

PRIVACY 13.0

PHOTOGRAPHS, VIDEOTAPES AND OTHER RECORDINGS OF PATIENTS

Scope: All [workforce](#) members (employees and non-employees), including employed medical staff, management, and others who have direct or indirect [access](#) to patient [protected health information \(PHI\)](#) created, held or maintained by any subsidiaries of Universal Health Services, Inc., including facilities and UHS of Delaware Inc. (collectively, “UHS”), including UHS [covered entities](#) (“Facilities”).

Purpose: Describes when photographs, videotapes and other recordings are allowed to be taken of patients and the purposes and manner in which these may be [used](#) or [disclosed](#).

Definitions:

Terms not defined in this Policy or the *HIPAA Terms and Definitions* maintained by the UHS Compliance Office will have the meaning as defined in any related State or Federal privacy law including the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (“HHS”) at 45 CFR Part 160 and 164, Subparts A and E (“Privacy Regulations” or “Privacy Rule”) and Subparts A and C (“Security Regulations” or “Security Rule”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) privacy and security provisions of the American Recovery and Reinvestment Act (Stimulus Act) for Long Term Care, Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (“ARRA”), Title XIII and related regulations.

Policy:

Photographs, videotapes and other recordings of a patient can contain [PHI](#), and any [use](#) or [disclosure](#) must comply with the [Privacy Rule](#) and this Policy, as well as applicable state laws. Photographs, videotapes and other recordings of a patient, when they include full face images and/or voices or other identifying information, are considered [PHI](#), and any [use](#) or [disclosure](#) must comply with UHS and Facility policies, the [Privacy Rule](#) and applicable state laws.

State law may impose additional requirements – Facilities will contact the UHS Legal Department if they have any questions regarding the state laws applicable to them.

Procedure:

PLEASE NOTE: Any request for a copy or reproduction of video or other images must comply with UHS Compliance Policy 9.1 *Facility Surveillance Video Camera Recording*. Any questions regarding copying facility surveillance video should be directed to the UHS Compliance Office.

Photographs, videotapes and other recordings may be **used** and **disclosed** as follows and if in compliance with applicable state laws:

- **Treatment** – **Facilities** may photograph, videotape or make other recordings of a patient for **treatment** purposes. When used for **treatment** purposes, they will be considered part of the patient's medical record and stored in accordance with the Facility's medical records policies. A photograph, videotape or other recording of a patient taken for **treatment** purposes may not be **used** or **disclosed** for any other purpose unless such **disclosure** is pursuant to this Policy and consistent with applicable state laws. For **disclosures** for **treatment** purposes please refer to UHS Privacy 5.0 *Use and Disclosure for Treatment, Payment and Health Care Operations*.
 - Storage and Retention – **Facilities** will maintain photographs, videotapes and other recordings of patients taken for **treatment** purposes in accordance with their policies on maintaining medical records and state law.
 - Documentation of Abuse and Neglect – **Facilities** may photograph, videotape or make other similar **visual** images of a patient for purposes of documenting abuse and/or neglect. The images will be considered to be **used** for **treatment** purposes. The photograph or other images will not be **disclosed** to **law enforcement** unless such disclosure conforms with UHS Privacy 16.0 *Disclosures for Law Enforcement Purposes*.
- **Health Care Operations** - **Facilities** may photograph, videotape or make other similar **visual** images of a patient for purposes of **health care operations**. The Facility must use and disclose only the minimum amount necessary for **health care operations** purposes in accordance with UHS Privacy 6.0 *Minimum Necessary Policy* and UHS Privacy 5.0 *Use and Disclosure for Treatment, Payment and Health Care Operations*.
 - Security Cameras – **Facilities** may use security cameras on their premises. The images of patients from such cameras will be considered part of **health care operations**. **Use** and **disclosure** of patient-related security camera photography or video will be restricted to the **minimum necessary** to accomplish the purpose and

be consistent with UHS Privacy 5.0 *Use and Disclosure for Treatment, Payment and Healthcare Operations* and UHS Privacy 6.0 *Minimum Necessary Policy*.

- Disclosures to Law Enforcement – Facilities may **disclose** photographs, videotapes or other recordings to law enforcement officials if and to the extent the disclosures are made in accordance with UHS Privacy 16.0 *Disclosures for Law Enforcement Purposes*.
- Authorization – In addition to the other situations described in this Policy, **Facilities** may take, **use** and **disclose** photographs, videotapes or other recordings of a patient pursuant to a valid authorization that explicitly permits the taking, **use** and **disclosure**. **Using** and **disclosing** on this basis will be limited to those **uses** and **disclosures** specified in the authorization. The authorization will comply with UHS Privacy 3.0 *Use and Disclosure Requiring Authorization*.
 - Marketing – **Facilities** will *not* use a photograph, videotape or other image of a patient for **marketing** efforts without express authorization from the patient.
- Research – If an Institutional Review Board (IRB) overseeing a **research** protocol approves taking photographs, videotapes or other recordings of the patient for **use** in a **research** protocol, the photographs or videotapes and other recordings will be stored and maintained in the **research** record (not in the patient’s medical record, unless the images have the dual purpose of being taken for treatment purposes of the subject while he or she is a patient of the Facility, in which case a copy would be maintained in accordance with the Facility’s medical records policies). **Uses** and **disclosures** are limited to the purpose explicitly stated in the IRB-approved **research** protocol and an executed **research** consent form.
- Images made by Others – **Facilities** will not be responsible for obtaining authorization from the patient for photographs, videotapes or other recordings taken of the patient by the patient, the patient’s family and others visiting the patient who are not members of the Facility’s **workforce**. **Facilities** will attempt to limit taking of photographs, videotapes or other recordings by a patient, a patient’s family or others visiting the patient if they become aware that these images or recordings would include another patient.
- Unauthorized Photography, Videotapes or Other Recordings– If the Facility becomes aware of any photograph, videotape or other recording that does not comply with this Policy, the Facility Privacy Officer will be notified. The Facility Privacy Officer will take steps to mitigate and prevent further unauthorized **uses** or **disclosures**, which may involve confiscating the unauthorized material. The Facility Privacy Officer may initiate

an investigation into the [use](#) and [disclosure](#) of the unauthorized material and determine whether notification is required pursuant to UHS Privacy 2.0 *Breach Notification*.

References:

45 C.F.R. §164.514

Related UHS Policies:

UHS Privacy 2.0 *Breach Notification*

UHS Privacy 16.0 *Disclosures for Law Enforcement Purposes*

UHS Privacy 6.0 *Minimum Necessary Policy*

UHS Privacy 5.0 *Use and Disclosure for Treatment, Payment and Health Care Operations*

UHS Privacy 3.0 *Use and Disclosure Requiring Authorization*

UHS Compliance 9.1 Facility Surveillance Video Camera Recording

Revision Dates: 10-12-2017; 11-16-2015;
07-22-2013

Implementation Date: 07-25-2011

Reviewed and Approved by:

UHS Compliance Committee