PURPOSE

To assure consistency across the Michigan Department of Health and Human Services (MDHHS) hospitals regarding the use of fingerprinting, photographing, audio recording, and viewing through one-way glass.

DEFINITIONS

Audio recording

Any sound recording made by an electronic device or system capable of recording sound. Examples of electronic devices and systems include but are not limited to digital audio tapes, cassette recorders, cell phones, laptops, and personal computers.

Consent

A written agreement executed by a:

- Patient who is at least 18 years of age and competent to consent.
- Guardian of a patient if the guardian is legally empowered to execute consent.
- Parent with legal and physical custody of a patient if the patient is less than 18 years of age.

For the purposes of this policy consent includes:

- Specific date of expiration.
- Statement of intended use of fingerprinting, photographing, audio recording or viewing through one-way glass.
- Statement approving or disapproving the use of a patient's full name by the media.
- Instruction that a patient is free to withdraw consent at any time without prejudice.

Conditions of consent, for the purposes of this policy:

- Consent may be obtained upon admission.
FINGERPRINTING, PHOTOGRAPHING, AUDIO RECORDING OR VIEWING THROUGH ONE-WAY GLASS

- No consent is valid for more than a 12-month period but may be renewed through the consent process.
- Consent may be terminated by the patient, their appropriate parent, if the patient is less than 18 years of age, or the patient's guardian if so empowered, prior to the expiration date.
- No consent may be given out on behalf of a patient is less than 18 years of age which extends beyond their eighteenth birthday.
- Consent must be on file in the patient's record.

Guardian

A person appointed by the court to exercise specific powers over an individual who is a minor, legally incapacitated, or developmentally disabled.

Hospital

An inpatient program operated by the department for the treatment of individuals with serious mental or serious emotional disturbance.

Media

Mass communication entities (broadcast, print, and online) that focus on delivering news to the public or to a targeted audience. This definition includes, but is not limited to, newspapers, magazines, radio, television, online publications, websites, social media, blogs, and non-profit and commercial publications.

Photographing

Includes still pictures, motion pictures and video recordings taken with any device, including but not limited to cell phones, digital cameras, film cameras, and video cameras.

POLICY

Patients of mental health services must not be fingerprinted, photographed, audio recorded, or viewed through one-way glass unless prior consent is obtained.
STANDARDS

FINGERPRINTING

Fingerprints may be taken and utilized for education, training, research, and the delivering of services to a patient only when prior consent is obtained.

Fingerprints taken to provide services to a patient, and any copies thereof, must be kept as part of the patient's record. When no longer essential to patient care or upon discharge of the patient, whichever occurs first, these items must be given to the patient or destroyed.

Fingerprints taken for determining the name of a patient must be kept as part of the patient's record, except that, when necessary, these may be delivered to law enforcement or other government agencies for assistance in determining the name of the patient. The hospital must request the receiving entity return these items once they are no longer needed. Upon return, together with any copies, these must be kept as part of the record of the patient.

PHOTOGRAPHING

Photographs may be taken and utilized for education, training, research, and the delivering of services to a patient only when prior consent is obtained.

Photographs taken to provide services to a patient, and any copies, must be kept as part of the patient's record of the patient. When no longer essential to the service to patient care or upon discharge, whichever occurs first, these items must be given to the patient or destroyed.

Photographs taken for determining the name of a patient must be kept as part of the patient's record, except that, when necessary, these may be delivered to law enforcement or other government agencies for assistance in determining the name of the patient. The hospital must request the receiving entity return these items once they are no longer needed. Upon return, together with any copies, these must be kept as part of the record of the patient.

Photographs taken by a patient must be maintained as the personal property of the patient. Photographs of a patient must not be taken or used if the patient has indicated their objection.
A patient must be advised immediately prior to the time a photograph is to be taken and must be afforded an opportunity to object. If the patient expresses objection to being photographed, such objection must be honored regardless of prior consent.

**AUDIO RECORDING**

Audio recordings may be made and utilized for education, training, research, and the delivering of services to a patient only when prior consent is obtained.

Audio recordings made to provide services to a patient, and any copies, must be kept as part of the patient’s record of the patient. When no longer essential to the service to patient care or upon discharge, whichever occurs first, these items must be given to the patient or destroyed.

Audio recordings made for determining the name of a patient must be kept as part of the patient’s record, except that, when necessary, these may be delivered to law enforcement or other government agencies for assistance in determining the name of the patient. The hospital must request the receiving entity return these items once they are no longer needed. Upon return, together with any copies, these must be kept as part of the record of the patient.

Audio recordings made by a patient must be maintained as the personal property of the patient. Audio recordings of a patient must not be made or used if the patient has indicated their objection.

A patient must be advised immediately prior to the time an audio recording is to be made and must be afforded an opportunity to object. If the patient expresses objection to being audio recorded, such objection must be honored regardless of prior consent.

**ONE-WAY GLASS**

One-way glass may be used for education, training, research, and the delivering of services to a patient only when prior consent is obtained.

A patient must be advised immediately prior to the time they are to be viewed through one-way glass and must be afforded an opportunity to object. If the patient expresses objection to being viewed through one-way glass, such objection must be honored regardless of prior consent.
MEDIA

Photographing, audio recording or viewing a patient through one-way glass by, or on behalf of, the media is permitted when consent is obtained.

Media representatives may not enter a hospital beyond the reception area unless prior approval is obtained from the deputy director of the State Hospital Administration.

While in a hospital, media representatives are to be accompanied by a person designated by the hospital director. This staff person must be responsible for:

- Providing a copy of this policy to the media representative prior to allowing photographing, audio recording, or viewing of a patient through one-way glass.
- Checking the validity of each participating patient's consent.
- Advising each patient that a photograph, audio recording, or viewing through one-way glass will occur and for what purpose.
- Assuring that a verbal objection is honored if the patient does not wish to participate.
- Making an entry in the patient’s case record whenever a photograph is taken, whenever an audio recording is made, or a viewing through one-way glass is done, by or on behalf of the news media, noting the date and intended use.
- Accompanying the news media representative only for assuring that the above are accomplished. The staff person must not interfere with the patient's right to communicate freely with the news media.

A copy of the signed consent form(s) must be made available upon request to the media representative.

REFERENCES

- Michigan Mental Health Code, MCL 330.1752
- Michigan Mental Health Code, MCL 330.1724
CONTACT

For additional information concerning this policy, contact the Office of Recipient Rights.