



Origination 12/2016  
Last Approved 12/2019  
Next Review 12/2022

Owner Diane Barney:  
Director,  
Marketing and  
Communications

Area Admin Manual -  
Ethics, Rights &  
Responsibilities

References Administrative  
Manual

## Photography and Recording Within NorthBay Healthcare Facilities by Patients Visitors, Employees, Volunteers, Physicians and Media

### I. PURPOSE:

Some events that happen within our facilities are memories that families may want to capture in photography or in recordings for posterity. Other events are newsworthy, and may attract media attention. In addition, there are times when employees want to capture an event in the workplace involving their team or a patient. NorthBay Healthcare is legally required under the Health Insurance Portability and Accountability Act (HIPAA) and under California's Confidentiality of Medical Information Act (CMIA) to protect the privacy of its patients and the security of information about them. NorthBay Healthcare also has a responsibility to protect the privacy of our visitors, physicians, volunteers and business associates and to safeguard certain categories of staff personal information, such as health benefits records subject to HIPAA and employee medical records subject to the CMIA. This policy spells out rules and regulations for staff, patients, visitors and volunteers when photography and/or recordings are involved at NorthBay Healthcare's facilities.

- A. To establish guidelines for situations in which patients and/or staff, physicians and volunteers may or may not be photographed, video or audio recorded within NorthBay Healthcare facilities.
- B. To establish guidelines for taking photos and recording audio or video.
- C. To facilitate compliance with HIPAA, the CMIA, and all other federal and state laws and regulations.
- D. This policy does not apply to any security cameras on the premises, diagnostic imaging for

medical purposes, telemedicine and the documentation of wounds for medical reasons or law enforcement purposes or other photography or audio or video recording approved by NorthBay Healthcare management to advance the hospital's legitimate business purposes, such video recordings for marketing purposes or telephone recording for quality assurance purposes.

## II. POLICY:

- A. Guidelines for photographing/audio recording/video recording of patients and staff, physicians and volunteers by patients, family members and the patients' visitors:
  - 1. NorthBay Healthcare is not required to obtain consent from the patient when the patient is the subject of the photography/audio/video recording and such recording is performed by the patient or the patient's family members or the patient's visitors at the patient's request.
  - 2. Patients, family members or visitors are not permitted to take photographs of, or audio or video record other patients or staff, physicians and volunteers without a verbal consent.
  - 3. Patients, family members or visitors are not permitted to take photographs of patient procedures or medical equipment or of any patient records.
  - 4. If staff is aware of any inappropriate attempt to photograph or record a patient, staff, physician or volunteer without consent, then staff must take reasonable steps, including a call to security, to stop the activity.
- B. Photographing/Audio Recording/Video Recording of Patients by Staff, Physicians, Volunteers, Business Associates or members of the media:
  - 1. Written consent of the patient (or the patient's guardian or personal representative) is required before an employee, physician, volunteer, business associate or member of the media may photograph or record a patient.
  - 2. Public Affairs must be notified in advance when media is involved.
- C. Photographing/Audio Recording/Video Recording of Staff, Physicians, Business Associates and Volunteers by Staff, Physicians, Business Associates, Volunteers or media:
  - 1. Verbal consent is all that is required in these situations.
  - 2. Verbal consent is not required when staff photograph or record only other NorthBay Healthcare employees engaging in activities related to the terms or condition of employment, such as photographing workplace injuries or unsafe working conditions. Staff should be aware, however, that California law generally prohibits recording of communications without the consent of all parties to the communication.
  - 3. Public Affairs must be notified in advance when media is involved.
- D. Photographing/Audio Recording/Video Recording of medical procedures on patients and of medical equipment is not permitted except when:
  - 1. The patient has signed a written consent and the staff and physicians involved have granted verbal consent.

- E. Signage should be prominently posted in patient areas to support this policy and should read: "Patient and staff permission required before photos are taken or recordings are made. See [NorthBay.org/photosandrecordings](http://NorthBay.org/photosandrecordings) for details."

### III. PROCEDURE:

- A. When a signed copy of patient permission is required, a copy of the "HIPAA Authorization and Consent to Photograph and/or Interview and Publish" form is attached and can be downloaded off the Public Relations page on ShareSpace. A copy should be placed in the patient's record. A copy should be given to the patient, and the third copy should be sent to Public Relations.

### IV. REFERENCES:

Code of Federal Regulations (CFR). 45 CFR 160.103 (HIPAA definition of PHI). Retrieved from the internet 11/10/2016: <https://www.gpo.gov/fdsys/pkg/CFR-2009-title45-vol1/pdf/CFR-2009-title45-vol1-sec160-103.pdf>

U.S. Department of Human Services (HHS.gov. HIPAA for Professionals Retrieved from the internet 1/10/2016: <http://www.hhs.gov/hipaa/for-professionals/index.html>

California Civil Code Section 56 (Confidentiality of Medical Information Act). Retrieved from the internet 11/10/2016: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001-01000&file=56-56.07>

2016 CHA Consent Manual, Chapter(s) 1, 8.4 and 24.1-4

### V. APPROVAL REQUIREMENTS

#### A. Stakeholders Approval Requirements (Policy Owner responsibility):

1. The Policy Owner needs to collaborate with Stakeholders for revisions and before initiating the approval workflows in PolicyStat.
2. The Policy Owner must document the collaboration/approval with the Stakeholders in the "Summary of Changes" text box in PolicyStat
  - a. Vice President, Public Affairs
  - b. Corporate Compliance Program Manager, Privacy Officer

#### B. PolicyStat Approval Requirements:

1. Policy Owner (Content Expert): Director, Public Relations
2. Policy & Procedure Committee
3. CEO\President NorthBay Healthcare
4. Board of Directors

Printed version is for reference only, refer to online policy in PolicyStat for accurate version.

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## Attachments

[HIPAA Authorization and Consent to Photograph and-or Interview and Publish.docx.pdf](#)

## Approval Signatures

Step Description	Approver	Date
Board of Directors	Ellen Snyder: Executive Assistant	12/2019
CEO	Konard Jones: President & C.E.O.	11/2019
Policy & Procedure Committee	Emily Brown: Coordinator, Accreditation, Patient Safety	11/2019
Policy Owner	Diane Barney: Director, Public Relations	10/2019

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