

TeleSAFE IT Security Policy Development

Informed Consent for Photography

The following are key concepts that should be included when developing informed consent policies for the use of photography during the teleSAFE medical forensic exam. This should not be considered a comprehensive list and additional wording may be required to meet state, tribal, and jurisdictional requirements.

Purpose:

Written consent must be obtained from the patient, guardian, or health care power of attorney (*include facility legal department for local direction) for the use of photography as part of the teleSAFE sexual assault medical forensic exam. Principles of informed consent must be employed to ensure that the patient understands the purpose of having photos taken of their body, how and where they will be stored, released, and who may have access to them.

Consent for photographs for those who by jurisdictional definition are unable to provide legal consent should be obtained from the legal guardian or health care power of attorney. Additionally, verbal permission or assent should be sought from minors who are old enough and/or developmentally able to understand and agree to photography.

Policy Considerations:

- Written and verbal information to obtain the patient's informed consent must be tailored to the individual's developmental and communication skill level.
- Clinical photography within the medical forensic exam, requires consent that is separate and distinct from the general facility consent for treatment.
- Patients should be asked about their preferred language. Consents should be provided in the patient's preferred language when possible. If the consent is not available in the patient's preferred language, an interpreter must be provided.
- Interpreters for deaf/hard-of-hearing patients must be provided when necessary.
- Family members should not be used to interpret for patients.
- Clinicians need to be aware of verbal and nonverbal cues from patients and adjust their methods of seeking consent to meet patients' health care literacy needs.
- Encourage patients to ask questions, indicate they need a break, or ask for information to be repeated.
- Reinforce to the patient that their informed consent is fluid and ongoing and that they may decline any portion or all photography as they choose.
- It is contrary to ethical and professional clinical practice to influence or impose judgment on the patient if they decline to have photography as part of their care.

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- Inform the patient as to the purpose of the clinical photographs; how they will be used; how they will be stored, who may have access to them, and what the procedure is for the release of photos.
- Obtain signatures and dates on the written consent forms and document consent or reasons for declining consent on medical records or medical forensic reports.
- Explain to the patient that additional consent will be needed to release the photographs to multidisciplinary partners such as criminal justice.
- Clinical photography consent does not include the following:
 - Independent patient videos or pictures taken by the patient or family members
 - Reproduction of photographs in illustrations or medical publications
 - Photography of patients for promotion, artwork, or advertising.
- Organizations should consult with legal counsel to identify and distinguish types of photography and develop policies accordingly.