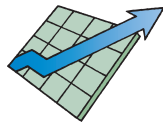


## Quality Matters



# Smile for the Camera

By Shari J. Welch, MD

A patient sitting in the waiting room of an emergency department uses his cell phone's built-in camera to snap a few photos of another patient. A greeter on duty witnesses this, and immediately informs the triage nurse. The nurse approaches the patient with the camera phone, and explains that taking pictures of other patients is a violation of HIPAA law, the second patient's privacy rights, and the facility's confidentiality policy. She asks the first patient to stop taking photos and to delete those she already took. The shutterbug complies, and privacy is restored. HIPAA and the newer HITECH Act require that emergency departments protect patients' privacy rights diligently. This is becoming increasingly difficult because of advances in technology.

Cell phone cameras threaten privacy more than traditional cameras because they are smaller and more easily concealed. A picture can be taken while a user appears to be making a phone call or sending a text message. By the time staff notices photos were taken, the images might have been sent to others or even posted on the Internet. Today, some institutions are addressing the threats this technology poses. Camera phones are now banned in certain public places where there is an expectation of privacy, such as locker rooms of fitness clubs. In health care, the concern spans beyond courtesy to a legal obligation to maintain confidentiality.

In the early days of cell phone utilization, cell phones were banned in acute care settings like the emergency department over concerns that they would interfere with certain devices like pacemakers. The public typically abided by these restrictions. In June 2007, the College of Healthcare Information



iStockphoto/sydeproductions

Management Executives (CHIME) released a study showing that 23 percent of health care organizations had lifted all restrictions on cellular phone usage, and that number was growing. (Only six percent of hospitals reported that all use of cell phones is prohibited.) Cell phone restrictions were lifted after several studies found interference with medical equipment to be negligible. (*Mayo Clin Proc* 2007;82[3]:282.) Allowing cell phone use also improves patient satisfaction, CHIME reports.

Though cell phone cameras were not the focus of the college's study, it was noted that some organizations have specific bans on camera phones in patient care areas. Albert Einstein Healthcare Network in Philadelphia has grappled with the issue for more than a year, said Information Security Officer Anahi Santiago. "Patient information, including pictures, should never reside on a personal portable device, including cameras," Ms. Santiago said. "This is difficult to control."

Images of health care procedures and patients have found their way onto Facebook, Twitter, and other Internet sites. Einstein assembled a task force to discuss cell phone usage in health care settings, with the group focusing on whether to obtain authorization from patients to have their pictures taken, how to control visitor usage of cell and camera phones, whether to allow family members to disrobe and photograph patients for use in future litigation, and rules involving employee use of cell phones.

Camera phones pose a unique set of challenges in the psychiatric setting, says Mardi Ehlers, the director of quality management and regulatory affairs

at Einstein's Belmont Center for Comprehensive Treatment. "Psychiatric patients are generally ambulatory. They have access to areas of the hospital that patients confined to their beds would not have," Ms. Ehlers said. "This leaves very few areas in the hospital [where] cellular phones can be safely used."

Due to the highly protected nature of patient information, psychiatric settings have abided by confidentiality laws that predate HIPAA. These laws prohibit the use of audio and visual recording in psychiatric settings.

What about looking at the privacy issues in reverse? Increasingly, visitors armed with camera phones are recording events that occur in the emergency department, including the technical work of doctors and nurses. This poses all kinds of problems for the institution at large. There are privacy issues of other patients to be considered and the fact that what is recorded cannot be controlled when it leaves the building. Finally, we have to ask, does filming interfere with providers' performance, and what are the implications for quality of care?

Harlan Hammond, the assistant vice president of risk management at Intermountain Healthcare in Salt Lake City, notes that policies in this area strive to balance competing needs and rights. "We continue to wrestle with how to balance the needs of our care providers to not be distracted or intimidated by assertive family members filming treatment procedures, with the perceived rights or needs of patients to make a video record of their medical care," he said.

Intermountain Healthcare's policy


## Only Online



Read all of Dr. Welch's past columns in the [EM-News.com](http://EM-News.com) archive.

does not allow recording during procedures, and recording must be done from the head of the bed so care and equipment are not obstructed. Intermountain Healthcare workers may terminate filming sessions for privacy, clinical, or operational reasons at any time. Filming of other patients, Intermountain employees, or physicians without their verbal permission is not allowed by policy.

Christiana Care Health System also has a policy forbidding the use of camera phones in clinical areas altogether. The policy requires written permission to record a health care provider at work or the use of institutional equipment, and the institution controls the images generated.

The important point for emergency medicine practitioners is to develop and enforce a policy at the institutional or organizational level. The impact of cell phone cameras and the broader issue of social media relative to emergency medicine has caught us unaware. The propensity for this technology to create risk for us in privacy, safety, performance, and litigation will be as boundless as the imagination. 

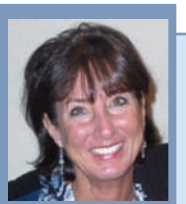
Comments about this article? Write to EMN at [emn@lww.com](mailto:emn@lww.com).

**Click and Connect!** Access the links in this article by reading it on [www.EM-News.com](http://www.EM-News.com).

## The HITECH Survival Guide

The HITECH Act widens the scope of privacy and security protections under HIPAA, increases liability for noncompliance, and provides more enforcement of HIPAA rules. Read more about it at [www.hipaasurvivalguide.com](http://www.hipaasurvivalguide.com).

**Dr. Welch** is a fellow with Intermountain Institute for Health Care Delivery



Research, an emergency physician with Utah Emergency Physicians, and a member of the board of the Emergency Department Benchmarking Alliance. She has written two books on ED operational improvement; the latest, *Quality Matters: Solutions for the Efficient ED*, is available from Joint Commission Resources Publishing.