

**Policies and Procedures, Corporate**

**This policy is in effect for Children's Hospital of The King's Daughters Health System (CHKDHS) to include the following subsidiaries:** Children's Hospital of The King's Daughters, Incorporated(CHKD), Children's Medical Group, Inc., and Children's Medical Group of North Carolina, Inc. (CMG), Children's Surgical Specialty Group, Inc. (CSSG), and Spectrum, Inc.

Individuals Reviewing: **Karen Mitchell** **Joseph "Sandy" Black**  
**VP/Patient Care Svcs** Dir. Enterprise Risk Mgmt  
 & Regulatory Svcs

**Tina Allen** **Joe Hooks** **Lisa Pinks**  
 Dir. Compliance & Internal Dir. Information Svcs/ Compliance Manager  
 Audit, Corporate Compliance & Chief Technology Officer  
 Privacy Officer

**Policy No.:** C3300.1 **Effective Date:** February 13, 2019 **Previous Revision:** April 24, 2018

Dates Reviewed:

3/94	11/94	6/97	5/00	11/03	9/06	12/06	4/10	3/12	5/15
02/16	4/18	2/19							

**SUBJECT: PHOTOGRAPHIC/VIDEO/AUDIO RECORDINGS OF PATIENTS AND CHKDHS WORKFORCE FOR TREATMENT PURPOSES**

**POLICY:** Recordings by CHKDHS workforce are made only in compliance with this policy for diagnostic/treatment purposes and/or internal educational use.

No individual (to include patients, parents, visitors and family members) other than a CHKDHS workforce, shall make any recordings during the provision of health care services. Limited exceptions in extraordinary circumstances must be approved by administration. Questions regarding exceptions shall be directed to the Director of Enterprise Risk Management & Regulatory Services.

**Definitions: Recording: any type of photograph, video, audio or any other type of reproduction of a patient's image or voice.**

**Workforce: Employees of or other persons affiliated with Children's Hospital of The King's Daughters Health System (CHKDHS).**

**PURPOSE:** To outline policy and guidelines for recording patients and CHKDHS workforce for treatment and educational use.

**OBJECTIVE:** To protect patients' and CHKDHS workforces' right to privacy and confidentiality, to ensure that recordings do not interfere with patient care, and to prohibit the improper use and disclosure of recordings.

**PROCEDURE:**

**Recordings of CHKDHS patients and CHKDHS workforce by CHKDHS workforce**  
 Recordings by CHKDHS workforce of patients, families, visitors, CHKDHS workforce or any PHI is strictly prohibited unless specifically permitted under this policy. Such recordings by CHKDHS workforce for personal use are strictly forbidden.

- A.** Recording of patients by CHKDHS workforce shall only be made on Health System owned devices, except where expressly stated in this policy.
  - a.** All devices must be confirmed by the CHKDHS Information Security Department (IS) as secured/encrypted before recording. If unsecure, contact the IS Team for assistance.

**B.** Exception: recordings taken while a patient is under anesthesia or sedation require consent. Consent for photography while under anesthesia or sedation is covered under the operative/procedure consent form. Should the patient or parent/legal guardian strike through that portion of the consent, no photography is allowed while under anesthesia or sedation.

**C. For internal diagnostic, treatment, and/or quality improvement not requiring consent/authorization from patient/parent/legal guardian:**

- a. The following approved recordings are permitted without authorization or consent:
  - i. All images needed in support of diagnosis or treatment including but not limited to radiographic images and scans, endoscopic images, etc.
  - ii. Recordings taken by a Health System health care provider participating in the care of the patient that are not recognizable: face and other identifying features are not recorded.
  - iii. Recordings of burn patients, to include burns on the face, may be taken for patient care purposes only. The recordings must be maintained in the medical record.
  - iv. Abuse or Neglect: Written consent is not required for recordings or interviews of patients by physicians or law enforcement officials for purposes of the investigation or proof of suspected cases of child abuse or neglect.
  - v. Recordings made for internal quality assurance/performance improvement purposes (e.g., trauma and resuscitation):
    1. Recordings taken for these purposes must be recorded on Health System devices and stored in a secure fashion for review by the performance improvement team assigned to the program in question. These activities are protected from discovery in accordance with the Code of Virginia Section 8.01-581.17 and federal law. In addition, they are collected within CHKD's Patient Safety Evaluation System and specifically designated as a Patient Safety Work Product, and as such are privileged and confidential pursuant to the Patient Safety Quality Improvement Act. Dissemination of such quality assurance/performance improvement information as may be required by agencies such as federal review agencies, regulatory bodies or accreditation organizations shall not be intended to create any waiver of the privilege created under Virginia law. Disposal will occur 90 days following recording.
    2. Trauma and Resuscitation video recordings are to be used for the purpose of performance improvement opportunities only; the recordings are to be reviewed as part of the trauma and resuscitation program performance improvement initiatives.
    3. The video recording system is stored in a locked IS technology room in the CHKD Emergency Department and secured in a password protected computer. Only relevant workforce members shall have access to the computer password.
    4. The video recording system shall record 24 hours per day.
    5. The recordings are used for a limited purpose, viewed only by persons involved in performance improvement matters relating to the event and will be deleted after performance improvement reviews are completed by the CHKDHS Trauma Program Manager, CHKDHS Trauma Program Medical Director, CHKDHS Chair of Resuscitation Outcomes Committee and/or CHKDHS Trauma Education Specialist but no later than thirty (30) days after the event.
    6. The CHKDHS Trauma Program Manager can save recordings for second review by the CHKDHS Trauma Program Medical Director, CHKDHS Chair of Resuscitation Outcomes Committee, CHKDHS Trauma Education Specialist or

assigned team members as needed but no longer than 60 days after the date of the trauma event.

- b. Identifiable recordings must be taken and maintained on secured Health System devices when available.
- c. In the rare instances where the recording cannot be de-identified and must be transmitted for diagnostic and treatment purposes on an unsecured device, the attached consent form #2577, Authorization To Use Or Disclose Radiology & Photography Images (PHI) Via UNSECURED Electronic Messaging for Provision of Medical Treatment, must be completed.
- d. When a secured Health System device is not available for use, de-identified recordings and photographs can be taken by clinicians on personal devices to electronically send images or records but must be deleted from the device immediately. By taking said recordings:
  - i. The workforce member takes personal responsibility for the security of recording;
  - ii. The recording is not uploaded to another personal device nor to any personal social media site(s); and
  - iii. The recording is deleted as soon as its purpose has been completed and before the personal device leaves the Health System grounds.
- e. Personal devices, such as smartphones and personal cameras must have the location services feature turned off before taking the image or recording (you may contact IS for assistance if necessary).
- f. Recordings and images may be transported or uploaded to thumb drives and other portable storage devices as long as the device is encrypted and the images are deleted immediately after use (**NOTE:** Use of thumb drives is discouraged).
- g. Images and recordings taken of patients for clinical purposes should be of a quality that is effective and easily reviewed by others. The following are required for taking de-identified images and recordings:
  - i. Ensure camera focus is limited to the area of diagnostic interest, i.e.; close up for skin diseases, broader views for larger areas, etc.;
  - ii. Use a rigid ruler or tape measure next to the area of interest if size perspective is desired;
  - iii. Limit patient facial identification if at all possible:
    - 1. Avoid taking images of the patient's face/eyes. Block out eyes on image afterwards if necessary.
    - 2. If area of interest is around the eyes, take a close up view to avoid showing the rest of the face.
    - 3. Utilize a drape to cover unnecessary patient identifiers such as facial features unnecessary to the photo and any tattoos that may appear in the photo.

**D. Disposition of Images upon separation from the Health System:**

- a. CHKDHS retains ownership of images or recordings made with personal cameras, film, equipment or other supplies if those images or recordings are obtained as a result of a professional relationship established related to hospital affiliation.
- b. Clinicians who leave employment or affiliation with the Health System, who need to take copies of patient photos or case information, **must**:
  - i. Obtain approval from the Compliance, Privacy and/or IT Security Officers; and
    - 1. Ensure that patient identifiers are removed making them de-identified; or
    - 2. Have a signed authorization from the patient, parent or legal guardian allowing the specific individual to retain the image and information. A copy of the authorization must be sent to the CHKD Health Information Management Department (HIM) for filing in the medical record; and
    - 3. Be stored in a secure manner.
  - ii. Agree to indemnify and hold harmless Children's Health System, Inc. and its subsidiaries from and against any and all claims, losses, obligations penalties and liabilities of any nature whatsoever arising

from or in connection with the clinicians negligent acts or omissions, willful misconduct or failure to comply with then current CHKDHS policies and procedures when remotely accessing or syncing mobile devices with any CHKDHS information system, platform, or other CHKDHS information technology, including without limitation, the clinicians transferring, storing, accessing, modifying or otherwise using remote access or syncing mobile devices involving or related to proprietary CHKDHS data or information or CHKDHS protected health information (PHI), as such term is defined in the Health Insurance Portability and Accountability Act and the regulations adopted thereunder ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH").



Children's Hospital of The King's Daughters Health System  
601 Children's Lane, Norfolk, VA 23507-1910

MR #:
-------

**Authorization To Use Or Disclose Radiology & Photography Images (PHI)**  
**VIA UNSECURED Electronic Messaging for Provision of Medical Treatment**

PATIENT NAME:	DATE OF BIRTH:
---------------	----------------

I AUTHORIZE: Children's Hospital of The King's Daughters Health System, Inc.(CHKDHS)  
601 Children's Lane, Norfolk, VA 23507-1910

TO DISCLOSE: Radiology images and/or photographs with patient identifiers on the patient identified above via  
**UNSECURED ELECTRONIC MESSAGING**

TO: to CHKDHS physicians

FOR: Provision of care to the above named patient.

**RISKS OF MESSAGING UNSECURED IDENTIFIABLE IMAGES**

If the patient, parent or legal guardian is worried about any information being seen by other people, the patient, parent or legal guardian should NOT sign this authorization. Some of the possible risks include, but are not limited to, the following:

- a. Messages can be sent on to other people, stored on a computer, or printed out on paper for storage.
- b. Messages can be sent out and received by many recipients, some or all of whom may be sent the e-mail accidentally.
- c. Message senders can easily misaddress their message.
- d. Message information is easier to change than handwritten or signed documents.
- e. Message information may be kept on computers/electronic devices even after the sender or the recipient believes they deleted his or her copy.
- f. Employers and on-line services have a right to archive (store) and look at messages transmitted through their systems. Some, but not all, employers store e-mail, text, and other electronic messages indefinitely.
- g. Messages can occasionally be intercepted, changed, forwarded, or used without authorization or detection.
- h. Messages can be used to introduce viruses into computer systems.
- i. Messages can be used as evidence in court.
- j. Photographs may be taken with devices personally owned by Health System workforce members and could remain on the unsecured device indefinitely.

I understand that any disclosure of health information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal privacy rules.

I understand that I may revoke this authorization at any time except to the extent action has been taken in response to this authorization. I also understand that the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. I understand that if I revoke this authorization I must do so in writing and present my written revocation to Health Information Management, Children's Hospital of The King's Daughters, 601 Children's Lane, Norfolk, VA 23507-1910. (The written revocation must be legible and include the name and date of birth of the patient, the date the revocation is to go into effect, a description of the health information covered by the revocation, the person/entity no longer authorized to receive the information, the signature of the person with legal authority for authorization/revocation, and if not the patient, a description of their legal authority for authorization/revocation, and their phone number.)

Unless otherwise revoked, this authorization will expire **in three (3) DAYS**.

I may refuse to sign this authorization and my refusal to sign will not affect my ability to obtain treatment, payment or my eligibility for benefits.

I acknowledge that I have read and fully understand the information above regarding the risks of using unsecured electronic messaging. I understand the risks associated with the communication of unsecured electronic messages, and I authorize release of this protected health information via unsecured electronic messaging. Additionally, I certify that I am the patient, the patient's parent or legal guardian with the authority to authorize disclosure of this patient's protected health information.

_____	_____
SIGNATURE OF PATIENT/LEGAL GUARDIAN	DATE

\_\_\_\_\_  
RELATIONSHIP TO PATIENT/LEGAL AUTHORITY

**CHKDHS IS REQUIRED TO GIVE PATIENT/LEGAL GUARDIAN A COPY OF THIS AUTHORIZATION.**  
CHKD Form 2577 ver 3/13