

Authorization and Consent to Photograph or Interview

UC Davis Medical Center

Hospital Policies and Procedures

Policy ID: 1426

Revised 08/22/2017

Attachments

I. PURPOSE

This section outlines the policy and procedures regarding requirements for photography or recording of patients, visitors and staff.

II. SETTING

Medical Center

III. DEFINITION

For the purpose of this policy, “photography” refers to any photograph or photographic reproduction, in any media, still or moving, including videotape, live television, filming, and digital images, including the use of electronic devices such as mobile phones and other hand-held devices.

For purposes of this policy, “recording” refers to any act or process of capturing sound by means of any electronic amplifying or recording device, other than by means of photography as defined above.

IV. POLICY

It is the policy of the University of California, Davis, Medical Center (UCDMC) that no photography or recording of patients or staff is allowed in any public or patient care areas within the main UCDMC Sacramento campus which includes all designated locations on the map in Attachment 1 and those other locations listed in Attachment 2 to this policy, unless it meets the requirements set forth in this policy, which is intended to protect the confidentiality and privacy of patients and staff while allowing photography or recording under appropriate circumstances. Photography and recording will not be allowed if it interferes with the patient care or operations of UCDMC.

V. PROCEDURE/RESPONSIBILITY

A. Types of Photography and Recording

1. **Medical photography** is that which is used only for purposes related to the medical care of the patient, such as identification, diagnosis, or treatment of the patient. The patient gives consent for such photography at the time of registration by signing the “Terms and Conditions of Service” form. A separate Consent Form for medical photography is not needed.
2. **Photography or recording for educational use** is that which is used by UCDMC faculty or staff for their own teaching or research activities, for publication in a

scholarly journal, or for general educational use. The use of photography or recording for research purposes must follow procedures set forth by the University of California (UC) Davis Institutional review Board (IRB) at research.ucdavis.edu/IRBadmin.

3. **Photography or recording for news and documentary purposes by news media organizations, campus organizations, non-profit agencies, documentary film-makers or other entities** is subject to approval and supervision by the Public Affairs and Marketing Department (extension 4-9040).
4. **Commercial photography or recording** is that which is performed for external use in advertising, public relations, fund-raising, commercial television or film or other commercial purposes. All commercial photography or recording including that which is intended to promote UCDMC units must be approved and supervised by the Public Affairs and Marketing Department.
5. **Patient Photography or Recording**
 - a. **Photography or recording that is undertaken by the patient or at the request of the patient** is appropriate as long as the photography or recording does not violate any other UCDMC policies or the privacy of other patients, or interfere with the care of patients. Patient photography or recording cannot include other patients or employees (e.g. physicians, nurses, staffs) without their consent. Patient photography or recording is limited to patient rooms and/or discrete patient treatment areas. If any UCDMC policies or the privacy of other patients or employees is violated by patient photography or recording, the photography or recording must stop and Risk Management or Security should be contacted for further guidance, as appropriate.
 - b. **University Birthing Suites** - Photography or recording undertaken by the patient or at the request of the patient is permitted during labor and after delivery and/or stabilization of mother/newborn. No photography or recording will be permitted at any time, during delivery, stabilization of mother/infant or during any procedure. This information shall be discussed with expectant parents as early as possible in the physician-patient relationship and documented in the patient's medical record.

B. Consent and Other Requirements

1. The patient or their legal representative must give written authorization for photography or recording of the patient (except for medical photography, which does not require a separate consent form). The authorization should specify the purpose of the photography or recording (e.g., media, marketing, legal, law enforcement, insurance, etc.) and inform the patient that they have the right to rescind such consent for use of the photograph or recording until a reasonable time before the photograph or recording is used. UCDMC currently uses the Authorization for Training, Media, Public Communications, Fund-raising or Marketing Purposes form (#71431-860, 4/03).
2. Authorization from the patient is required in advance of the photography or recording, except in the limited circumstances if photography or recording is performed by the School of Medicine or School of Nursing faculty for research or teaching purposes, and it is not possible to obtain consent in advance. In these limited circumstances, the film or other media used for the photography or recording, must remain in the possession of UCDMC and not used for any purpose, until appropriate consent has been obtained. If the consent is not obtained, then the patient must be removed from the photograph or recording, or the photograph or recording must be destroyed.

3. Authorization is not required if the photography or recording is used for research or teaching purposes and the patient is not identifiable. A patient is not identifiable if the patient's face, features or other unique characteristics cannot reasonably be identified.
 4. Photography or recording is prohibited if in the opinion of the patient's attending physician, the photography or recording will jeopardize the patient's condition or interfere with the care of the patient, or if the patient requests that the photography or recording stop.
 5. Photography or recording by outside organizations requires oversight by the Public Affairs and Marketing Department. Anyone who engages in photography or recording who is not a UCDMC employee must sign an appropriate Confidentiality Statement to protect the confidentiality and privacy of the subject patient and all other patients who may be in the vicinity. Such photography or recording must comply with Administrative Policy and Procedure (P&P) 2418, Disclosing Protected Health Information (PHI) to the Clergy, Media and Public. Appropriate notice must be given if photography or recording occurs in UCDMC facilities, such as posting signs in public areas. News crews must wear proper media credentials.
 6. If the photography or recording includes third parties (other than the patient) such as staff, visitors, students or trainees, their consent must be obtained, except for photography or recording of non-confidential communications in public areas. A third-party may rescind their consent at any time. If such consent is not possible, Risk Management should be contacted. If it is determined that consent was not obtained, UCDMC may retain the film, negative, or other electronic media used for the photography or recording.
 7. Patient photographs are subject to the laws governing confidentiality of medical information. The authorization should be placed in the patient's medical record. A copy of the authorization should be maintained by the department requesting the photographs and a copy should be given to the patient. For medical photography or abuse reporting, the photographs (including any negatives) should be maintained in the Medical Record.
 8. A new authorization form must be signed for each new round of photography or recording.
 9. UCDMC medical staffs are responsible for obtaining authorizations for photography or recording requested by them and taken by UCDMC photographers or other staff for educational purposes.
 10. The original of the authorization form shall be, forwarded to the Health Information Management Department to be included in the patient's permanent medical record.
 11. All photographs should model current safety measures and best practices. Persons depicted in laboratory settings must be shown wearing either safety goggles or eyeglasses. Providers shown in procedural spaces (including exam rooms, if procedures are depicted) must be fully masked, with all hair, side burns and facial hair covered.
- C. Abuse Reporting and Law Enforcement
1. If the photographs or recordings will be used for purposes of diagnosing or reporting possible abuse, including child abuse, consent is not required. For further information see Administrative P&Ps 1528, Reporting and Management of Suspected Child Abuse, Neglect and Sexual Abuse; 1531 Reporting of Elder/Dependent Adult Abuse or Neglect; and 1533 Reporting Suspected Domestic Violence.

2. If the patient's ability to give consent is impaired, and if the physician or law enforcement officer determines that photographs or recordings are necessary to preserve evidence of the patient's physical condition or to aide in establishing the identity of "Doe" (unidentified) patients, the physician may authorize the photographs or recording. Risk Management should be contacted as appropriate in these situations for further guidance. The physician should document this determination in a dated and timed note in the patient's medical record. If a law enforcement officer requested the photographs or recording, the officer's name and badge number shall be documented in the medical record.

Sent to the following for review:

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