



Issuing Department: Internal Audit, Compliance, and Enterprise Risk Management

Effective Date: 4/1/2015
Reissue Date: 4/1/2024

Photography Policy

I. Policy Purpose

The purpose of this Policy is to outline NYU Langone Health’s requirements for the creation, use, and retention of photographic images in any format.

II. Applicability of the Policy

This Policy applies to employees, officers, faculty, medical staff, residents, fellows, students, volunteers, trainees, vendors, contractors, subcontractors, independent contractors, consultants, sponsored individuals, and agents of NYU Langone Health.

III. Definitions

Consent is the written documentation of the patient or the patient’s authorized representative’s agreement for an individual or entity to take photographic images or videorecordings.

Individually identifiable means the information (i.e., the photographic images) identifies the individual (i.e., patient) or there is a reasonable basis to believe the information can be used to identify the individual. This Policy also has been adopted by the Family Health Center at NYU Langone (the “FHC”); therefore, for purposes of this policy, “NYU Langone Health” also includes the FHC, and any entity controlled by it, except where specifically excluded.

Photography is the recording of a patient’s likeness by a number of visual means, usually by still photographs or video recordings in any medium, including film or electronic/digital format. Photography also includes live streaming of a patient’s likeness. Photography, for the purposes of this policy, does not include diagnostic imaging stored in PACS (picture archive communication system) (e.g., MRI, CT, Xray, Echo, ultrasound).

Protected health information (“PHI”) is any information (including demographic information) created, maintained, received, or transmitted by NYU Langone Health that relates to health status, provision of health care, or payment for health care and can be used to identify the individual.

IV. Policy

This Policy provides general guidance on several types of Photography that takes place at NYU Langone Health and specifically addresses Photography of patients in clinical and academic settings

The following behaviors related to Photography are not permitted:

1. Photography of patients without Consent, except as provided in this Policy.
2. Use of Photography beyond the scope of Consent.
3. Malicious use of Photography, regardless of Consent.
4. Including others (in addition to the consenting patient) in the image without proper Consent when indicated.
5. Any use of Photography to defame NYU Langone Health
6. Disrupting patient care through Photography.

Workforce members reserve the right to stop any Photography that is not permitted by this Policy, or any federal, state, or local laws and regulations.

A. Privacy

Individually identifiable photographs and video images of patients are considered PHI and are therefore protected by the Health Insurance Portability and Accountability Act (HIPAA) and New York State privacy laws. An image containing the individual's full face or any individually identifiable unique detail (e.g., a tattoo, birthmark, scar, intake bracelet, or similar marking) is considered identifiable. A patient's image may not be altered in any way to achieve anonymity and avoid the need for consent authorization.

Individually identifiable photographs may not be sent via text message because these are considered PHI. A secure messaging system, if approved and sanctioned by NYU Langone Health for use for PHI, may be used. Consult with the Privacy Officer as necessary to confirm. If the image must be transmitted electronically, the workforce member must use their NYU Langone Health e-mail account. If permitted by other policies and the image is to be sent outside of the institution (e.g., to non-@nyulangone.org or @nyu.edu accounts), Send Safe secure email must be used.

B. Types of Photography

a. Clinical

- i. Obtaining photographs for the assessment, diagnosis, treatment, consultation, or documentation of a condition or illness is considered clinical Photography.
- ii. Patient Consent is generally not required, but may be obtained, for clinical Photography if (1) the images are taken by a NYU Langone Health workforce member, with some exceptions described in this policy and (2) if they are not intended for publication or distribution. ~~Not~~ Written consent is always required for any video recording or live streaming
- iii. If a non-workforce member is involved (e.g., a professional photographer) or publication or distribution is intended, patient Consent is required. For certain encounters, this Consent is included in the patient's paperwork, for

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V. Procedures

A. General

1. Periodically check devices to ensure that photographs have been deleted, once properly stored in the record.
2. According to each department's procedures, appoint an individual to familiarize themselves with the device, to be able to instruct others on the use of the device and on the process to upload images to the electronic health record.
3. Periodically check the device to ensure it is working properly and has not been misplaced.

B. Clinical Photography

1. Only clinical care staff members (e.g., Physicians, Fellows, Residents, Physician Assistants, Nurse Practitioners, Nurses, and Medical Assistants), employees designated as medical photographers, or approved workforce members are permitted to take photographs for clinical Photography purposes, except that workforce members are not permitted to take photographs documenting suspected child abuse, domestic violence, and/or sexual assault.
2. Obtain patient Consent if required pursuant to this Policy, using the Consent for Surgery and/or Interventional Procedures and Medical Treatment, the Consent for Medical Photography, or the 2.Consent for Suracal Photography,2.e9.23 0 na</M6.462.2.

Epic Tip Sheets for Uploading Photographs, including Importing Photos and Haiku Clinical Image Capture
Filming, Videotaping, Photographing or Publicizing Medical Conditions or Care/Treatment for Personal or Professional Reasons at NYU Langone Health
Media Interviews, Filming, Videotaping or Photography on NYU Langone Health's Campus
Minimum Necessary Standard for Uses and Disclosures of PHI
Photographs of Suspected or Actual Abuse Victims, Taking of
Requests for Filming and Photography at NYU Langone Health Facilities for Commercial or Entertainment Purposes

VIII. Version History

April 1, 2015	Original Policy
November 3, 2016	Reviewed and Revised
December 21, 2017	Reviewed and Revised
April 30, 2018	Reviewed and Revised
August 1, 2019	Reviewed and Revised
August 1, 2022	Reviewed and Revised

This version supersedes all NYU Langone Health (as defined in this Policy) previous policies, including but not limited to NYU Langone Hospitals, NYU School of Medicine, Lutheran Medical Center and Winthrop University Hospital.