

Title: Photography of Patients	Procedure
Patient Age Group: <input type="checkbox"/> N/A <input checked="" type="checkbox"/> All Ages <input type="checkbox"/> Newborns <input type="checkbox"/> Pediatric <input type="checkbox"/> Adult	

DESCRIPTION/OVERVIEW

This Procedure describes appropriate documentation of patient consent prior to photography of patients. Requests to film, videotape or photograph patients will be coordinated through the appropriate office as outlined in this procedure. Consent for photography will be obtained as outlined in this procedure.

REFERENCES

HSC Policy: Media Relations Policies and Procedures

AREAS OF RESPONSIBILITY

This procedure applies to all persons present at the UNMHSC.

PROCEDURE

1. General procedures:
 - 1.1. Consent will be obtained from the patient or the patient’s legal representative before photography that is intended to be used for purposes other than the clinical care of the patient being photographed. This includes photography intended to be used for research or education; for public media purposes; for legal purposes (except as otherwise indicated by law); or for other non-clinical purposes.
 - 1.2. Exceptions to the above requirement for consent by the patient or the patient’s legal representative will be made at the discretion of appropriate UNMH staff, and only when it would be impossible to determine an individual patient’s identity from the image. Examples are photos taken during a disaster or wide angle images of a general area that do not focus on any individual patient, such as a nursery where all identification signs have been removed from cribs.
 - 1.3. Even when consent has been obtained, UNMHSC staff may require that photography cease if the photography is judged by the staff to be disruptive to the operations of the UNMHSC.
 - 1.4. All non-UNM photographers will sign a confidentiality statement prior to photography.
 - 1.5. This policy does not apply to or prohibit the use of UNMHSC security cameras.
 - 1.6. The form, *Consent for Photography/Videotaping/Filming/Imaging* is attached.
2. Photography for purpose of clinical care:
 - 2.1. Formal consent by the patient or the patient’s legal representative is not required for photography of a patient if the images are to be used solely for the clinical care of the patient being photographed. The patient or the patient’s legal representative may decline to be photographed at any time. The images must be considered protected healthcare information, and safeguarded by confidentiality, security and protection appropriate to protected healthcare information and in accordance with applicable federal and state law and regulations.
 - 2.2. If images originally obtained for the clinical care of the patient being photographed are subsequently used for other purposes, appropriate consent must be obtained from the patient or the patient’s legal representative or guardian before such use.
 - 2.3. If the patient was unconscious, under general anesthesia or conscious sedation, or otherwise cognitively impaired at the time of the photography, the patient or the patient’s legal representative must subsequently be informed that the photography took place. If the patient or the patient’s legal representative wants the photographs to be deleted or destroyed, this will be done.

- 2.4. The images will remain in the physical possession of the UNMHSC and will not be disclosed or released to anyone or used for any purpose until appropriate consent is obtained from the patient or the patient's legal representative.
- 2.5. For the purposes of this policy, use of photographs for quality assurance or quality improvement activities is considered photography for the purpose of clinical care.
3. Photography for purposes of research or education:
 - 3.1. Photography of patients and/or their family members for purposes of research or education requires prior written consent by the patient or the patient's legal representative. This written consent must become part of the patient's research record and/or medical record.
 - 3.2. Photographs of patients and/or their family members that have been completely de-identified (i.e., all protected healthcare information and personal identifiers have been removed) may be used for UNMHSC educational activities without consent. If photographs are to be used for public educational activities, consent must be obtained and documented.
 - 3.3. Other elements of the UNMHSC (for example, the Office of Research or Institutional Review Boards) may make additional requirements for research use of patient or family member photographs not included in this procedure.
4. Photography by patient family members and friends:
 - 4.1. Photographs of patients or patient family members may not be taken without the permission of the patient or the patient's legal representative. This permission need not be in writing, except as below.
 - 4.2. Formal written consent must be obtained if the photographs are to be used, or are subsequently used, for other than personal use. Such non-personal uses include (but are not limited to) legal use; media use; educational use; research use; and posting on a website with unrestricted access.
 - 4.3. With permission of at least one parent, photography of babies in newborn nurseries may be taken by family and/or personal friends so long as prior authorization is obtained from the nursery charge nurse to ensure that the photography is not disruptive to nursery operations.
 - 4.4. Photography of the birth of a baby by non-UNMHSC staff, students, or employees will be permitted only with the written consent of the mother, and the verbal or written consent of the physicians and nurses involved in the delivery. The patient's written consent will become part of the patient's medical record.
 - 4.5. Photography in an operating room by non-UNMHSC staff will be permitted only with the written consent of the patient or the patient's legal representative, and with the consent of the surgeon, the anesthesiologist, and the operating room nurses. The patient's (or patient's representative's) written consent will become part of the patient's medical record.
 - 4.6. Care should be taken that photography by family members and friends does not include other patients' protected healthcare information without their consent.
 - 4.7. As noted above, even when permission or consent has been obtained, UNMHSC staff may require that photography cease if the photography is judged by staff to be disruptive to the operations of the UNMHSC, or if the patient or patient's legal representative requests that photography cease.
5. Photography for legal purposes:
 - 5.1. Photography to document actual or suspected abuse or neglect does not require prior authorization.
 - 5.2. Non-UNM legal requests for existing photographs (including by subpoena) or for new photography should be referred to the appropriate UNM Hospital executive director.
 - 5.3. Non-UNM legal requests to engage in photography must be submitted in writing to the appropriate UNM Hospital executive director no less than three (3) working days in advance. The requesting party must include written consent of the patient or the patient's legal representative with the request to photograph. Exceptions to the three-working-day

requirement may be made at the discretion of the office of the appropriate UNM Hospital executive director.

- 5.4. Competent adult patients and the legal representative of minor patients who are not under arrest have the right to refuse consent for a patient to be photographed by law enforcement officials. This right, however, does not extend to a subject under arrest.
 - 5.5. When new photography as authorized above is being conducted for legal purposes, the authorized photographer must be accompanied by UNMHSC staff as designated by the appropriate UNM Hospital executive director.
6. Media photography:
- 6.1. Media requests for patient photography should be directed to the UNMHSC Office of Public Affairs. Such photography may not take place without permission from that office.
 - 6.2. The Director of the UNMHSC Office of Public Affairs is responsible for evaluating and approving media requests. Routine requests will be presented to the patient or the patient's legal representative, and their wishes will be respected.
 - 6.3. News media representatives are not authorized to take photographs of patients in police custody without consent by law enforcement officials and the patient or the patient's legal representative.

DEFINITIONS

- Photography - For the purposes of this document, photography is the acquisition of an image by digital or film camera or other similar technical means. It includes both still images and video images.
- Legal representative – For the purposes of this document, a patient's legal representative is the patient's guardian, agent or surrogate health care decision-maker who has been authorized by law to make health care decisions for the patient.

SUMMARY OF CHANGES

Replaces "Photography of Patients", 3/2009.

RESOURCES/TRAINING

Resource/Office	Position/Title	Dept. Phone	Internet/Link
UNMHSC Public Affairs	Director of Public Affairs	272-3322	http://hsc.unm.edu/whatnew/

DOCUMENT APPROVAL & TRACKING

Item	Contact	Date	Approval
Owner	UNMHSC Privacy Officer		
Committees	UNMH PPG Committee		
Official Approver	CEO, UNMH		
Official Signature	On SharePoint	1/11/2018	
Effective Date		1/11/2018	
Origination Date		10/1997	

ATTACHMENTS

Form: Consent for Photography/Videotaping/Filming/Imaging



UNM HOSPITALS

Consent for Photography/Videotaping/Filming/Imaging

Patient or Participant's Name (please print)

Medical Record Number (if applicable)

Date of Consent

Patient or Participant's Street Address

City

State

Zip Code

Patient or Participant's Telephone Number

Pt/Participant's DOB

Age

I hereby consent to being photographed, videotaped, filmed, or otherwise imaged at UNM Health Sciences Center. I understand and agree that these photographs, videotapes, films, or images may be used as indicated below (*check all that apply*):

- Educational activities involving UNMHSC staff and/or employees
- Educational activities outside of UNMHSC involving others besides UNMHSC staff and/or employees
- Research activities
- Legal purposes
- Public media, including news media, television, advertisements, public relations, or other _____

If applicable, I understand that the photographs, videotapes, films, or images may include or disclose information about my (*check all that apply*):

- treatment for alcohol and/or drug abuse
- psychiatric or mental health care
- AIDS (acquired immunodeficiency syndrome) or HIV (human immunodeficiency virus) status.

I understand that this consent may be revoked in writing at any time, except to the extent that action has already been taken in reliance upon this consent. Unless revoked or specified to expire as follows, this consent will not expire.

Date, event, or condition specifying expiration: _____ .

Additional comments or qualifications (if any): _____

The University of New Mexico, its employees, officers, staff, and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized herein.

Signature of Patient, Participant, or their Legal Representative

Name (please print)

Date

Signature of Witness

Name (please print)

Date

Title: Photography of Patients
Owner: Privacy Office
Effective Date: 1/11/2018