

<b>Holland Bloorview</b> Kids Rehabilitation Hospital	Manual Corporate	Cluster Corporate
	Theme Communication	Number 00465
Photography, audio and video recording consent policy		


## Preamble

This policy is intended to comply with the Personal Health Information Protection Act, 2004 (PHIPA) and the Freedom of Information Protection of Privacy Act (FIPPA) and to provide direction where the law is unclear on issues pertaining to photography or audio/video recordings at Holland Bloorview Kids Rehabilitation Hospital.

This policy sets out Holland Bloorview Kids Rehabilitation Hospital's requirements for the collection and use of photographs and audio and video recordings at our premises and during offsite appointments by staff, students and volunteers, clients, families, and visitors including media for promotional and educational, clinical and clinical educational, research and personal/non-commercial purposes.

## Policy Statement

This policy follows the law and best practices with respect to photographing, audio and video recording to assist in protecting the privacy of our stakeholders.

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**Procedure:**

**1. Related policies and documents**

- Video Surveillance Policy (policy number 00245)
- Internal Social Media Networking Policy (policy number 00136)
- Corporate Media Relations Policy (policy number 00134)
- Confidentiality and Release of Personal Health Information (policy number 00142)
- Organizational Commitment to the Privacy of Personal Health Information (policy number 00145)
- Raw data policy (under development)
- Use of Information Technology (policy number 00454)
- “Consent for release of information” form (Communications and Public Affairs and Holland Bloorview Kids Rehabilitation Hospital Foundation)
- Holland Bloorview Nursery Schools Policies and Procedures, and application form (consent portion)
- Record Classification and Retention Structure

**2. Definitions**

- Knowledgeable consent under PHIPA means that an individual must know why their personal health information is being collected, used or disclosed, and that they have the right to give, withhold or withdraw consent to its collection, use or disclosure. Consent will be obtained verbally or in written form where directed in this policy, except in the limited circumstances in this policy, e.g. where there is a reasonable expectation of video, audio or photographic image capture and/or notice is provided.
- Informed Consent refers to the standard required to be met for a capable person to give consent to collection, use and disclosure of their records of Personal Health Information (PHI) under PHIPA (a similar test exists for consent to treatment under the Health Care Consent Act). It must be obtained, recorded, dated, and maintained as part of the client record. Capacity to give consent requires that the person be able to understand the information relevant to the decision, as well as able to appreciate the reasonably foreseeable consequences of consenting or refusing to consent to the collection, use or disclosure.
- A clinical encounter is defined as the interaction between a clinician and non-patient participant (such as a resident and interpreter) and a patient and his/her family/caregiver for the purposes of history-taking, physical examination, diagnosis, counseling, and therapy.
- Clinical education purposes are defined as the education of health professionals and clinical students arising from care delivery activities, all part of the organization’s mandate as an academic teaching hospital.

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- Promotional and educational purposes are defined as sharing information, such as client stories, beyond the circle of care, to share knowledge and build awareness about the hospital and the work we do.
- Personal and non-commercial use means that the images or recordings cannot be used to make a profit.
- Photographic image: Any still or moving image, with or without audio, of an individual or space taken regardless of technology used to obtain the image.
- Recording devices: equipment used to take a photographic image including but not limited to camera, video recorder, photographic image scanning devices, personal digital assistants and cellular phone devices with built in cameras.

### **3. Taking photographs, audio and video recordings of clients and families**

#### **3.1 Taking photographs, audio and video recordings of clients and families for promotional and educational purposes**

- No staff, student or volunteer may take photographs, audio or video recordings of clients or families at hospital premises or in hospital programming for personal uses on personal recording devices.
- Communications and Public Affairs/Holland Bloorview Kids Rehabilitation Hospital Foundation and individual departments or teams may take and release photographs, audio and video recordings of clients or families with their written consent for use in internal and external communications. Clients and families must sign Communications and Public Affairs and Holland Bloorview Kids Rehabilitation Hospital Foundation’s joint “Consent for release of information” form.
  - NOTE: Holland Bloorview nursery schools may take photos of their students for internal programming and education purposes, once consent has been obtained. All parents/guardians who consent to allow their children to be photographed for this purpose must complete the consent portion of the “Nursery Schools application” form.
- At hospital/Foundation events and activities (such as media announcements, celebrations) where there is a reasonable expectation and/or notification that people attending the event/activity may be included in photographs, audio and video recordings, it is the responsibility of individuals who do not wish to be photographed and audio and video recorded to communicate their wishes to the event organizers

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and/or the staff member taking the photographs and audio and video recordings, and move out of the view of cameras and recording devices.

- Individual departments and teams are responsible for the secure storage, correct filing, classification and naming on Holland Bloorview networks and premises of the photographs, audio and video recordings they take and signed consent forms, as per the Record Classification and Retention Structure.

### **3.2 Taking photographs, audio and video recordings of clients, families and visitors for clinical and clinical education purposes**

- Please refer to the Raw Data Policy for information about photographs, audio and video recording for clinical and clinical education purposes.

### **3.3 Taking photographs, audio and video recordings of clients, families and visitors for research purposes**

- Research staff may take photographs, audio and video recordings of research participants and their families for data collection and educational purposes, with informed consent.
- The use of photographs, audio and video recordings for data collection must be clearly outlined in the Research Ethics Board (REB) approved Research Protocol.
- The use of photographs, audio and video recordings for data collection and educational purposes must be clearly outlined in the REB approved research consent form and research staff must obtain informed consent prior to taking any photographs, audio and video recordings of research participants.
- The materials will be kept in the research participant's research file or on the secure Holland Bloorview server for seven or 25 years depending on the required data retention requirements of the research being conducted.
- Photographs, audio and video recordings collected for data collection purposes are only to be used for the purposes outlined in the research consent form. Every instance of photo/audio/video use outside the authorized research purpose (e.g for promotional purposes) requires a new consent from the participant following the guidelines outlined in section 3.1 of this policy.

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**4. Clients, families and their visitors taking photographs, audio and video recordings in the hospital and during appointments for their personal use**

- Clients, families and their visitors may not take photographs, audio and video recordings at the hospital for commercial use.
- Clients, families and visitors are not permitted to photograph, audio or video record any other person at the hospital premises, nor disseminate externally these materials (including on social media) without that person’s consent.
  - No photographs, audio or video recording is permitted during a clinical and/or research encounter without the consent of the clinician and/or research staff and/or any other non-patient participant.
  - No photographs, audio or video recording is permitted under any circumstance of standardized assessment, or diagnostic tools and/or research tools that are protected under copyright.

**5. Taking photographs, audio and video recordings of staff, students, volunteers and visitors**

- Staff, students, volunteers and visitors must provide consent to be photographed, audio and video recorded by the hospital for promotional and educational purposes. Staff, students, volunteers and visitors are not required to sign a consent form.
- However, at hospital/Foundation events and activities (such as media announcements, celebrations) where there is a reasonable expectation and/or notification that people attending the event/activity may be included in photographs, audio and video recordings, it is the responsibility of individuals who do not wish to be photographed and audio and video recorded to communicate their wishes to the event organizers and/or the staff member taking the photographs and audio and video recordings, and move out of the view of cameras and recording devices.

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**6. Visitors, including media, taking photographs, audio and video records while at hospital premises and offsite appointments**

Visitors, including media, must contact Communications and Public Affairs and/or the Holland Bloorview Kids Rehabilitation Hospital Foundation prior to taking photographs, audio or video recordings at Holland Bloorview premises and offsite appointments. The consent processes described in this policy will be followed.

**7. Compliance**

- All staff has a responsibility to help educate clients, families and visitors about this policy when appropriate and necessary to help ensure that the privacy of all stakeholders is protected.
- Any staff member who witnesses noncompliance with this policy shall ask the person not in compliance to stop taking photographs, audio and video recordings and to delete the photographs, audio and video recordings immediately. If there is further non-compliance, staff may call their manager or security for assistance, using their best judgement.
- In consultation with their manager, instances of non-compliance that have the potential to escalate, breach privacy and/or result in a risk to the organization’s reputation should be brought to the attention of the Manager of Risk and Privacy and Communications and Public Affairs.
- Anyone not in compliance with this policy will face appropriate disciplinary action or review of their association with Holland Bloorview Kids Rehabilitation Hospital.

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<b>Policy Lead</b>	<b>Issued Date</b>
Lydia Hanson	Mar 28, 2017
<b>Committee Chair</b>	<b>Review Date</b>
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<b>Committee Member(s)</b>	<b>Review Date</b>
	-
<b>Authorizer</b>	<b>Review Date</b>
Stewart Wong	Mar 28, 2017
<b>Authorizer's Signature</b>	