



Department of Health

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Dear Hospital Chief Executive Officer:

The purpose of this guidance is to update hospitals on devices that are used for the purpose of virtual visitation. Under section 405.7(c)(20) of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR), hospital patients have the right to authorize each patient's family members and other persons over the age of 12 years to visit the patient consistent with the patient's capability to receive visitors. These visits are essential and contribute to patients' physical and emotional well-being and care and must be allowed to the maximum extent possible. Hospitals may, in their discretion and consistent with their pre-COVID-19 ability, set the maximum number of visitation hours and visitors for various units in the hospital based on patient status, condition, and circumstances.

Patients also have the right to receive considerate and respectful care in a clean and safe environment free of unnecessary restraints under 10 NYCRR Section 405.7(c)(3). In addition, patients have the right to privacy while in the hospital and to confidentiality of all information and records regarding the patient's care under 10 NYCRR Section 405.7(c)(13).

Given the in-person visitation restrictions that have been in place in healthcare facilities during the COVID-19 pandemic and the desire for patients, family members and friends to see their loved ones, patients should be encouraged to use whatever electronic device they choose to video call friends and family, regardless of whether it is the patient's own device (e.g., a cell phone) or a device that they receive for the purpose of improving communication (e.g., a tablet specifically designed for videotelephony).

Hospitals can have a policy that prohibits video cameras. Patients should nevertheless be allowed to point a device's video camera at themselves for the purpose of engaging in a video call. Patients should not point the device's camera at other patients. Hospitals may implement reasonable policies to protect the privacy of other patients. 10 NYCRR Section 405.7(b)(20) requires that hospitals inform patients of the hospital rules and regulations that apply to the patient's conduct during their stay at the hospital. The hospital's policies on electronic videotelephony devices should specify how the patient and the patient's family/representative would be informed, at admission and thereafter, regarding the installation, placement and use of these devices.

Hospitals may impose reasonable restrictions such as:

- The device is turned off during direct patient care, including personal care and medical interventions, as well as quiet times.
- Not allowing the filming of other patients without their consent.
- Prohibitions on the use of devices to disclose any HIPPA protected information about other patients without their consent.

- Using devices to post information about other patients on social media or other venues without the patient's consent.
- If the hospital identifies IT security vulnerabilities, technological issues, or other privacy concerns with any device installed or connect to the hospital network, the hospital may prohibit the use or connection of such a device.

Please forward any questions regarding this advisory to hospinfo@health.ny.gov.

Sincerely,

Stephanie Shulman, DrPH, MS
Director, Division of Hospitals and Diagnostic &
Treatment Centers