

## Administrative Policy Manual

### Title: Audio Records and Photographic Images of Patients or Hospital Personnel

<b>Women's College Hospital</b>		<b>Policy No:</b>	1.110.007
<b>Title</b>	Audio Records and Photographic Images of Patients or Hospital Personnel	<b>Original:</b> (mm/dd/yyyy)	03/07/2012
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<b>Issued by:</b>	Privacy Office		
<b>Approved by:</b>	Medical Advisory Committee		

Women's College Hospital Intranet document is considered the most current.

### Policy Statement:

Women's College Hospital is committed to protecting the privacy and confidentiality of its patients, visitors and staff; as such, the hospital does not permit the use of photographic images or audio records to be taken while on hospital premises. There is significant risk involved in using a personal digital device including personal cell phone cameras, smartphones, tablets or personal cameras, to take images of patients or personal health information (loss, theft, etc.)

In the course of performing its patient care, research, teaching and administrative functions, Women's College Hospital may create, use and disclose photographic images and audio records subject to the patient's express documented consent. (except as otherwise required or permitted by law). Patients may request a photographic image or audio record related to their treatment or care subject to the consent of any other subjects who may be included. Unauthorized use or disclosure of a photographic image may be considered a breach of patient privacy.

### 2.0 Overview:

Where it is possible to identify the patient from photographic images of them or of parts of their body, or audio records, whether created for clinical or non-clinical use, such photographic images and audio records are considered personal health information, and will be protected in accordance with applicable legislative requirements. If the images or audio are created for clinical purposes they will be retained in the patient health record.

Photographic images, audio, and video of hospital staff, physicians or volunteers constitute personal information relating to the subject and, as such, should be protected against unauthorized collection, use and /or disclosure.

### 3.0 Scope

This policy applies to all WCH patients, employees, physicians, trainees and volunteers and includes all audio records and photographic images created of a patient. It also includes photographic images provided by a patient, as applicable. Exceptions:

- photographic images created for REB studies for non-clinical purposes only (REB protocols and approvals required)
- radiographic or ultrasonic images;
- cardiac imaging, including waveforms
- macro or micro photography of pathological specimens;
- ophthalmic and endoscopic images;
- photographic images created for security purposes; and
- audio records and photographic images created by Strategic Communications.

### Definitions:

**Clinical Use:** means to document clinical progress or the clinical plan of care.

**Non-Clinical Use:** means for any purpose other than documenting clinical progress or the clinical plan of care.

**Photographic Image:** any still, digital or moving image of a patient regardless of the technology used to create the photographic image including but not limited to a camera, personal digital assistant, cellularphone camera, film, videotape, or photographic image scanning device.

**Audio Records:** Any reproduction or broadcasting of sound and or conversation, including a patient, with and/or without visual image(s), regardless of the technology used to create it including but not limited to a camera, personal digital assistant, cell phone, film or videotape

### 4.0 Policy

#### 4.1 Consent

1. Photographic images and audio records should only be created with the prior express consent of the patient or the patient's legally authorized substitute decision-maker.
2. For patients undergoing surgical procedures, the patient's consent should be obtained pre-operatively.
3. If prior consent was not obtained pre-operatively, or in the case of an unconscious or incapable patient, it should be obtained at the first opportunity and prior to use or disclosure of the photograph. If the photographic image was created for clinical purposes and they do not consent to further use or disclosure, it continues to be part of the health record. If it was created for non-clinical purposes and the patient does not consent to use or disclosure, the photograph should be destroyed.
4. In all cases, care should be taken to respect the dignity, ethnicity and religious beliefs of the patient. Those involved in seeking consent should be sensitive to the fact that some individuals find the

taking of photographic images a violation of their cultural or religious beliefs.

5. Where an individual other than the most responsible physician wishes access to the patient for the purpose of creating photographic images or audio records, the most responsible physician or delegate should be consulted and may, on medical grounds, deny access to the patient if he or she believes the patient's clinical condition may be adversely effected.
6. The consent of all subjects who will be captured in the photographic image or audio record should be obtained.
7. Taking photographic images or making audio records that include subjects other than the patient should be avoided.
8. If an image has captured a subject whose consent has not been secured, the image should not be used until consent is obtained or the subject is erased from the image. If neither of these are possible, the photographic image should be destroyed unless it would be deleterious to the patient.
9. If an audio record has captured a subject whose consent has not been secured, the audio record should be destroyed unless that would be deleterious to the patient.
10. Photographic images and audio records must only be used for the purposes as agreed upon in the original consent unless further consent is provided.
11. If a patient withdraws consent, any photographic images or audio records should not be further used or disclosed except where the photographic image has been published (for internal or external use). If the image was created for clinical purposes, it will be retained in the patient's health record.
12. Copies of photographic images and audio records provided to the subject patient must be stamped "Patient Copy".

#### 4.2 Storage

1. If a photographic image or audio record was created for clinical purposes, it should be digitally stored within the ambulatory electronic patient record (aEPR) and attached to the appropriate medical record number (MRN). Images that cannot be digitally stored in the aEPR must have the patient clearly identified and must be forwarded to the Health Information department so that it is retained as part of the patient's health record, in accordance with the *Management of the Patient's Health Record* policy and the hospital's *Retention/Destruction of Corporate Records* policy.
2. The original (unaltered version) of all photographic images should be stored on a secure password protected network drive dedicated to this purpose.
3. If a photographic image or audio record was created for clinical purposes and it is required for follow up care, the image should be made available in the aEPR, where it can be viewed (accesses of the image will be appropriately audited).
4. In the case of a digital photographic image, the original, without any manipulation, should be retained. Photographic images may be manipulated only to enhance the quality or to delete

those whose consent was not obtained. If the photographic image has been manipulated to enhance the quality (brightness, colour, contrast), both the original and the enhanced copy should be stored to demonstrate the manipulation was done for one of the two permitted purposes rather than to change the image.

5. With the exception of photographic images and audio records that are part of the patient's health record, all photographic images and audio records should be retained only as long as required to fulfill the purpose for which they were created.
6. Care must be taken to ensure that photographic images and audio records are stored in a private and secure manner consistent with the hospital's privacy policy.
7. Identifiable photographic images and audio records must not be stored on personal computers or any other personal electronic device.
8. These requirements also apply to photographic images provided by the patient for clinical purposes.

#### **4.3 Devices**

1. Any photographic images created for clinical purposes should be created using a high-resolution device.
2. Devices appropriately secured with the hospital's IM&T mobile device management (MDM) software may be used for the capture of clinical images, but only in circumstances where the image file will at no point reside on the device in question. (as is the case w/ EPIC's Haiku and Canto solutions).
3. It is recommended that departments/divisions maintain designated photographic equipment to be used for the sole purpose of taking photographic images of patients. Whenever possible, photographic images of patients should be created using this designated photographic equipment. Such equipment should be kept in a secure, locked location and not taken from the hospital. If appropriate, a record including the date, time, name of person and purpose should be kept of each time the designated equipment is accessed
4. Transmittal of digital images must be only through secure OneMail service and print copies made only through hospital Audiovisual services or on hospital issued equipment.

#### **4.4 Images of WCH Employees, Physicians or Volunteers**

1. All individuals including patients, families and visitors should obtain the consent of all subjects including employees, physicians, and volunteers, prior to creating images (photographic images or audio records) that include them.
2. When an employee, physician or volunteer provides consent for the creating of images in which he/she is a subject, that consent should be documented in the health record as appropriate.
3. If an image is created of an employee, physician or volunteer without the consent of the subject, the subject may request deletion of the image.