

## **Videotaping of Providers by Patients and Families**

Recently, the topic of patients and families videotaping staff has resurfaced. Staff has expressed discomfort and anxiety about being filmed and are wondering what the legal implications of this are.

The Privacy team has done an extensive review of this, and while there is no official policy in place, the following are the key take-always for leaders so that they can support staff impacted by being videotaped.

1. The *Criminal Code*, at s. 184, criminalizes the act of recording audio of private communications for any subsequent purposes or legal procedures **unless one party** to the communication consents. *The Health Information Protection Act (HIPA)* applies to how trustees and regulated health care professionals interact with patients and their individual records. **HIPA does not apply to the actions of private citizens or individual patients.**
2. Video and audio recording equipment can be used by a patient, their proxy or an attending family member. There is no legal reason to stop this practice or to request the removal of any recording unless it impedes the care being provided or impacts the privacy of others.
3. Health care workers are working for a publicly funded organization and have limits to the expectation of privacy in performing any duties required by the patient. If they are completing their responsibilities and providing safe care, in a respectful manner and that follows the care plan, the presence of a recording device or camera should not impact the delivery of care.
4. Neither the SHA nor its employees are permitted to record any interactions within a patient home (including LTC rooms) or clinical setting without meaningful, informed express consent. The SHA does record in common or public areas in and around the perimeter of the building for security purposes.

We understand that staff may not be comfortable with being recorded but, the care belongs to the patient and they have a right to document their care. There are no limitations on how this care is used and we acknowledge it can be posted to social media channels.

Talk to your staff about videotaping and to even encourage it by bringing in another provider and clearly explaining the care being provided while engaging the individual and family in the process along the way. Encourage the providers to ask why they are recording and if there are others supports they need. Some common reasons we have encountered for recording are language barriers, feeling overwhelmed and not wanting to miss anything, wanting to share as much as possible as accurately as possible with friends and family, and a previous encounter that went badly.

Ensure your teams know about the [Translation and Interpretation Services](#) to support individuals where English is not their first language.

Use approved [Virtual Care platforms](#) to invite the family members or friends to be part of the next visit or set an appointment with the individual and their chosen support team -

Unfortunately we cannot change the last encounter but we can heal the relationship with the individuals but reaching out to understand and support their medical journey.