

PURPOSE

To assure consistency across the Michigan Department of Health and Human Services (MDHHS) hospitals regarding the use of video surveillance monitoring and the duplication and release of surveillance footage.

DEFINITIONS

Campus

A hospital's physical plant and the areas that include, but may not be limited to, parking lots, non-contiguous hospital-affiliated structures, and property owned, operated, and maintained by the State of Michigan.

Common Area

Areas of a hospital's campus that are accessible to all patients. Examples included, but may not be limited to, hallways, nursing stations and social activity areas within a psychiatric unit.

Covered Entity

For purposes of this policy, refers to offices within MDHHS which a) carry out monitoring functions intended to protect the rights of patients, or b) investigate instances when an employee has been accused of violating work rules or federal and/or state law. A covered entity includes, but may not be limited to, the MDHHS Office of Recipient Rights (ORR), MDHHS Human Resources (HR), the MDHHS Bureau of Legal Affairs, and the State Hospital Administration (SHA) Investigations section.

Hospital

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

Pixelate

To display an image, or a fraction of a whole image, as a number of larger pixels in order to disguise a person's identity.

Video Surveillance Monitoring

The recording of moving visual images made digitally or on video tape for the purposes of safety, security, and quality improvement.

Written Notice

Information received in writing.

POLICY

Video surveillance monitoring must be conducted in hospitals for purposes of safety, security, and quality improvement. Visible signage indicating active video surveillance must be posted in areas that are under surveillance monitoring, even if that monitoring is intermittent.

Upon admission, patients and, if applicable, their guardians must be provided written notice of video surveillance in the hospital and documentation of such must be maintained in the patient's record.

Video surveillance must not be captured:

- For the treatment or therapeutic purposes of a patient.
- For inclusion as a part of a patient's clinical record.
- As a result of targeted surveillance based on a person's race, gender, sexuality, national origin, disability, or any other protected class as defined by federal and state law.
- In locations where there is a reasonable expectation of privacy. This includes, but may not be limited to, patient rooms and hospital restrooms.
- To carry out personnel functions apart from investigations related to recipient rights violations; patient or staff injuries; alleged criminal activity; workplace accidents; environmental hazards; incident report investigations; and alleged work rule violations.

Hospitals must:

- Train covered entities with access to the facility's video surveillance system on the legal and ethical use of video surveillance monitoring within the hospital.
- Maintain the video surveillance equipment. This includes:
 - Ensuring that the video surveillance system is secured.
 - Ensuring that the video surveillance system, including the system's servers, are properly functioning, and actively

capturing and storing surveillance footage. In circumstances where the surveillance system is not properly functioning, capturing, or storing footage the hospital must alert:

- The MDHHS contracted or, when applicable, the Michigan Department of Technology, Management and Budget contracted, video surveillance vendor.
- The hospital's ORR representative(s).
- The SHA Senior Management Executive, or their designee.
- Limiting access to only authorized users.
- Not less than monthly, auditing the video surveillance viewing logs. Viewing logs must include, but may not be limited to, the viewers name, date, and time the surveillance was accessed, the date(s) and time(s) of the event(s) reviewed, and reference to the appropriate complaint or investigation number assigned.
- At the request of covered entities or Disability Rights Michigan (DRM), assist in any creation of footage timelines, patient and staff identification, or other items deemed necessary to complete an investigation.
- Duplicate surveillance footage. This includes, if necessary, the pixelation of footage intended to be released outside of MDHHS.
- Maintain a hospital floor plan identifying the locations of video surveillance equipment, including all installed cameras.
- Maintain an inventory of operational cameras supplied and supported via the contracted surveillance vendor. Cameras supplied by vendors who are not currently the contracted surveillance vendor for the hospital must not be used.
- Ensure that safeguards are in place to prevent unauthorized access, duplication, deletion, or other tampering of video surveillance recordings.

Investigations

Covered entities and DRM must be provided unimpeded access, facilitated by hospital administration, to surveillance footage necessary to complete an investigation.

If an investigation occurs that impacts the work status of an employee, the hospital must provide reasonable accommodation for that employee, with their representation, if applicable, to view relevant video surveillance footage.

Duplication and Release of Surveillance Footage

Video surveillance footage must be duplicated and released upon court order or consistent with applicable statute, or to DRM in cases of suspected abuse or neglect. Video surveillance footage containing images of patients must not be disclosed unless:

- MDHHS has received authorizations from each patient identified on the video, or their authorized representative.
- MDHHS has pixelated the images of patients identified on the video, if the department has not received an authorization to disclose their image, or
- A court requires the department to disclose the images through either an order or subpoena signed by a judge.

Footage being requested pursuant to a court order, subpoena from a court of record, or FOIA request must only be released to the MDHHS Bureau of Legal Affairs for fulfillment. Unless otherwise required by court order, subpoena from a court of record, FOIA request, or this policy video surveillance footage must not be viewed, duplicated, or released.

Upon request, video surveillance footage must be duplicated and released to covered entities if the footage is necessary to complete an internal investigation.

Duplicated and released video surveillance footage may only be released upon approval from:

- The SHA Senior Management Executive for the State Hospital Administration, or their designee, in consultation with the MDHHS Legal Affairs Administration, and
- Only in cases where the video surveillance footage includes patient data, the Director of the Office of Recipient Rights.

Appropriately requested video surveillance footage must be duplicated and provided within 10 business days, or by the deadline date listed on the court order or FOIA request, whichever is less.

Storage and Retention Requirements

Video surveillance footage must be maintained on a secure server dedicated to video surveillance and saved for at least 30 days before deletion. Surveillance footage that is pertinent to an ongoing investigation undertaken by a covered entity or DRM must be saved for the duration of the investigation.

REFERENCES

Michigan Mental Health Code, MCL 330.1724.

CONTACT

For more information concerning this policy contact the State Hospital Administration.