient care and/or publicity. There is a fundamental responsibility to ensure that photographs are used in a reasonable manner in order to adhere to the integrity of protected health information “PHI,” individual rights to privacy, quality of patient care and efficient operations.

(B) Purpose of policy

The purpose of this policy is to ensure the responsible use of the various types of photographs in order to ensure employee and patient privacy and comply with health insurance portability and accountability act “HIPAA” and other applicable laws and regulations including the joint commission standards.

(C) Consents(1) Patient consent – identity not disclosed

UT patients in all areas/clinics sign the patient general consent states; “I consent to the making of photographs or other images for medical purposes and also scientific or educational purposes as long as my identity is not disclosed. I will advise the university of Toledo if I wish to withdraw this consent.”

(2) No consent needed

A consent is not required when taking photographs for the sole purpose of documentation in the patient’s medical record.

(3) Consent – identity disclosed

Photographs that identify the person(s) taken for the purposes of teaching, staff development, medical/healthcare education and/or publicity purposes must always have a valid, complete, and duly authorized consent on file – consent form “LG017.”

(D) Photographs

(1) Medical record documents

(a) Photographs taken for documentation in the medical record or for medical purposes such as for surgeries or surgery segments, etc. will be permitted, but precautions must be taken to ensure there is no risk to the patient.

(b) Photographs must be secured and remain in the physical possession of the health information management, released only to those who have authorization, used only for the purpose documented in the consent (if applicable) and taken by a UT employee.

(2) Teaching, staff development, medical/healthcare education and research

(a) Photographs should be de-identified when used for the purposes of teaching, staff development and medical/healthcare education and research; see 3364-90-05 of the Administrative Code (de-identifiable and re-identifiable health information, limited data set and data use agreements).

(b) Photographs taken that would identify the patient or patient’s family, must have a signed consent form “LG017” as stated in (C) (3) of this rule. Photographs that include faculty, staff, students, or employees require a verbal consent. At no time may these photographs be posted on a social media or copied for publication.

(3) Marketing

Photographs taken for the purpose of marketing should be handled through the university of Toledo office of communications. Proper consent will be obtained at that time from the office of communications.

(E) Equipment

Equipment used for taking photographs:

- (1) A cell phone may be used as photography equipment with the following restrictions:
  - (a) There is limited risk to the patient.
  - (b) Adherence to all infection control policies and procedures is maintained.
  - (c) The photograph is downloaded as soon as possible and maintained as part of the patient's medical record.
  - (d) The photograph is sent in a secure manner to only those involved in the care of the patient such as attending physicians/faculty.
  - (e) The photograph is deleted from the cell phone so that it cannot be viewed by those who do not have a need to view, and
  - (f) At no time will random photography be permitted, such as in common areas that would include patients or others not consented.
- (2) Equipment in may be used in a sterile field such as, but not limited to, surgeries, and surgery segments. Prior authorization must be obtained when applicable and in compliance with section (C) of this rule. The following restrictions apply:
  - (a) There is limited risk to the patient.
  - (b) Adherence to all infection control policies and procedures is maintained.

(c) Use of equipment should not disrupt or create a safety concern or violate the privacy of other employees, patients or visitors.

(F) Electronic media

Electronic transmission is permitted if sent from a secured connection. The university of Toledo information technology department should be consulted prior to electronic transmission to ensure that secure connections are incorporated and assured. Transmission of photographic images may be only shared with those who are involved with the patient's care, such as but not limited to, attending physician/faculty or other clinical personnel.

- (1) In order to protect the patient's confidentiality, photographs sent via the internet/telemedicine must be encrypted, along with any attached medical information, prior to sending.
- (2) Stream video may be only transmitted from a secure server to another secure site/web page where the viewing requires password login to view the images.
- (3) No photographs including stream videos shall be shared by electronic media such as but not limited to: facebook, twitter or other social networks.

(G) Destruction, de-identified, disclosure, documentation storage and retention of photographs

(1) Destruction

(a) Photographs taken for purposes of documenting in the medical record should be downloaded and maintained by the health information management "HIM" department. Once downloaded the image must be destroyed within a reasonable time frame and in a manner that the photograph may not be reconstructed at a later date. This includes all equipment that is capable of taking/producing photographs or video. See rule 3364-90-16 of the Administrative Code (medical record

retention and destruction; disposal of protected health information).

(b) All other photographs taken for teaching, staff development, and medical/healthcare education should be de-identified or a consent should be maintained on file.

(2) De-identified

De-identified is defined in rule 3364-90-05 of the Administrative Code (de-identifiable and re-identifiable health information; limited data set and data use agreements). The policy requires that all patient data that would identify the patient be removed from the photograph or not included in the photograph, such as patient's face, medical record number, room number, account number or any other identifying attribute that could identify the patient.

(3) Disclosure

Unless otherwise required by federal or state law, photographs will not be released to outside requestors without a specific release from the patient or his/her legal representative.

(a) Photographs taken at the university of Toledo/university of Toledo medical center "UTMC" are the property of the university and may be only obtained through proper procedures.

(b) If the patient wants a copy of the photographs used for medical record documentation, the patient must complete the release of information form in the HIM department (rule 3364-90-01 of the Administrative Code (release of health information).

(c) Photographs taken for other purposes, unless otherwise prohibited by law, may be released if due diligence is taken to ensure that any other patient's information is not portrayed anywhere in the image or footage.

(4) Documentation/storage/retention

Photographs taken for medical record documentation should be clearly identifiable with the patient's name, hospital identification number and date, and should be stored securely in the medical record to protect confidentiality.

(H) Kobacker adolescent and child psychiatry

Consent is not necessary for photographs used for identification purposes, such as passing medications in the kobacker adolescent and child psychiatry program. The photographs are to be destroyed upon the patient's discharge.

(I) Research

Photographs with identifiable patient information which may be taken as part of a research protocol must be approved by the institutional review board "IRB."

Effective: 7/9/2018

CERTIFIED ELECTRONICALLY

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Certification

06/29/2018

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Date

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