

	TITLE OF THE POLICY: AUDIO, VIDEO AND PHOTOGRAPHIC RECORDINGS	Policy Number: IPR-0014
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Approval Date	<i>July 8, 2021</i>
Revision Date	
Approved by	<i>Andree Robichaud, CEO</i>
Approver Signature	
Scheduled Review Date	<i>July 2022</i>
Cross-Reference	<i>Appendix A: Photography and Audio-Video Recording Public Notice</i> <i>Appendix B: Audio, Video and Photographic Recording Policy Information Sheet</i>

PURPOSE

The purpose of this policy is as follows:

- to provide comprehensive guidance to Central Health (CH) employees and affiliated individuals for instances where a client or visitor collects photographs and/ or audio-video recordings, herein referred to as "Recording(s)", within any Central Health site, facility, or program area;
- to provide guidance to Central Health employees and affiliated individuals concerning their authorized collection of Recordings in any Central Health site, facility, or program area; and
- to outline the responsibilities of employees and affiliated individuals to protect the privacy of clients and visitors and to support a positive healthcare environment.

SCOPE

This policy applies to all Central Health employees/affiliated individuals concerning the collection of Recordings of clinical interventions.

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This policy applies to all interactions between Central Health employees and affiliated individuals concerning the collection of Recordings within any Central Health site, facility, or program area.

This policy applies to all interactions between Central Health employees/affiliated individuals and clients and visitors wishing to collect Recordings within any Central Health site, facility, or program area.

This policy applies to devices capable of capturing Recordings, including those collected by mobile phones or other communications devices, or those retained in other devices.

This policy does not apply to situations where clients or visitors collect Recordings of family members or other individuals by consent of the individual.

This policy does not apply to the capturing of any medical test results or diagnostic information.

This policy does not apply to the use of radio, television, film crews, and photographers by media while they are on Central Health properties. [Policy 3-30 Media Access to Central Health Property](#) addresses this matter.

DEFINITIONS

Affiliated Individuals	Individuals who are not employed by Central Health, but perform specific tasks at or for the organization, including, but not limited to, trustees, students, volunteers, pastoral care, researchers, contractors, vendors and individuals working at the organization, but funded through an external source.
Client	A person who avails of the services of an authority, and includes a client, patient and/or resident.
Collect	To gather, acquire, receive, or obtain the information by any means from any source and "collection" has a corresponding meaning.

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Covert	Not openly acknowledged or displayed.
Disclose	To make the information available or to release it but does not include a use of the information and “disclosure” has a corresponding meaning.
Health Care Provider	A person, other than a health care professional, who is paid by MCP, another insurer or person, whether directly or indirectly or in whole or in part, to provide health care services to an individual.
Health Care Professional	<p>A person, including a corporation, that is licensed or registered to provide health care by a body authorized to regulate a health care professional under one of the following enumerated Acts but does not include an employee of a health care professional when acting in the course of his or her employment:</p> <ul style="list-style-type: none"> (i) Chiropractors Act, (ii) Dental Act, (iii) Denturists Act, 2005, (iv) Dieticians Act, (v) Dispensing Opticians Act, 2005, (vi) Hearing Aid Practitioners Act, (vii) Licensed Practical Nurses Act, 2005, (viii) Massage Therapy Act, 2005, (ix) Medical Act, 2005, (x) Occupational Therapists Act, 2005, (xi) Optometry Act, 2012, (xii) Pharmacy Act, 2012, (xiii) Physiotherapy Act, 2006, (xiv) Psychologists Act, 2005, (xv) Registered Nurses Act, and (xvi) Social Workers Association Act. <p>The following health professions are subject to the <i>Health Professions Act</i>:</p> <ul style="list-style-type: none"> • Acupuncturists

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	<ul style="list-style-type: none"> • Audiologists • Dental Hygienists • Medical Laboratory Technologists • Medical Imaging Technologists • Midwives • Respiratory Therapists • Speech Language Pathologists
Intercept	Listen to; record; acquire or acquire the substance, meaning or purport of the communication.
Knowledgeable Consent	<p>A consent to the collection, use or disclosure of personal health information about an individual shall be considered to be knowledgeable if it is reasonable in the circumstances to believe that the individual knows:</p> <p>(a) the purpose of the collection, use or disclosure as provided for in subsection 20(2);</p> <p>(b) that he or she may give or withhold consent; and</p> <p>(c) that the information may be only collected, used, or disclosed without his or her consent in accordance with this Act.</p>
Most Responsible Health Care Professional (MRHCP)	The health care professional who has overall responsibility for directing and coordinating the care and management of an individual patient at a specific point in time. The MRHCP is responsible for writing and clarifying orders, and providing a plan of care, obtaining consultations as appropriate, coordinating care, as well as the discharge process.
Overt	Done or shown openly; plainly or readily apparent, not secret or hidden.
Personal Health Information	<p>Identifying information in oral or recorded form about an individual that relates to:</p> <ul style="list-style-type: none"> • the physical or mental health of the individual, including information respecting the individual's health care status and history and the health history of the individual's family;

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	<ul style="list-style-type: none"> • the provision of health care to the individual, including information respecting the person providing the health care; • the donation by an individual of a body part or any bodily substance, including information derived from the testing or examination of a body part or bodily substance; • registration information; • payments or eligibility for a health care program or service in respect of the individual, including eligibility for coverage under an insurance or payment arrangement with respect to health care; • an individual's entitlement to benefits under or participation in a health care program or service; • information about the individual that is collected in the course of, and is incidental to, the provision of a health care program or service or payment for a health care program or service; • a drug as defined in the <i>Pharmacy Act, 2012</i>, a health care aid, device, product, equipment or other item provided to an individual under a prescription or other authorization issued by a health care professional; or the identity of a person's representative as defined in Section 7 of the <i>Personal Health Information Act</i>.
Personal Information	Recorded information about an identifiable individual including: <ul style="list-style-type: none"> • the individuals name, address, or telephone number; • the individual's race, national or ethnic origin, color, or religious or political beliefs or associations; • the individual's age, sex, sexual orientation, marital status or family status; • an identifying number, symbol or other particular assigned to the individual; • the individual's fingerprints, blood type or inheritable

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	<p>characteristics;</p> <ul style="list-style-type: none"> • information about the individual's health care status or history, including a physical or mental disability; • information about the individual's educational, financial, criminal, or employment status or history; • the opinions of a person about the individual; and the individual's personal views or opinions.
Recording(s)	A still or moving image captured by any form of electronic and/or film recording device or a voice recording by such device (e.g. tape recorder, digital recorder).
Recording Equipment	Refers to any type of technology used to audio record, photograph or video record, including but not limited to electronic or photographic equipment (i.e. cell/smart phone, digital film or video camera, standard camera), electronic and/or tape recording device (e.g. tape recorder, digital recorder).
Representative	<p>A right or power of an individual may be exercised:</p> <p>(a) by a person with written authorization from the individual to act on the individual's behalf;</p> <p>(b) where the individual lacks the competency to exercise the right or power or is unable to communicate, and where the collection, use or disclosure of his or her personal health information is necessary for or ancillary to a "health care decision", as defined in the <i>Advance Health Care Directives Act</i> , by a substitute decision maker appointed by the individual in accordance with that Act or, where a substitute decision maker has not been appointed, a substitute decision maker determined in accordance with section 10 of that Act;</p> <p>(c) by a court appointed guardian of a mentally disabled person, where the exercise of the right or power relates to the powers and duties of the guardian;</p> <p>(d) by the parent or guardian of a minor where, in the opinion of the custodian, the minor does not understand the nature of</p>

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	<p>the right or power and the consequences of exercising the right or power;</p> <p>(e) where the individual is deceased, by the individual's personal representative or, where there is no personal representative, by the deceased's nearest relative, and for this purpose, the identity of the nearest relative may be determined by reference to section 10 of the <i>Advance Health Care Directives Act</i>;</p> <p>(f) where the individual is a neglected adult within the meaning of the <i>Neglected Adults Welfare Act</i>, by the Director of Neglected Adults appointed under that Act; or</p> <p>(g) where an individual has been certified as an involuntary patient under the <i>Mental Health Care and Treatment Act</i>, by a representative as defined in that Act, except as otherwise provided in this Act.</p>
Use	<p>To handle or deal with the information or to apply the information for a purpose and includes reproducing the information but does not include disclosing the information.</p>

POLICY STATEMENT(S)

The collection of Recordings related to an individual's personal or personal health must only be collected, used, or disclosed by knowledgeable consent of the individual who is the subject of the information, unless the collection, use, or disclosure is otherwise required by professional practice standards or is permitted by law.

Central Health will inform individuals about the Audio, Video and Photographic Recording policy through corporate signage as referenced in *Appendix A*.

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Recordings by Health Care Professionals/ Providers of Clinical Interventions

Health care professionals/providers may overtly collect Recordings that are relevant and required for the provision of care of the individual only by knowledgeable consent of the client/representative who is the subject of the personal health information.

Any Recording of lasting clinical significance made at the time of a clinical intervention by a health care professional/provider is considered part of the client's medical record and must be retained on the client's legal record.

Health care professionals/providers are not permitted to covertly collect personal health information during any clinical intervention with clients within Central Health.

Recordings by Employees and Affiliated Individuals within Central Health

All Central Health employees and affiliated individuals must be aware of privacy and confidentiality when collecting Recordings on their personal or Central Health approved devices for personal or business purposes. For all Recordings by Central Health employees and affiliated individuals, consent of the individual is required, including consent for posting to social media and other public platforms.

Central Health employees and affiliated individuals must not overtly or covertly collect Recordings of other employees or affiliated individuals without the knowledgeable consent of the individual who is the subject of the Recording.

Recordings by Clients or Visitors within Central Health

There is no legal requirement that consent be obtained before an individual collects Recordings of an interaction with health care professionals/providers. Health care professionals/ providers are under no obligation to be recorded by clients or visitors and must negotiate any Recordings of a clinical care intervention, though access to services must not be refused.

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Clients are discouraged from covertly collecting personal information of a health care professional/provider and may be requested to discontinue covert Recordings upon discovery. Health care professionals/providers must negotiate the collection of Recordings within the clinical relationship to support trust and a positive healthcare environment.

Where any individual collects Recordings within Central Health sites, facilities, or program areas, measures must be taken to ensure that Recordings do not inadvertently capture other individual's personal and/or personal health information. Employees and affiliated individuals may instruct that a Recording be discontinued if deemed necessary in the interest of patient care, respect for the privacy of other clients or visitors, or purposes related to Central Health operations.

Employees/affiliated individuals must not remove cameras, cell phones or other personal recording devices belonging to individuals who record activities without permission or attempt to erase information from their equipment without the individual's permission. A request to delete recorded information may be made of any individual where concerns for privacy or confidentiality are present.

Recordings in Private Areas

Clients may overtly record interactions with healthcare professionals/ providers occurring in a private area such as residential options, examination room or clinical office, etc. to maintain an accurate record of the health care professional's advice, or to share the information with a family member. To ensure trust within the clinical relationship, Recordings of clinical or other encounters by a client or other individual is recommended to be discussed with the health care professional/provider prior to any Recording.

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Unauthorized Posting Online of Personal and/or Personal Health Information by Clients or Visitors

Where a client or visitor posts a Recording that includes identifiable personal or personal health information of another individual, without consent, on a public medium such as social media, Central Health may explore various options to have the content removed. These options include, but are not limited to:

- Communicating with the individual and requesting that the post be removed;
- Central Health recourse through the social media platform/site administrator requesting that the content be reviewed/removed for privacy reasons; and/or
- Central Health privacy representative consultation with the Office of the Information and Privacy Commissioner.

Audio Recordings

Under law, an individual may make an audio recording of a conversation to which they are a participant, with or without the other individuals' knowledge or consent. To support a positive work and health care environment, all Central Health employees and affiliated individuals must obtain knowledgeable consent for audio recordings involving Central Health clients and/or employees or affiliated individuals.

It is not permitted under law to willfully intercept or record a private communication between other individuals by any means or device where the individual is not a party to the communication.

Recourse for Employees/Affiliated Individuals and Clients

Health care professionals/providers are under no obligation to be recorded by other individuals. The healthcare professional/provider may instruct that a Recording be discontinued at any time where the privacy/confidentiality of another individual has or may be breached.

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Central Health employees and affiliated individuals may seek recourse through People and Culture if they feel their privacy has been violated by another employee or affiliated individual through the unauthorized collection, use, or disclosure of Recordings within the workplace.

Central Health clients may seek recourse through the Central Health privacy representative if they feel their privacy has been violated by an individual through the unauthorized collection, use, or disclosure of Recordings within any Central Health site, facility, or program area.

Members of the public have the legal right to pursue civil action under the [Privacy Act](#) if they believe their privacy has been violated by another individual.

Policy Non-Compliance

Failure to comply with this policy may lead to disciplinary action, up to and including termination of employment/affiliation with Central Health and/or review by the health care professional's regulatory body through the complaints review process, as applicable.

PROCEDURE

Employees and Affiliated Individuals Must:

- Request that an individual refrain from Recording if the act is, or has the potential to, interfere with client care;
- Ensure compliance in their areas and verbally remind individuals about the policy when appropriate and necessary;
- Upon discovering that an individual is Recording their interaction, discuss the individual's reasons for Recording and possible alternatives;
- Discuss their discomfort and limit their consent to the collection for Recording;

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- Request that the individual agree that any Recordings not be shared or posted to social media or public websites to safeguard the privacy of other clients and visitors;
- Document the details of this interaction in the client's medical record;
- Ensure that sterile barriers are not violated while a client or visitor is Recording; and
- Promptly report unauthorized Recordings of individuals through the Client Safety Reporting System (CSRS).

REFERENCES

Access to Information and Protection of Privacy Act, Statutes of Newfoundland and Labrador (2002, c. A-1.1). Retrieved from House of Assembly website: <https://www.assembly.nl.ca/legislation/sr/statutes/a01-2.htm>

Canadian Medical Protective Association. (March 2017). *Smartphone recordings by patients: Be prepared, it's happening*. Ottawa, Ontario: Author. Retrieved from: <https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2017/smartphone-recordings-by-patients-be-prepared-it-s-happening>

Criminal Code, RSC (1985) c. C-46, s. 184. Retrieved from: <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-184.html>

Healthcare Insurance Reciprocal of Canada. (August 2017). *Photographs & Audio Video Recording of Births*. Toronto, Ontario: Author. Retrieved from: <https://www.hiroc.com/resources/risk-notes/photographs-audio-video-recording-births>

Personal Health Information Act, Statutes of Newfoundland and Labrador (2008, c. P-7.01). Retrieved from House of Assembly website: <https://assembly.nl.ca/legislation/sr/statutes/p07-01.htm>

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Privacy Act, Revised Statutes of Newfoundland and Labrador (1990, c.P-22).

Retrieved from House of Assembly website:

<https://assembly.nl.ca/legislation/sr/statutes/p22.htm>

RELATED RESOURCES

Appendix A: Photography and Audio-Video Recording Public Notice

Appendix B: Audio, Video and Photographic Recording Policy Information Sheet

CMPA Position Statement: Smartphone recordings by patients: Be prepared, it's happening

Canadian Medical Association Journal: Doctors conflicted about patients recording clinical visits

HIROC Risk Note: Photographs & Audio Video Recording of Births

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Appendix A: Photography and Audio-Video Recording Public Notice



NOTICE

To protect the privacy and confidentiality of all individuals we ask that if you choose to take photos or recordings that you ensure it is only you in the photo, audio or video recording.

If you are capturing others, then you must ask for consent prior to taking the photo, audio or video recording and inform the individual of its intended use.

Thank you for your cooperation.

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Appendix B: Audio, Video and Photographic Recording Policy Information Sheet

<p>Recordings by Health Care Professionals/ Providers (HCP/P) for Clinical Purposes</p> <p>HCP/Ps may overtly and directly collect recordings that are relevant and required for service or care of an individual by knowledgeable consent of the client/representative who is the subject of the personal health information, except where professional practice standards require clinical documentation.</p> <p>The HCP/P must negotiate the collection of recordings within the clinical relationship to support trust and a positive healthcare environment.</p> <p>Any recording relevant to service/care planning and made at the time of a clinical intervention by a HCP/P is considered part of the client's medical record and must be retained on the client's legal health record.</p> <p>HCP/Ps are not permitted to covertly collect personal health information during any clinical intervention with clients within Central Health.</p>	<p>Recordings by Employees and Affiliated Individuals within Central Health</p> <p>For all recordings by Central Health employees and affiliated individuals, knowledgeable consent of the individual is required, including consent for posting to social media and other public platforms.</p> <p>Central Health employees and affiliated individuals must not overtly or covertly create or collect recordings of other employees or affiliated individuals without the knowledgeable consent of the individual who is the subject of the recording.</p>
<p>Recordings by Clients or Visitors within Central Health</p> <p>There is no legal requirement that consent be obtained before an individual creates or collects recordings of an interaction with a HCP/P. HCP/Ps are under no obligation to be recorded by clients or visitors and must negotiate any recordings of a clinical care intervention, though access to services must not be refused.</p> <p>Clients are discouraged from covertly collecting personal information of a HCP/P and may be requested to stop covert recordings upon discovery. Access to services must not be refused.</p> <p>Employees and affiliated individuals must not remove or confiscate cameras, cell phones or other personal recording devices belonging to individuals who record activities without permission. Employees and affiliated individuals must not attempt to erase recordings from individual's equipment without the individual's permission.</p> <p>The Central Health privacy representative may be consulted where a breach of privacy is suspected to have occurred or where personal or personal health information may have been collected without consent of the individual to whom the information relates.</p>	<p>Requirements for Employees and Affiliated Individuals</p> <ul style="list-style-type: none"> • Request that an individual refrain from recording if the act is, or has the potential to, interfere with client care; • Ensure compliance in their areas and verbally remind individuals about the policy when appropriate and necessary; • Upon discovering that an individual is recording their interaction, discuss the individual's reasons for recording and possible alternatives; • Discuss their discomfort and limit their consent to the collection of recordings; • Request that the individual agree that any recordings not be shared or posted to social media or public websites to safeguard the privacy of other clients and visitors; • Ensure that sterile barriers are not violated while a client or visitor is recording; and • Promptly report any suspected privacy breach through the Client Safety Reporting System (CSRS).

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