

Title: Photography, Videography, and Audio Recording for Clinical Research and Educational Purposes

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Location: Saint Joseph Regional Medical Center (SJRMC) – Mishawaka & Plymouth		Department: Medical Staff Services (14001_80012)

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POLICY:

Saint Joseph Health System ("SJHS") is committed to providing safe, high quality healthcare to all of our patients. In recognition of the value of information obtainable through the capture of multimedia imaging to patient diagnosis, treatment, as well as patient and professional education, and in order to maintain the highest standards of protection of personal health information ("PHI") and patient safety and dignity, this policy establishes the guidelines for obtaining and managing media for clinical, research, and educational purposes.

For the purposes of this policy, "Clinical Media" is defined as any photography, videography, audio recordings, or any other multimedia depicting a patient which is obtained and/or documented by clinical providers. Clinical Media includes, but is not limited to:

1. Pictures of pressure ulcers or other skin wounds or rashes;
2. Videography of procedures (endoscopy, laparoscopy, etc.);
3. Images illustrating abuse, neglect, assaults, or accidents;
4. Images of pediatric patients taken for purposes of identification;
5. Images of other operative procedures for purposes of patient and/or professional education.

This policy does not govern Clinical Images obtained for the purpose of clinical patient care transmitted over protected text messaging platforms (such as DocHalo, Haiku, etc.)

Clinical Media may be appropriate for the diagnosis and treatment of medical conditions as well as professional and patient education. Collection of Clinical Media can be accomplished through a variety of multimedia technology to collect, analyze, and store PHI. Use of these media forms will be carefully controlled and executed in compliance with all state and federal regulations as well as other organizational policies and procedures.

This policy applies only to the multimedia imaging performed by clinical providers. Any other imaging obtained for non-clinical, non-research, or non-educational usage, or obtained by non-providers (including patients and family members or hospital marketing/public relations staff for marketing purposes) is addressed by the separate applicable policies currently in effect at SJHS.

Failure to follow this policy may result in loss of privileges to obtain and use Clinical Media and/or further disciplinary action as determined by review by the Medical Staff Professional Practice Council or other appropriate Medical Staff body.

PROCEDURE:

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1. **Consent.** The patient (or his/her representative) must give prior, written informed consent before Clinical Media are collected. General admission and surgical consent forms may not be utilized for obtaining Clinical Media. Consent for collection and use of Clinical Media is documented on a separate and distinct form. This consent form will include statements confirming that the patient (or his/her representative):
 - a. must be informed of the use and purpose of Clinical Media prior to image capture
 - b. has the right to refuse; and
 - c. has the right to withdraw consent at any time by notifying the clinical provider.

See Exhibit A – Consent to Photography, Videography, and Audio Recording for Clinical, Research, and Educational Purposes.

2. Collection of Clinical Media; Equipment Used

- a. Collection of Clinical Media will be limited to the purposes set forth above in this Policy. Providers will obtain only the amount of Clinical Media necessary to achieve legitimate, clinically-related goals for the care, treatment, and education of patients, their care team, and/or other healthcare professionals.
- b. All Clinical Media will be solely obtained and stored on SJHS-purchased and maintained equipment. Collection of Clinical Media is not allowed by clinical care providers on their individually owned camcorders, digital or film cameras, cellular phone cameras, or other personal equipment. Use of personal devices in obtaining, storing, or transmitting Clinical Media will be referred for disciplinary review by the Medical Staff Professional Practice Council or other appropriate Medical Staff body.
 - i. If, however, the patient consents to use of Clinical Media for research or educational purposes (*e.g.*, for use by a physician in a conference presentation), properly deidentified Clinical Images may be copied from the medical record and transmitted to the individual responsible for the research/educational material and storage/use shall be limited to that purpose. The images must be copied to encrypted storage devices only.
- c. Media that will not be incorporated into the medical record (*e.g.*, blurry images, unintended image captures, images of poor quality) must be deleted in real time, as contemporaneous with collection as possible.

3. **Storage of Clinical Media; Recordkeeping.** All Clinical Media will be stored and maintained on SJHS-purchased and maintained equipment (*e.g.*, memory cards, hard drives) or on the SJHS electronic health record system, except as provided in paragraph 2(b)(i), above.
 - a. Once created, Clinical Media become a permanent part of the legal health record and can be released as such according to federal and state laws. Clinical Media will be maintained in accordance with all organizational record retention policies and procedures. Clinical Media that is particularly sensitive in nature may require additional measures of storage to assure adequate safeguards.
 - b. Clinical Media must be placed in an identifiable and retrievable part of the electronic

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health record with the appropriate patient identifiable information (name, medical record number, account number, date of admission, attending physician).

- c. Original media must be incorporated into the medical record in real time, as contemporaneous with collection as possible. Once uploaded to the medical record, original media must be deleted from any memory card and/or device used for collection.

4. **Disclosure of Clinical Media.** Any disclosure of Clinical Media is considered the release of PHI and must follow all applicable SJHS policies, and federal and state laws.

REFERENCES/STANDARDS:

- Policy Origin Date: January 2020
- Review Date: February 2020
- Revised Date:
- Effective Date: March 2020
- Reviewed/Recommended By: Medical Executive Committee
- Policy 230

Exhibit A – Consent to Photography, Videography, and Audio Recording for Clinical, Research, and Educational Purposes

I authorize Saint Joseph Health System ("SJHS") to obtain, store, and/or release photographs, videos, and/or audio recordings depicting medical conditions and procedures ("Clinical Media") of myself

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(or of the person for whom I act as authorized representative) for the purposes I have designated below.

I understand that authorizing the collection and use of Clinical Media for any purpose is entirely voluntary. I may refuse to authorize the collection and use of Clinical Media for any or all of the purposes listed below, and that I do not need to authorize any collection or use of Clinical Media to assure treatment. I understand that I may withdraw this authorization or limit its scope at any time by providing Saint Joseph Health System with written notice of my wishes, with the exception of any images or information that have already been released as permitted by this authorization.

I hereby release and hold harmless Saint Joseph Health System, its employees, agents, representatives, and affiliates from any and all liability that might arise from the uses I authorize below. By consenting to the collection and use of Clinical Media, I hereby waive any right to compensation associated with their authorized uses.

The Patient or his/her representative initials next to all uses of Clinical Media he/she authorizes and signs the Patient Consent below:

I authorize SJHS to collect, store, and use Clinical Media:

[INITIAL HERE] _____ To aid healthcare providers in Patient's diagnosis, care, and treatment. Clinical Media will become part of Patient's medical record.

[INITIAL HERE] _____ For medical education, teaching, and training of SJHS physicians, staff, residents, students, and other medical professionals within SJHS facilities.

[INITIAL HERE] _____ For professional education, research, or publication outside of SJHS facilities, for example – as part of a presentation at a professional medical conference. Personally-identifying information will be removed from Clinical Media prior to such use. Other information which may be disclosed to accompany these Clinical Media includes, but is not limited to:

- Medical history
- Demographic information such as age and gender
- Related diagnostic test results, diagnoses, and prognoses
- Description of Patient's initial presentation, symptoms, and narrative account of illness.

I understand that I may inspect or copy any protected health information ("PHI") that is disclosed, as provided in 45 CFR 164.524. I understand that any disclosure of PHI carries with it the potential for an unauthorized re-disclosure and the PHI may not be protected by federal confidentiality rules. I further understand the despite disclosure of only deidentified medical information, third parties may be able to ascertain my identity from, e.g., unique clinical information combined with other

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outside knowledge. I hereby release and hold harmless Saint Joseph Regional Medical Center, its agents, representatives, and affiliates for any such third-party identification and its consequences.

PATIENT CONSENT

I certify that I have been given the opportunity to read the above information or have it explained to me, that I fully understand the above information concerning the collection, use, and purposes of Clinical Media, that I have received a copy of the above information, and that I am the patient (or duly authorized by the patient as his or her general agent to execute the above and accept its terms).

Patient Name (Printed): _____

Patient Signature: _____ Date: _____

If Patient is unable to consent or sign:

Agent/Representative Signature: _____ Date: _____

**PROVIDER
CERTIFICATION**

I certify that I have explained the above information and the reasons and uses for obtaining Clinical Media to the patient and/or the patient's representative. I have answered all questions and disclosed the potential benefits and risks of obtaining, using, and disclosing Clinical Media.

Provider Signature: _____ Date: _____