



WEST HAWAII REGION

Title: PHOTOGRAPHY, VIDEO, AUDIO, AND ELECTRONICALLY RECORDED DATA	Reference #: 2389 Version: 1
Owner: Tai Vuniwai (Regional Chief HR Officer, Human Resources)	Date Approved: 12/16/2021 Last Review Date: 12/16/2021

DEFINITIONS:

For the purposes of this policy, “photography or recording” refers to recording an individual’s likeness (e.g., image or picture) or voice using photography (e.g. cameras or cellular telephones), audio recording (e.g., a tape or digital recorder), video recording (e.g., video cameras or cellular telephones), digital imaging (e.g., digital cameras or web cameras), or other technologies capable of capturing an image or audio data (e.g., Skype). This does not include medical imaging such as MRIs, CTs, laparoscopy equipment, or images of specimens.

PURPOSE:

As responsible health care providers, the West Hawaii Region of HHSC, which includes Kona Community Hospital (KCH) and Kohala Hospital (KOH) must take reasonable steps to protect its patients, visitors, employees and other staff members from unauthorized photography or recording. Due to the sensitive nature of patient information and to protect patient privacy, the policies and guidelines below apply to all photography, imaging, audio, video, or other electronic recording of patients, visitors, employees, or other persons present within KCH and KOH facilities.

POLICY:

To facilitate compliance with the Health Insurance Portability and Accountability Act (HIPAA) and regulations and guidelines promulgated thereunder, as well as to ensure that KCH/KOH is able to effectively provide the highest quality treatment for its patients, the following policies apply to all photography or recording in KCH/KOH facilities. These policies apply to patients, family members, visitors, other third parties, employees, and other KCH/KOH staff members as set forth below:

I. Policy Regarding Photography or Recording by Patients, Family Members, Visitors, and other Third Parties

The following guidelines apply to all photography or recording by patients, family members, visitors, and other third parties. The photography and recording policy applicable to patients, family members, visitors, and other third parties should be prominently posted on signs throughout the hospital.

1. Patients, family members, and/or the patient’s visitors are generally permitted to take photographs or recordings of one another, related to the patient who is being visited,



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unless otherwise instructed by KCH/KOH staff, provided that such activity complies with the guidelines below.

2. Patients, family members, visitors, and other third parties are prohibited from photographing or recording KCH and KOH personnel, equipment, or facilities.
3. Photography or recording is prohibited in the emergency department.
4. The Patient, the patient's family members, and the patient's visitors are prohibited from photographing or recording other KCH/KOH patients without obtaining KCH/KOH's consent.
5. Medical equipment or set-up should not be moved to accommodate photography or recording.
6. Patients, family members, visitors, and other third parties are prohibited from taking photographs or recordings for insurance and/or legal purposes without KCH/KOH's consent.
7. KCH/KOH reserves the right to prohibit any photography or recording for any reason, or for no reason.
8. Dissemination, and/or, distribution of prohibited photographs or recordings by employees will be considered a violation of the KCH/KOH Code of Conduct, and the Zero Tolerance Workplace Disruption policy, and is subject to progressive corrective action up to, and including, termination.

II. Procedure for Inappropriate Photography or Recording by Patients, Family Members, Visitors, and Other Third Parties

1. If a patient, family member, visitor, or other third party is engaging in photography or recording in violation of the above guidelines, the patient, family member, visitor, or other third party should be given a copy of the above policy and politely asked to cease the inappropriate photography or recording.
2. If a family member, visitor, or third-party refuses to cease the inappropriate photography or recording, the family member, visitor, or third party should be politely asked to leave the premises.
3. If the family member, visitor, or third-party refuses to leave the premises, KCH/KOH's Security should be notified.
4. If the family member, visitor, or third-party refuses to leave after being asked by KCH/KOH's Security, law enforcement should be called to remove the family member, visitor, or third party from the hospital.
5. KCH/KOH personnel should never discontinue or deny treatment of the patient due to violation of the photography or recording policy.

III. Policy Regarding Photography or Recording for Clinical Purposes

1. When taking photographs or recordings of patients for clinical purposes, patients should be so advised. Any such photographs or recordings should also be made a part of the patient's medical record.



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2. Identification showing the patient's name, date, medical record number, and/or photographer's name should be affixed to the back of each photograph.
3. Any such photograph, video, or recording should be released and/or used only as authorized or required by law.
4. Any such photograph, video, or recording should be made only with hospital-owned equipment.
5. Any photograph, video, or recording of a patient made for clinical purposes should be deleted from the hospital's equipment once they have been placed in the patient's medical record.

IV. Policy Regarding Photography and Recording by KCH/KOH Personnel for Non-Clinical Purposes

1. KCH/KOH employees, staff members, or other personnel affiliated with KCH/KOH are prohibited from taking any photographs or recordings for non-clinical purposes except as otherwise provided below.

V. Policy Regarding Photography or Recording for Education and Training Purposes

When taking photographs or recordings for education and training purposes, the following guidelines should be followed:

1. Before taking any photographs or recordings for education or training purposes, written consent shall be obtained from the patient (or authorized legal representative) using the following forms:
 - a. The "Consent and Release to Use Photography or Recordings" Form.
 - b. The "HIPAA Authorization to Release Health Information for Educational, Training, Marketing, or Promotional Activities" Form.
2. A health care provider, or appropriately delegated person, is responsible to explain to the patient (or authorized legal representative) why a consent document and/or HIPAA Authorization is required by describing:
 - a. The purpose of taking the photography or recording; and
 - b. The proposed use(s) of the photography or recording (e.g., education or training purposes).
3. The photograph, video, and/or recording should not include the patient's family or visitors.
4. The photograph, video, and/or recording should be retained by the physician or administrator who requested the photograph or recording for such purposes. The



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patient's medical record should note that photographs and recordings were taken for such purposes.

5. A patient may revoke consent as set forth in the forms. No further use or disclosure shall be made of the photography or recordings after a written revocation is received from the patient or authorized legal representative.

6. Any such photograph, video, or recording should only be made with hospital-owned equipment.

VI. Policy Regarding Photography or Recording for Marketing or Promotional Purposes

When taking photographs or recordings for marketing or promotional purposes, the following guidelines should be followed.

1. Before taking any photographs or recordings for marketing or promotional purpose, written consent shall be obtained from the patient (or authorized legal representative) using the following forms:

a. The "Consent and Release to Use Photography or Recordings" Form.

b. The "HIPAA Authorization to Release Health Information for Educational, Training, Marketing, or Promotional Activities" Form.

2. A health care provider, or appropriately delegated person, is responsible to explain to the patient (or authorized legal representative) why a consent document and/or HIPAA Authorization is required by describing:

a. The purpose of taking the photography or recording; and b. The proposed use(s) of the photography or recording (e.g., marketing or promotional purposes).

3. A patient may revoke consent as set forth in the forms. No further use or disclosure shall be made of the photography or recordings after a written revocation is received from the patient or authorized legal representative.

4. Any such photograph, video, or recording should only be made with hospital-owned equipment.

RELATED DOCUMENTS Consent and Release to Use Photography or Recordings
HIPAA Authorization to Release Health Information for Educational, Training, Marketing, or Promotional Activities