

Document facilitator: Medical photographer, Clinical and Corporate Support

Senior document owner: Hospital & Health Services Committee (HHS)

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Level: **Organisation Wide**

Type: **Policy**

Name: **Medical photography and video recordings**

Purpose

To provide a framework and define the responsibilities of Te Whatu Ora - Health New Zealand Capital, Coast and Hutt Valley employees /contractors concerning the taking of clinical photographic images, video and audio recordings.

This includes collection, consent, storage and use whilst maintaining confidentiality for patients, staff and visitors.

NB: This policy must be read in conjunction with the Te Whatu Ora Capital, Coast and Hutt Valley [Informed Consent \(adults and children\)](#), [Privacy Policy](#), and [Confidentiality](#) policies.

This policy excludes:

- Radiographic or other images taken as part of a specifically consented treatment or investigation procedure including pictures of radiographic images
- Media or public interest stories/events

Scope

All Te Whatu Ora - Health New Zealand Capital, Coast and Hutt Valley employed health professionals (including contractors, visiting staff, honorary staff and volunteers) who provide health and disability services to patients at the DHB hospital, clinics and in the community.

Definitions

Clinical Image

The term “clinical image” (or “images”) is used to refer to any form of multimedia (including but not exclusively photographic regardless of format such as still image, video and regardless of storage format). This includes:

- Images or recordings made and used for clinical purposes
- Images or recordings made for clinical teaching purposes either internal within or external to the institution
- Images that may be made for above but may also be published externally in written or electronic media including blogs
- Includes copies of images retained on personal devices
- Extends to include images taken by patients either:
 - i. To communicate with CCDHB staff
 - ii. Or for their own purposes and at their own instigation

Document facilitator: Medical photographer, Clinical and Corporate Support

Senior document owner: Hospital & Health Services Committee (HHS)

Document number: 1.103054 **Issue Date** 21 July 2022 **Review Date** 21 July 2026

Policy content and guidelines

All clinical photographic images of patients regardless of format or recording medium form part of the patient medical record (either paper or electronic) and are therefore subject to the same security and confidentiality considerations as any other medical record.

All clinical photographic images must be consented and documentation completed in the patients notes.

All clinical photographic images must be stored/archived securely within the current Te Whatu Ora Capital, Coast and Hutt Valley system managed by the medical photographer to ensure images are locatable and retrievable.

Photography by the Medical Photographer

The Te Whatu Ora Capital, Coast and Hutt Valley Medical Photographer is available via cell phone #6531 to take all clinical photographic images as required 0900hrs – 1730hrs Monday – Friday (Excluding public holidays). Every effort should be made to use this service as it will provide the most reliable and consistent image quality.

After hours photography

The medical Photographer will be available for limited after hours call outs (if available) for Non accidental injury and other medico-legal imaging.

Photography taken by clinical team members

Smart Page and Cell phone image capture should only be used when the medical photographer is not available and the clinician requires immediate images to be taken for diagnostic or documentation purposes

- Clinical staff must be aware of the risk of cross contamination from micro-organisms from mobile phones in situations such as operating theatre
- Patient's visual identity should be concealed where possible
- The correct consent must be obtained at all times and only the specific area of clinical concern should be photographed
- The ideal photographic order for medical photography NOT taken by the Medical Photographer should be:
 - Photograph 1 - Patient's Sticky
 - Photograph 2 - Patient's Consent
 - Photograph 3 - Clinical shots
 - Document the date and time the image was taken and the name of the person taking the image in the patients' medical records
- A copy of the image must be sent to the Te Whatu Ora Capital, Coast and Hutt Valley photography e-mail (medicalphotography@ccdhb.org.nz) along with an electronic copy of the consent
- Where in a medical situation a team need to show/email the images to an offsite consultant/s and or key team members, to make appropriate clinical decisions. The image should only be sent to a trusted Te Whatu Ora Capital, Coast and Hutt Valley address or a clinical business practice email address.

Document facilitator: Medical photographer, Clinical and Corporate Support

Senior document owner: Hospital & Health Services Committee (HHS)

Document number: 1.103054 **Issue Date** 21 July 2022 **Review Date** 21 July 2026

Patient confidentiality is paramount and images should never be widely distributed and correct e-mail must be confirmed prior to sending

- Once the immediate usefulness of these images for patient management has passed it is the responsibility of all parties to delete the image files from their cameras, hard drives, flash cards, other storage devices and any local computer drives as soon as practically possible. Images may only be stored in Te Whatu Ora Capital, Coast and Hutt Valley authorised external or cloud based applications

Consent for photography

Where practicable, written consent should be obtained once the patient has been informed of the proposed uses of the photographic images and understands the purpose of taking the image.

Where verbal consent is obtained this must be documented in the patient's clinical record

In emergency situations, the requirement for imaging should be documented and retrospective written consent should be obtained where practicable.

[Form: Request for Treatment \(Consent form\)](#)

The patient has the right to refuse or withdraw consent for future photographs at any time. This must be documented clearly in the patient's medical record. Any existing photograph or image taken prior to the withdrawal of consent will remain on the patient record.

Recording of images without consent

In the following circumstances photography without consent may be acceptable:

1. Non Accidental Injury

Suspected non-accidental injury of a child.

- See Te Whatu Ora Capital, Coast and Hutt Valley [Informed consent for examination of children and young people](#).

2. Incompetent Patients

In cases where a patient has been assessed as not competent due to their mental capacity, assent should be obtained from the patient if appropriate with reference to that patient's level of competence.

Consent should be sought from a person who is legally entitled to consent on the patient's behalf, such as a court appointed welfare guardian or enduring power of attorney (EPOA) for example. [Guide for staff on Enduring Power of Attorney](#)
Or [Guide for Staff PPPR Protection of Personal and Property Rights Act](#)

In many cases there may not be someone with legal authority to consent. Under the Code of Health and Disability Services Consumers' Rights (Right 7(4)), it is possible to examine and treat without guardian /substitute consent if:

- No-one legally entitled to consent is available; and
- It is in the best interests of the consumer; and
- Reasonable steps have been taken to ascertain the views of the consumer; and:
- Either, if the consumer's views can be ascertained, the proposed treatment is consistent with the informed choice they would make if competent;

Document facilitator: Medical photographer, Clinical and Corporate Support

Senior document owner: Hospital & Health Services Committee (HHS)

Document number: 1.103054 **Issue Date** 21 July 2022 **Review Date** 21 July 2026

- Or, if the consumer's views cannot be ascertained, you take into account the views of other suitable persons who are interested in the consumer's welfare and are able to advise you (if none are available there is no obligation to find them).

Clinical staff considering taking images without consent should apply this framework in deciding what if any images should be collected and stored in the patient's best interests.

If a patient is temporarily incompetent (because they are unconscious or their condition is expected to improve) then the patient must be informed of images taken and stored once the patient regains capacity. Specific consent must then be sought from the patient for any proposed use of the photographs going beyond the patient's clinical care and treatment.

In all cases where consent has not been obtained, the reason for proceeding must be clearly documented in the patient's medical record. [Te Whatu Ora - Health New Zealand Capital, Coast and Hutt Valley Treatment without consent form](#)

Image capture and storage

Authenticated copies of all clinical photographic images must be archived together with comprehensive patient details on secure backed up hard drives that are password protected. The Medical Photographer currently provides archiving and storage.

All images must be deleted from cameras, hard drives, flash cards, other storage devices and any local computer drives as soon as practically possible.

If requested, prints will be placed in the patients notes.

Image use

Appropriately consented images can be used by clinicians in the course of teaching and clinical meetings and audit sessions. Patient identifiers should be removed. Such presentations may by necessity be stored or presented from individual's password protected hard drives / laptop.

Images should never be made available for public distribution and it is the clinician's responsibility to protect all patient data and be cognisant of copyright. All images should be deleted once no longer required for that purpose.

Requests for images will be documented to identify requestor and date of request. Patients can request copies by contacting the medical records department who will assist them in processing their request

The medical photography department liaises with medical records for patient image delivery.

Copyright

In respect of all photographic images taken on Te Whatu Ora Capital, Coast and Hutt Valley premises, regardless of recording medium, and which member of staff took the images, the copyright is deemed to be vested in Te Whatu Ora Capital, Coast and Hutt Valley.

Document facilitator: Medical photographer, Clinical and Corporate Support

Senior document owner: Hospital & Health Services Committee (HHS)

Document number: 1.103054 **Issue Date** 21 July 2022 **Review Date** 21 July 2026

Copies used for whatever purpose need to be supplied by the Medical Photographer and used only within the limits of consent.

Images **must not** be released to any outside agencies (i.e. Police, Social Services) without the prior agreement of the patient unless a legal exception applies.

Medical evidence

If a clinician requires images to be taken where the expectation is that the images may be requested by police and provided to the courts, the Medical Photographer should take the images. This is to ensure requirements for chain of custody are met.

Chain of custody requires imaging to be managed and stored within strictly controlled access and in an unprocessed format. This is to ensure images can be evidenced as the original and unedited format.

After hours

There is limited after hours call outs (if available) for Non accidental injury and other medico-legal imaging, when a patient (or their legal proxy) consents to clinical photography but will be discharged outside of normal business hours,

The clinician will assess the urgency of the requirement for clinical photographs, final sign-off requesting clinical photography must be made by the physician

The physician may request that the patient returns the following day to allow clinical photographs to be taken as soon as reasonably practicable.

Requests by Police

Occasionally staff may receive requests from Police to acquire photographs of patients.

If the request is for:

- New images - a photographer from the Police must capture the images
- Existing images- a request must be made through the clinical records process

Where appropriate, Police are responsible for acquiring consent from an individual patient or the patient's representative. In the case of an incompetent patient and the absence of someone authorised to give consent, it may fall to staff to consider the merits of the Police request.

Staff will have to consider the interests and welfare of the patient as weighed against the statutory provisions relied on by the Police.

See the section "Procedure following request for information" in the Disclosure of Information to Police policy. With the exception of demonstrable urgency the Police request should be in writing. In most cases it is appropriate for Police to acquire a Production Order to enable them to lawfully acquire images of a patient. In all cases the circumstances should be discussed with a senior clinician in addition to legal personnel.

Emailing clinical photographs

Any clinical photography that is emailed to an individual must be to a trusted Te Whatu Ora Capital, Coast and Hutt Valley address or a clinical business practice email address. E.g. WSL Laboratory, Central Region District.

Document facilitator: Medical photographer, Clinical and Corporate Support

Senior document owner: Hospital & Health Services Committee (HHS)

Document number: 1.103054 **Issue Date** 21 July 2022 **Review Date** 21 July 2026

For a list of Te Whatu Ora Capital, Coast and Hutt Valley safe/approved sites please see the intranet under support services/corporate/ict/information security.

<http://ccdhubintranet/SupportServices/Corporate/ICT/Security/TrustedSites/>

Where practicable, the image should be password protected. Please see the following link on how to password protect your image

<http://ccdhubintranet/SupportServices/Corporate/ICT/Security/Policy/>

With the exception of smart page, i-messaging and texting images are not secure methods of transmission and are therefore prohibited.

Patient image requests

Patients are entitled to have a copy of the photographs that have been taken. All clinical photographic images should be stored in the medical photographers' database and filed in patient's physical medical record. Patients can request copies by contacting the medical records department who will assist them in processing their request

The medical photography department liaises with medical records for patient image delivery.

Visiting clinicians

Visiting clinicians working at Te Whatu Ora Capital, Coast and Hutt Valley can use the Medical Photography Department's services for their clinical photography needs where required.

Uploading to social media and the internet

Staff must never post patient images or information on social media.

Video images

Currently have the following limitations:

- Video images can not currently be stored electronically within the system.
- Life expectancy of DVD - CD is two to five years (National archives) which is inadequate for the Public Records Act (PRA) or MDHB policies.
- Until storage capacity is enhanced in the system staff will need to record in the notes:
 - A. The informed consent form or the declaration of verbal consent having been obtained.
 - B. The date and time image taken
 - C. The name of person taking the image and person requesting image (if different).
 - D. Who was seen in the video image
 - E. The clinical findings
- Before suitable storage capacity is available video images must not be used except for immediate clinical use and then deleted
- When suitable storage becomes available this policy will need to be specifically reviewed to ensure the policy remains attuned to the specifics of any new capacity

Document facilitator: Medical photographer, Clinical and Corporate Support

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Audit

Audits consent and compliance and access to clinical images.

ICT department

Maintains the security/integrity of the organisational systems for electronic storage of clinical images.

Medical records department

Ensures correct filing of consent forms and hard copy images (where applicable) in the clinical record.

References

Code of Health & Disability Services Consumers' Rights

Health Information Privacy Code 1994

Privacy Act 1993

Acknowledgements

Hutt Valley District for use of extracts from their Clinical Photography policy

Mid Central District for use of extracts from their Clinical Images of patients – usage, consent and storage policy

Associated CCDHB documents

[Informed Consent \(adults and children\)](#),

[Clinical Photography in the Context of Partner Abuse](#)

[Privacy Policy](#),

[Confidentiality](#)

[Guide for staff on Enduring Power of Attorney](#)

[Electronic Portable Devices that store information](#)

[Use of email & Texting](#)

[Informed consent for examinations of children and young people](#)

[Child abuse and neglect – 6 step model for child abuse assessment](#)

Appendix

Appendix 1: Quick reference guide to Medical Photography

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Appendix 1 - Reference guide

Stages in collecting medical images	Summary
Obtaining consent	<p>Written consent or verbal consent must be obtained and recorded in the patients' medical records.</p> <p>Written consent is required if the images are to be used for purposes other than the immediate clinical management. Patients can withdraw their consent at any time.</p> <p>Patients need to be informed that if images are published in books or the web even if their consent is withdrawn, the images will not be able to be withdrawn.</p>
Taking the images	<p>The Medical Photographer should be used to take the images during business hours. The Medical Photographer is available after hours in the case of non-accidental injuries or medico legal requirements.</p> <p><i>Smart and Cell phone image capture should only be used when the medical photographer is not available and the clinician requires immediate images to be taken for diagnostic or documentation purposes.</i></p>
Storing the images	<p>All images must be stored by the Medical Photographer. Images along with confirmation of consent and patient NHI must be emailed using Te Whatu Ora Capital, Coast and Hutt Valley email</p>
Deleting images retained on the camera	<p>After the images have been sent for storage they need to be deleted from the phones or cameras. This includes any backups held in the cloud.</p>
Using images later	<p>Contact the Medical Photographer.</p>
Concerns or difficulties	<p>Contact the Medical Photographer for advice.</p>