



SECTION: ADMINISTRATION

AREA: GENERAL ADMINISTRATION

**SUBJECT: PATIENT PHOTOGRAPHY, AUDIO RECORDINGS,
VIDEOGRAPHY, AND OTHER IMAGING**

PURPOSE

This policy is established to set the guidelines for taking pictures of UAMS patients, use of patient photographs, and safeguards to be enacted to protect the privacy and security of patient photographs.

SCOPE

UAMS Workforce.

DEFINITIONS

Disclosure means the release, transfer, provision of access to, or divulging of information in any manner (verbally or in writing) by UAMS to anyone outside of the covered components of the UAMS hybrid entity.

Legal Representative means the person authorized by law to act on behalf of the patient, such as the parent of a minor, a court-appointed guardian or a person appointed by the patient in a Power of Attorney document.

Protected Health Information (PHI) means information that is part of an individual's health information that identifies the individual or there is a reasonable basis to believe the information could be used to identify the individual, including demographic information, and that (i) relates to the past, present or future physical or mental health or condition of the individual; (ii) relates to the provision of health care services to the individual; or (iii) relates to the past, present, or future payment for the provision of health care services to an individual. This includes PHI which is recorded or transmitted in any form or medium (verbally, or in writing, or electronically). PHI excludes health information maintained in educational records covered by the federal Family Educational Rights Privacy Act and health information about UAMS employees maintained by UAMS in its role as an employer.

Photography means, for purposes of this policy, a recording of a patient's likeness, even if the patient's face is not included, by a number of visual means, including still photography, videography, digital imaging, scans, and others. Photography does not mean radiological images such as X-rays and MRI.

Use means the sharing, employment, application, utilization, examination, or analysis *within* UAMS.

UAMS Workforce means for purposes of this Policy, physicians, employees, volunteers, trainees, and other persons whose conduct, in the performance of work for UAMS, is under the direct control of UAMS, whether or not they are paid by UAMS.

POLICY

UAMS utilizes a variety of media to collect protected health information on patients and will hold all such information to the same standard of confidentiality and security as required for all protected health information according to UAMS policies. Patient consent will be obtained as outlined in this policy.

PROCEDURE

A. Patient Consent

- 1. For Treatment, Payment, or Healthcare Operations – Written Consent required** - The patient, or the patient’s legal representative, will be asked to provide consent for UAMS to photograph, record video and audio or create other images of the patient, via a consent form that is signed by the patient at the time of initial treatment at the facility of care or when photography begins. This consent information can be combined in other consent forms or can be a separate form, such as the Consent for Photography form (**Appendix A**). The consent should contain a description of the photography. This consent form limits the use of such media to purposes related to treatment, payment, and health care operations (as defined in Policy 3.1.28). In addition, this consent allows these images to be used **within** UAMS to educate faculty, residents, and students involved in a UAMS educational program.
- 2. For All Other Purposes - Written Consent with valid HIPAA Authorization for Release of Information required** - UAMS will obtain additional patient consent to take photographs of the patient to use for any purpose outside of treatment, payment, and healthcare operations as described above. This consent to photograph will include the elements of a valid HIPAA Authorization (see sample **Appendix B**) or UAMS will also obtain separate written authorization from the patient using the Release of Information from UAMS form (Med Rec 99 FR) for use or disclosure of photographs for these additional purposes. Uses and disclosures of this nature may include photographs, videotapes, audio recordings, digital video disks, or other images, to be used for any other purpose than stated above, such as Internet use or publication.
- 3. Exceptions**
 - a. Photographs Taken for Identification Purposes** – Patient photographs taken for identification purposes only during the registration process or for the electronic patient record do not require written consent. However, verbal consent should be obtained, and the patient may decline to have their photograph made.

- b. **Documentation of Abuse and Neglect** - UAMS is not required to obtain patient consent when using photography to document reportable cases of actual or suspected abuse and neglect. These images may be disclosed to investigating agencies as required by law and outlined in Policy 3.1.28.
 - c. **Emergencies or Patient Unable to Consent** – UAMS is not required to obtain patient consent when photographing a patient who is unable to give consent, if the use of photography is required for treatment, payment, or healthcare operations. For uses other than treatment, identification or diagnosis, patient consent must be obtained when the patient is able to consent; otherwise, the photograph or image cannot be used and must be destroyed.
 - d. **De-identified Images** - UAMS may determine that images are not individually identifiable health information if identifiers of the individual or of relatives, household members of the individual, or employer are removed. If UAMS believes the image cannot be used to identify the patient, the images may be used outside of UAMS for official UAMS Business Purposes without patient authorization in accordance with Administrative Guide Policy 3.1.31.
 - e. **Family/Personal Use** – When a patient or the friends and family involved in a patient’s care request UAMS staff to make photographs solely for personal use (such as for family photo albums or a baby book), UAMS is not required to obtain written patient consent prior to taking the photograph.
 - f. **General recording or filming of premises for security purposes** - In order to provide for the safety and security of patients, employees and visitors, UAMS facilities may utilize cameras to monitor the premises, and patient consent is not is not required for these recording
4. **Cessation of filming** - UAMS will inform the patient of their right to request that the filming or recording be stopped.

B. Documentation – The photography/media should be date and time stamped when possible. The use of photography as part of the patient’s treatment process should be documented in the patient’s health record. Still photographs may be included in the health record. Copies of the consent forms for photography shall be retained in the patient’s health record with other consent forms. The Office of Communications and Marketing shall retain copies of patient consents for marketing purposes for six (6) years.

C. Security and Storage - All patient photographs, videotapes, digital video disks and other images will be stored in a secure manner that protects the patient’s privacy. These images will be stored for the retention period required by law or as defined by UAMS policy, generally for the same time period as the patient’s health record. The images, if not stored with the patient’s paper or electronic health record, must be stored in a secure manner, in accordance with UAMS policies, that allows timely retrieval. Images may not be retained on digital cameras, cellular telephones, or other recording devices or storage

cards, and copies may not be maintained outside of the patient's record unless the patient's consent specifically allows for such use. These images are generally considered part of the patient's health record and will be released or disclosed and destroyed according to the same policies governing other patient protected health information.

- D. Patient Copies** - The patient is entitled to copies of photographs unless prohibited by law. UAMS will maintain the original photographs. UAMS may charge a reasonable fee to cover the cost of duplication of the photographs.

UAMS is not required to provide the patient access to photography that is not part of the patient's medical record.

- E. Research** - Photography taken as part of a research protocol must be approved by the Institutional Review Board. Consent for such images must be incorporated into the patient consent for participation in the research protocol.

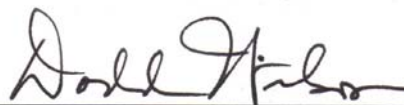
- F. Presentations and Publications** - Written authorization must be obtained from the patient prior to using photographs, if identifiable to a patient, in manuscripts and presentations at conferences and professional organizations external to UAMS or in any other public forum.

- G. General recording or filming of premises for security purposes** - In order to provide for the safety and security of patients, employees and visitors, UAMS facilities may utilize cameras to monitor the premises, and patient consent is not required for these recording.

- H. Marketing** - Written authorization must be obtained from the patient prior to photographing of the patient for marketing or publicity purposes, as outlined in Policy 3.1.36.

- I. Non-UAMS Photographers** – any non-UAMS Workforce member who is taking patient photographs for UAMS must sign a Confidentiality Agreement prior to photographing patients.

- J. Sanctions** - Violation of this Policy will result in disciplinary action, in accordance with Policy 4.4.02.

SIGNATURE: 
Chancellor

Date: September 10, 2009

APPENDIX A



Place Patient Label Here

Print Patient Name

Patient MR #

CONSENT to Take PHOTOGRAPHY

I, _____ hereby consent to the taking of photography, audio/visual recordings
Print patient name

or other images of me by UAMS. I understand that my photographs, videotapes, digital or other images may be used to assist with my identification, diagnosis and treatment and the payment of my bill. These images may also be used for UAMS Health Care Operations such as performance improvement and educational purposes within UAMS. Other than for treatment, payment and health care operations, images that identify me will be released outside UAMS only upon written authorization from me or my legal representative.

If the images are to be taken for any purpose other than for identification, diagnosis, treatment, payment or healthcare operations including teaching with UAMS, the purpose(s) must be stated here:

Withdrawal of Consent – I understand that I am not required to sign this Consent. I may revoke/withdraw the Consent at any time by giving written notice to UAMS [Dept/Clinic below] Slot # [below], 4301 W. Markham, Little Rock, AR 72205. A withdrawal of this consent will not apply to photographs, audio/visual recordings or other images used or disclosed prior to the written notice of withdrawal. **During the recording or filming, I have the right to stop the recording/filming at any time.**

Expiration Date – This consent to take my photograph or other image expires 30 days from the date I sign the consent or after the photographs and recordings are no longer needed by UAMS for the use that I am consenting to, whichever is later.

Release of Liability – I agree that UAMS, including its governing Board, physicians, agents and employees, are hereby released from legal responsibility or liability for the access and release of my photographs or other images to the extent indicated and authorized herein.

Signature of Patient or Legal Representative _____ Date/Time: _____

Patient Date of Birth and/or Medical Record Number for Identification Purposes: _____

If Legal Representative has signed on behalf of Patient, state the authority of Legal Representative to do so:

(such as parent of a minor, court-appointed guardian, appointed in a Power of Attorney)

For Staff use only - this section must be completed

FOR STAFF TO COMPLETE:

Dept/Clinic Name _____ **and Slot #** _____

Person Making Photo/Recording _____ **Date Taken/Time:** _____
(for initial photo/recording)

(check all that apply) ___ **Photographs** ___ **Video Recordings** ___ **Audio Recordings** ___

Other: _____

Description: _____

APPENDIX B



Place Patient Label Here

Print Patient Name

Patient MR #

AUTHORIZATION to TAKE and DISCLOSE PATIENT PHOTOGRAPHS or VIDEO/AUDIO RECORDINGS

FOR STAFF TO COMPLETE BEFORE PATIENT SIGNS: Dept/Clinic Name and Slot #

Person Making Photo/Recording Date Taken (for initial photo/recording)

(check all that apply) Photographs Video Recordings Audio Recordings

Description:

I, hereby consent to the taking of photography, audio/visual recordings or other images of me by UAMS. I understand that my photographs, videotapes, digital or other images may be used to assist with my identification, diagnosis and treatment and the payment of my bill. These images may also be used for UAMS Health Care Operations such as performance improvement and educational purposes within UAMS. I also give my permission and authorize UAMS** to make and DISCLOSE photographs or recordings described above to the public for educational, commercial, or other purposes as follows:

(PATIENT - please strike through and initial any of the disclosures you are not authorizing, if any).

- 1. UAMS internet website(s);
2. UAMS Posters, UAMS Publications, UAMS Photograph Books (by, on behalf of, or about UAMS);
3. Media, Internet Websites, Publications (TV, newspaper, magazine, any other media or websites outside UAMS); and
4. Healthcare-Related Presentations, Publications, Seminars, Conferences and Meetings (within and outside UAMS).
5. Other disclosures authorized, if any

Additional Health Information Disclosed. I understand and agree that any photographs/recordings authorized by me may also disclose my Protected Health Information related to my treatment, condition, procedure, surgery or other Protected Health Information associated with the photographs or video/audio recordings, and I authorize this disclosure.

UAMS is not receiving direct or indirect compensation for use/disclosure of the photograph/recordings described in this Authorization.
Expiration Date - This Authorization expires two years from the date I sign the Authorization, or after the photographs and recordings are no longer needed by UAMS for the use and disclosure that I have authorized, whichever date is later.
Withdrawal of Authorization - I understand that I am not required to sign this Authorization. If I sign this Authorization, I may revoke/withdraw the Authorization at any time by giving written notice to UAMS [Dept/Clinic Above] Slot # [above], 4301 W. Markham, Little Rock, AR 72205. A withdrawal of this Authorization will not apply to records, information, photographs, audio/visual recordings or other information already used/released in reliance upon the Authorization. A photocopy or faxed copy of this signed Authorization shall constitute a valid authorization. During the recording/filming, I have the right to stop recording/ filming at any time.
Release of Liability - I agree that UAMS, including its governing Board, physicians, agents and employees, are hereby released from legal responsibility or liability for the access and release of my information to the extent indicated and authorized herein.
Re-Disclosure - I understand that once the above information is disclosed, it may no longer be protected by privacy laws.

APPENDIX B

UAMS will not condition treatment, payment, enrollment or eligibility for benefits on your signing of this Authorization.

****If patient is a patient of Arkansas Children’s Hospital (ACH) , the terms of this Authorization also include and extend to ACH.**

Signature of Patient or Legal Representative _____ Date _____

Patient Date of Birth and/or Medical Record Number For Identification Purposes: _____

If Legal Representative has signed on behalf of Patient, state the authority of Legal Representative to do so:

(such as parent of a minor, court-appointed guardian, appointed in a Power of Attorney)

Office Staff: Provide Copy of Signed Authorization to Patient/Legal Representative