

OREGON STATE HOSPITAL

PORTLAND – SALEM

POLICIES AND PROCEDURES

SECTION 7: Patient Rights

POLICY: 7.003

SUBJECT: **Photographing, Videotaping or Naming
of Patients and Use of Audio/Video
Recording Devices**

POINT PERSON: **NANCY GRIFFITH
PROGRAM DIRECTOR PSYCHIATRIC RECOVERY
SERVICES**

APPROVED: **GREGORY P. ROBERTS**
SUPERINTENDENT



DATE: JANUARY 25, 2012

I. POLICY

- A. Photographs, videotapes, audio/video recordings or digital video recordings (DVRs) of patients for purposes of personal viewing by family and friends require written and informed consent of the patient or guardian and the Program Director. Photographs, videotapes, audio/video recordings or digital video recordings (DVRs) of patients for treatment purposes require written and informed consent of the patient or guardian and the staff's Discipline Chief.
- B. Photographs, videotapes, audio/video recordings or digital video recordings (DVRs) of patients for purposes of safety and security monitoring do not need the written approval of the patient or guardian.
- C. Photographs of individual patients for use by staff to identify that patient and placed in the patient's medical record, medication record, Kardex, or patient ID badges do not require the patient's or guardian's consent. These digital photos of patients shall be taken by Security staff. In addition, video/DVR monitoring of buildings, areas within buildings, grounds, and patient care areas for safety and security monitoring do not require verbal or written consent.
- D. Photographs or recordings taken by patients through use of computer cameras or recording devices is prohibited and shall result in loss of item(s) used (computer, MP3 player, etc.).

SUBJECT: **Photographing or Videotaping of
Patients and Use of Audio/Video
Recording Devices**

POLICY NUMBER 7.003

DATE: **January 25, 2012**

PAGE 2 OF 7

- E. Photographs, audio/video recordings, and names of patients used by members of the OSH Public Affairs Office for the purpose of inclusion in OSH public materials, such as newsletters, brochures, videos, news articles and the OSH website, for the purpose of educating other patients, staff, family members and friends, stakeholders and the public about the hospital require written and informed consent of the patient or guardian and the Program Director.

- F. Photographs, audio/video recordings, and names of patients used by members of the media and other visitors who are not patients' friends or family for the purpose of inclusion in publications external to OSH and the Oregon Health Authority, such as news articles, videos, websites and media archives require written and informed consent of the patient or guardian and the Program Director.

- G. Photographs, audio/video recordings of patients who attend public events or travel to public spaces outside of the OSH do not require written and informed consent. Names of patients who attend public events or travel to public spaces outside of the OSH require written and informed consent of the patient or guardian and the Program Director if they are identified as a patient of OSH.

- H. Names of patients who choose to self-identify as patients of OSH and contact the media directly without an OSH or OHA intermediary do not require written and informed consent.

II. DEFINITIONS

- A. Audio/video recording devices include cameras, cell phones, hand-held games, camcorders, tape recorders or any device that can record or store audio information or visual images.

- B. Naming includes any instance where a patient's name may be made public through photos, audio/video recordings, websites or print publications.

III. PROCEDURES

- A. Patient, Family, and Visitors

For photographs, videotapes, audio/video recordings or DVRs to be used by family and/or visitors:

**SUBJECT: Photographing or Videotaping of
Patients and Use of Audio/Video
Recording Devices**

POLICY NUMBER 7.003

DATE: January 25, 2012

PAGE 3 OF 7

1. An Audio-Visual Authorization Permit form (OSH-STK 75068) (see Attachment #1) must be submitted and signed by the patient or guardian prior to photographing, videotaping, or any audio/video recordings. Forms must then be submitted for approval by the unit or department supervisor, and finally for approval by the Program Director. A separate consent form must be obtained for each patient in the video or photograph.
 - a. Forms must clearly describe how the photograph or recording is to be used, who shall maintain the recording, and if the photograph is a group photograph.
 - b. Consent forms must inform patient if audio/video material shall be archived for future use.
2. The affected patient care area shall be consulted prior to administrative approval for photographing, videotaping, or making audio/video recordings or DVRs.
3. Visitors and family members, by approval of the Program Director (on the Audio-Visual Authorization Permit form), can use their cameras to take pictures of the patient they are visiting if that patient has given consent. Security must be present while pictures are taken to ensure that no other patients are in the photo. At all other times, cameras shall be locked in specified secure areas. If family members bring cameras, security staff shall work with the family and patient by:
 - a. Patient brings the completed Audio-Visual Authorization Permit form to the visiting area and gives to security staff.
 - b. Family member(s) notify staff when they check in at the Communications Center that they have a camera.
 - c. Security staff and family member(s) shall collaborate on a time for picture-taking.
4. Photographs may be taken by authorized personnel for display in the patient care area with the consent of each patient or the patient's guardian. Patients are prohibited from having pictures of other patients for their own use. Exceptions may be granted at the discretion of the Program Director.

SUBJECT: **Photographing or Videotaping of
Patients and Use of Audio/Video
Recording Devices**

POLICY NUMBER 7.003

DATE: **January 25, 2012**

PAGE 4 OF 7

5. No patient names can be visible in the background of patient photographs. Photographs with names attached must have the written approval of each patient or the patient's guardian. This includes videotapes or DVRs used for staff training or continuous quality improvement activities.
6. Patients in the Forensic Psychiatric Services Program may have disposable cameras that are maintained by staff in a secure area and checked in and out. Cameras may only be used for pictures of the patient or the family, and the photographs may only be used for personal use. Cameras may never be in the possession of the patient and the patient must make arrangements for development of photographs. Consent forms are still required, and the unit supervisor may sign off on these consent forms without approval of the Program Director.
7. Patients who violate this policy shall have their audio/video recording devices confiscated under the provisions of OAR 309-108-0005 4(c)(d) and are subject to Oregon Law.
8. Visitors who violate this policy are subject to Oregon Law.
9. In Forensic Psychiatric Services a staff member shall take a picture of a patient for the family, friend, or visitor.
10. Staff are prohibited from taking pictures, video or audio recordings of patients for personal use. Staff who violate this policy will be subject to disciplinary action and Oregon Law.
11. Members of the OSH Public Affairs Office may use photographs, audio/video recordings, and names of patients for the purpose of inclusion in publications external to OSH and the Oregon Health Authority, such as news articles, videos, websites and archives after obtaining each patients' written and informed consent through the Audio-Visual Authorization Permit form (OSH-STK 75068)
12. Members of the media, such as reporters and photographers, and other visitors who are not friends or family members may use their cameras or audio/visual recording devices to take pictures of or record patients if every patient photographed or recorded has given consent through an Audio-Visual Authorization Permit form (OSH-STK 75068) (see Attachment #1). Either Public Affairs Office or

**SUBJECT: Photographing or Videotaping of
Patients and Use of Audio/Video
Recording Devices**

POLICY NUMBER 7.003

DATE: January 25, 2012

PAGE 5 OF 7

Security must be present while pictures are taken to ensure that no other patients are in the photos or recordings.

13. Staff shall make patients who attend public events or travel to public spaces outside of OSH aware that they may be photographed or recorded by members of the public or media who may be attending the same public events or occupying the same public spaces.

B. Treatment

For videotapes, DVRs, photographs, or audio/video recordings to be used as part of active psychiatric treatment:

1. Prior written approval by the Discipline Chief and all patients or guardians of patients is required.
2. The affected patient's treatment team shall be consulted prior to administrative approval for photographs or audio/video recordings.
3. This treatment activity must be documented in the medical record.
4. Any videotape or audio recording is to be erased after completion of therapeutic use.

C. Safety and Security

1. Videos/DVRs, audio recordings, or photographs recorded for safety and security monitoring may be archived and used for quality improvement, law enforcement, and judicial purposes. Patients and visitors shall be informed when video, audio, and photo equipment is present. (Attachment #2 shall be placed on the door leading into each treatment living unit.)
2. Digital video recordings or audio recordings of safety and security monitoring may be requested, in writing, by a Program Director or Director of Security. The written request shall include the location, date, time, and purpose. A single copy of the recording shall be provided to the Program Director or Director of Security for processing.
3. Staff or patients requesting a copy of a DVR or audio recording shall send a written public records request to the Department of Justice.

**SUBJECT: Photographing or Videotaping of
Patients and Use of Audio/Video
Recording Devices**

POLICY NUMBER 7.003

DATE: January 25, 2012

PAGE 6 OF 7

The staff or patient requesting the recording shall pay all fees associated with duplication and processing.

D. Nursing Identification

Specific procedures for procuring and using individual patient photographs for identification purposes shall be developed by the Department of Nursing and shall include:

1. Provisions to assure the patient is informed of the purpose and use of the photograph.
2. Assurance that each photograph is dated and has the patient's name on it.
3. Provisions for updating photographs if there is significant change in the patient's appearance.

E. Forensic Evaluation

1. Forensic Evaluation Services may digitally record forensic evaluations for judicial purposes. Patients shall be advised of this recording and confidentiality limitations at the start of the evaluation. Digital video recordings of evaluations shall only be released in response to a court order.

F. Posting on Each Unit

1. The attached notice (Attachment 2) must be posted in plain sight on all units and patient treatment areas.

IV. ATTACHMENTS

Attachment 1 – Audio-Visual Authorization Permit form (OSH-STK 75068)
Attachment 2 – Notice for Use of Audio/Video Recording Devices Restricted

V. REFERENCES

Comprehensive Accreditation Manual for Hospital, The Joint Commission, Standard RI.01.03.03, 2010

SUBJECT: **Photographing or Videotaping of
Patients and Use of Audio/Video
Recording Devices**

POLICY NUMBER 7.003

DATE: **January 25, 2012**

PAGE 7 OF 7

OAR 309-108-0005 4(c)(d): Handling of *Personal Property* of Patients and Residents in State Institutions
Oregon State Hospital Nursing Service Department Manual – Procedure: Admission
Oregon State Hospital Policy and Procedure 4.009, Handling Personal Property and Valuables
Oregon State Hospital Policy and Procedure 7.005, Patient Rights
ORS 165.535, Definitions Applicable to Obtaining Contents of Communications
ORS 165.540, Obtaining Contents of Communications
ORS 426.385, Rights of Committed Persons

Combines Oregon State Hospital Policy and Procedure 7.003, *Photographing or Videotaping of Patients*, dated 2/15/2005, and Oregon State Hospital Policy and Procedure 7.004, *Use of Audio/Video Recording Devices*, dated 2/15/2005.

Replaces OSH Policy and Procedure 7.003, *Photographing or Videotaping of Patients and use of Audio/Video recording Devices*, dated 6/8/2011.