

## Skilled Nursing Policy and Procedure

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<b>Subject/Title:</b>	<b>Electronic Monitoring and Photographic/Audio Devices, Resident/Family Use</b>
<b>DISCLAIMER:</b> <b>Sample Policy</b> <b><u>only</u></b>	Sample policies are intended to provide a basis for drafting a policy or policies which meet your business's needs. They should be considered as open to modification. Rarely does one policy statement reflect the needs and concerns of all businesses. Sample policies should not substitute for or replace the advice of your attorney or business advisor.

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### I. POLICY GUIDELINES

The resident has the right to privacy, confidential care, and protection of health information. Healthcare professionals have a duty to protect each resident's healthcare information and each resident's privacy and dignity. Violations of resident's rights undermine resident, family and public confidence in healthcare organizations.

In order to safeguard resident privacy, the facility does not permit photographing of any kind or use of electronic monitoring or audio recording devices, unless prior written permission is obtained from the resident and facility management.<sup>1</sup>

### II. DEFINITIONS

**Electronic monitoring** "is defined as the placement of an electronic monitoring device (video, webcam) in the room of a resident of a nursing facility, in a client's living space in an assisted living community, or in a home-care client's living space. The device could be a video surveillance camera, monitoring system, or web-based camera. Some devices allow for two-way communication, some for audio and/or video, and some record sound while others do not. Some record and some stream images and/or sound over the internet or cell phone signals."<sup>2</sup>

**Photographic device** is any device that captures an image and outputs the resulting image on a display surface. This includes all video and still capture devices.<sup>3</sup>

**Audio device** is any device that records sound.<sup>4</sup>

### III PROCEDURAL COMPONENTS

A. All photographic, audio and electronic devices are prohibited throughout the facility unless prior written permission is obtained from facility management. This permission may only be granted by the Administrator, Director of Nursing or the Risk Manager.<sup>5</sup>

B. Photographic and audio devices may include, but are not limited to: cell phone cameras, video cameras that create digital or film recordings, still cameras, both digital and film, instant or Polaroid™ type cameras, tape recorders, and electronic monitoring devices

(including but not limited to surveillance cameras, room monitoring devices and granny cams).<sup>6</sup>

C. Resident consent must be obtained for photography and audio monitoring. If the resident is deemed incompetent, an authorized family member or legal guardian may provide consent.<sup>7</sup>

D. If consent for **photography** is granted by the resident, photographs may only include those activities involving social situations, such as parties or holiday gatherings, and may only include the resident who has provided permission.<sup>8</sup>

E. If the facility approves of **electronic monitoring** of the resident, by the resident, a family member or guardian, the scope of the agreement should be defined in writing so all parties agree to where and when the surveillance can and cannot be used. Dignity and privacy issues are of utmost concern, not just for the resident, but others who may inadvertently be caught on camera. Cameras will not be installed in areas where residents have a heightened expectation of privacy, such as restrooms, shower or bathing areas and changing rooms.<sup>9</sup>

F. Obtain a signed request and informed consent form from residents, or if deemed incompetent from an authorized family member or legal guardian, requesting to install a surveillance camera. If other residents (roommates) may be captured on the surveillance, obtain their written informed consent/permission.<sup>10</sup>

F. Post conspicuous signage throughout the facility and on the resident's door informing residents, staff and families/visitors of the presence of video cameras.<sup>11</sup>

G. Discuss the use of electronic monitoring and photographic/audio devices with prospective residents and family members.<sup>12</sup> Educate all residents and family members about this policy upon admission and thereafter as needed.

H. Include information about electronic monitoring and photographic/audio devices in the admission consent that is signed by the resident or responsible party. Example language includes:

In order to protect resident privacy and in order to comply with privacy regulations, I agree that the use of electronic monitoring, photographic or audio devices will not be used within the facility without the prior written authorization of the resident(s) and approval by facility management<sup>13</sup>

This sample policy is derived from the sources below and is based on materials provided by Pendulum (© 2015 Pendulum, 4600B Montgomery Blvd. NE, Suite 204, Albuquerque, NM 87109).

The sources noted below are provided for reference only and should not be included as part of the facility policy.

Sources:

1. Pendulum. Skilled Nursing Procedure. Photographic and Audio Devices, Resident/Family Use. <https://resourcesforrisk.com/hcis/>
2. Minnesota Residential Care and Services Electronic Monitoring Work Group Final Report. <http://www.health.state.mn.us/divs/fpc/rcworkgroup/finalreport.pdf>
3. Pendulum. Skilled Nursing Procedure. Photographic and Audio Devices, Resident/Family Use. <https://resourcesforrisk.com/hcis/>
4. Ibid.
5. Ibid.
6. Ibid
7. CNA Insurance Alert Bulletin. Video Surveillance, The Pros and Cons of Granny Cams'.
8. Pendulum. Skilled Nursing Procedure. Photographic and Audio Devices, Resident/Family Use. <https://resourcesforrisk.com/hcis/>
9. GuideOne. Video Camera Surveillance Readiness. <http://www.goriskresources.com/Newsletter/2016/2q-cover-video-camera-surveillance.htm>
10. CNA Insurance Alert Bulletin. Video Surveillance, The Pros and Cons of Granny Cams'.
11. Ibid.
12. Ibid.
13. Pendulum. Skilled Nursing Procedure. Photographic and Audio Devices, Resident/Family Use. <https://resourcesforrisk.com/hcis/>