

War Memorial Hospital

TYPE: DEPARTMENTAL – BEHAVIORAL HEALTH

POLICY: FINGERPRINTING, PHOTOGRAPHING, AUDIO RECORDING, VIDEO SURVEILLANCE, AND USE OF ONE WAY GLASS

REPLACES: 5/11, 9/15, 7/16

PURPOSE: To define the procedure of War Memorial Hospital regarding the use of fingerprints, audio tapes, video tapes, video surveillance, and use of one-way glass.

PROCEDURE:

- A. It is the policy of the War Memorial Hospital Behavioral Health Center to protect and promote the basic human dignity and right to privacy of individuals receiving services. No patient shall be fingerprinted as part of any program of the Behavioral Health Center. Informed consent shall be obtained prior to utilizing one-way glass, photographing, or audio-taping a recipient. Patients are notified of video surveillance and its purposes at the Behavioral Health Center.
- B. Definitions:
 1. Audio-taping: Any reproduction of a recipient's voice by mechanical means.
 2. Consent: An agreement in writing executed by the recipient or the legal representative of the recipient, if legally empowered to execute consent. The consent will include the basic elements for which the consent will accomplish.
 3. Photography: Includes still pictures, motion pictures, and videotape reproductions.
- C. Photographs or audiotapes may be taken and 1-way glass may be used for the provision of services, and/or educational, and training purposes only when written consent is obtained prior to the actual event. [MHC 330.1724(7)(a-c)]
 1. The Program Director or his or her designee shall obtain prior written consent from one of the following:
 - a. The patient, if 18 years of age or over, and competent to consent.
 - b. Written consent from the guardian of the patient, if the guardian is legally empowered to execute such a consent.
- D. Photographs, audiotapes, and the use of one-way glass may be used in order to provide services to include research to a recipient or in order to determine the name of the patient. [MHC 330.1724(4)]
- E. Photographs and/or audiotapes taken in order to determine the name of a patient shall be kept as part of the patient's Medical Record. The photographs or audiotapes may be delivered to others for assistance in determining the name of the patient. Photos and/or audiotapes so delivered shall be returned together with copies that were made. Anyone receiving photos and/or audiotapes shall be informed of the requirement that return be made. Upon return the photos and/or audiotapes, along with the copies, shall be kept as part of the patient's Medical Record. [MHC 330.1724(4)]
- F. Any photographs and/or audiotapes, to include all copies, shall be subject to the

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standards governing confidentiality except as stated in Subsection B above.

- G. Photographs and/or audiotapes in the Medical Record of the patient, to include all copies, shall be given to the patient or destroyed when they are no longer essential in order to achieve one of the objectives set forth in Subsection A or upon closure of the case whichever occurs first. The treatment team will review the necessity of these items and determine at which point they are no longer necessary. [MHC 330.1724(5)]
- H. The consent must state the intended use of the photograph, videotape, audiotape, or transmission of image / voice and is only valid through the specific and time limited circumstance for which it is intended. The only exception is identification photographs which are secured in the patient's Medical record.
- I. Written consent must be obtained prior to every situation that involves the intended use of photograph, videotape, audiotape, or transmission of image / voice. [MHC 330/1724(2)] [AR 330.7003(1)(c)]
- J. Photographs may be taken for personal or social purposes if the patient consents. A photograph of a patient shall not be taken or used if the patient has indicated his or her objection. [MHC 330.1724(6)]
- K. There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. The patient shall be informed that he/she is free to withdraw his/her consent and to discontinue participation or activity at any time without prejudice to the patient. [AR 330.7003(1)(d)]
- L. The individual responsible for photographing, audiotaping, or using a one-way glass shall afford the patient an opportunity to object either verbally or in writing at any time prior to and during the photographing, audiotaping, or the utilization of a one-way glass.
- M. Video surveillance may be conducted for purposes of safety, security, and quality improvement. Video surveillance may only be conducted in common areas such as hallways, nursing station areas, and social activity areas at BHC. Recipients will be notified upon their admission of BHC's video surveillance, its purpose, and where cameras are located. [MHC 330.1724(9)]
 - a. The Program Director/Chief Executive Officer have identified safe, secure locations where video surveillance images will be recorded and saved. [MHC 330. 1724(9)(a)]
 - b. Recipients and visitors will be advised upon entering BHC of the video surveillance. [MHC 330.1724(9)(b)]

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- c. Security provisions shall assure that only authorized staff members have access to view recorded surveillance video. The CEO authorizes who may view the recorded surveillance video and the circumstances under which the video may be viewed. Safeguards to prevent and detect unauthorized viewing of the recorded surveillance video are put into place by the CEO, along with circumstances under which the video may be duplicated and what steps will be taken to prevent unauthorized distribution of the duplicate. [MHC 330.1724(9)(c)]
- d. Documentation is required to be maintained for each instance of authorized access, viewing duplication, or distribution of any recorded surveillance videos. [MHC 330.1724(9)(d)]
- e. Recipients will be aware that a process to assure the retrieval of distributed recorded surveillance video when the purpose for which the video was distributed no longer exists. [MHC 330.1724(9)(e)]
- f. Archived footage of video surveillance recordings may be held on to for up to 30 days, unless notice is received that an incident requires investigation by the department's Office of Recipient Rights, the licensing division of the Bureau of Health Systems, law enforcement, BHC, of unit Office of Recipient Rights, and the US DHHS centers for Medicaid and Medicare services. In that case, archived footage of video surveillance recordings may be retained for the duration of the investigation.
- g. Recorded video surveillance images shall not be maintained as part of the recipient's clinical record. [MHC 330.1724(9)(g)]

Cross References and Legal Authority

- A. [Act 258 of the Public Acts of 1974 as amended, - Mental Health Code Sections 330.1100a, 330.1724, 330.1748](#)
- B. Department of Community Health Administrative Rules - R - 330.7003

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WRITTEN BY: Recipient Rights Committee Date: May 19, 2011

REVIEWED BY: Jessica Jannetta, BHC Director of Nursing Date: May 13, 2015

REVIEWED/REVISED BY: Stephanie Spray, Recipient Rights Officer Date: May 8, 2015

REVIEWED BY: Dr. Paul Sorgi, Program Director Date: Sep. 4, 2015

REVIEWED BY: Recipient Rights Committee Date: Sep. 9, 2015

REVIEWED BY: Corinna Haller, Director of Nursing/Paul Sorgi, Program Director
Date: July 5, 2016

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Date: December 4th, 2016

REVIEWED BY: Corinna Haller, Director of Nursing Date: December 12, 2016

REVIEWED/UPDATED: Recipient Rights Advisory Committee
Date: February 20th, 2017

REVIEWED BY: Corinna Haller, Director of Nursing Date: October 17, 2017