

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
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Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-06-33

**DATE:** September 29, 2006  
**TO:** State Survey Agency Directors  
**FROM:** Director  
Survey and Certification Group  
**SUBJECT:** Some Basic Principles of Using Photography During the Survey

#### Letter Summary

This memorandum provides information to support State Survey Agencies that choose to incorporate photographic documentation into their survey process.

Although the use of photography during the survey process is not required, State Survey Agencies (SAs) may decide to collect photographic evidence to support a finding of non-compliance. To assist SAs, we wish to share some basic principles that the SAs can use to incorporate photographic evidence into their survey process. As photographs are optional, these principles are a tool and may be used at a State's discretion.

**Effective Date:** Immediately. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum, and disseminate the information to affected providers.

**Training:** The information contained in this announcement should be shared with all surveyors and supervisors.

/s/  
Thomas E. Hamilton

Attachment:

cc: Survey and Certification Regional Office Management (G-5)

## **Basic Principles of Using Photography During the Survey**<sup>1</sup>

Although the use of photography during the survey process is not required, the State Survey Agencies (SAs) may decide to collect photographic evidence to support a finding of non-compliance. We are providing some basic principles to assist States if they do use photographic evidence. The SA will be responsible for the acquisition, accountability, and security of the camera and film. The camera and film must be the sole property of the State; surveyors should not use their own personal photographic equipment, including cell phones with photographic capabilities. Additionally, the SA should develop guidance for using photography during the survey process and train staff in the proper use of the camera.

Surveyors may use photography as a tool, supplementing written documentation, to assure accurate and effective records of observations made during surveys with the intent to produce photographs that are relevant to possible deficiencies. However, without written documentation, photographs cannot stand alone and have little benefit.

Photographs may enhance findings of non-compliance by providing visual evidence of injury, scene, or other relevant components of a deficient practice. Photographs should not be included as part of the Form CMS- 2567. Surveyors should only reference photographs in their surveyor notes and not in the statement of deficiencies.

When taking photographs during a survey, remember the following basic principles:

### **1. Request the Resident/Patient/Client's or His/Her Surrogate's Written Permission Prior to Photographing Him/Her**

- Before beginning, ask the individual's written permission to take a photograph, to the maximum extent feasible.
- The health and dignity of the individual is always a paramount concern. A surveyor should respect an individual's refusal to be photographed.
- If the individual's genital or rectal or a female's breast area is photographed in order to document and confirm suspicions of care problems, a member of the nursing staff must be present at the time of observation, and the individual must give written consent.
- If the individual is unable to give consent (e.g., is unresponsive, incompetent), and the individual's legal surrogate<sup>2</sup> is present, ask the surrogate for written consent, unless the legal surrogate is the one suspected of abusing the individual.

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<sup>1</sup> Some material included in this document is from the Illinois Department of Public Health, Division of Long-Term Care Field Operations, "Guidelines for Photographic Evidence."

<sup>2</sup> Any person who may, under State law, act on the individual's behalf when he/she is unable to act for herself or himself

- If the individual is unable to give consent and the individual's legal surrogate is not present in the facility, then the surveyor may use discretion in determining whether a photograph of the individual's rectal or genital area (and for females, the breast area) is necessary to support a finding of noncompliance.
- Only a surveyor who is a licensed nurse, a physician's assistant, or a physician may take a photograph of the individual's genitals, rectal area, or, for females, the breast area.
- Surveyors should avoid taking pictures that will reveal an individual's face or other uniquely identifying information that will interfere with that person's right to privacy.

## **2. Get a Complete Series of Photographs**

Generally speaking, each relevant object in the scene should appear in at least three photographs: an overview, a mid- range photograph, and a close-up.

- Because a close-up does not indicate where the object was located, the overview photograph should cover the entire scene to bring out the relationships between the objects. Leave measuring scales and labels out of the overview photograph.
- The mid- range photograph shows a relevant object and its immediate surroundings.
- Each close-up photograph shows a key detail clearly. Have a "standard" in the close-up photograph to indicate the actual size of what is being photographed.
  - Measure scales and labels may be added to the close-up photograph. For example, placing a ruler with readable graduations next to a pressure ulcer will show its actual size in the photograph.
  - Other standards include tape measures, coins, or a pencil.

## **3. Documentation of Photographs**

A surveyor must handle a photograph of the individual with as much confidentiality as a medical record. Only non-personal identifiers should be used to document the photograph. When preparing the report narrative, any photographs taken must be integrated into the narrative, rather than just referenced. Photographs must enhance, not take the place of written documentation.

A reference in the notes should be made of each photograph even if it did not portray the expected image so there will be a sequential reference to all photographs taken.

- Immediately upon taking a photograph, document in surveyor notes the following:
  - Date;
  - Time;
  - The identity of the photographer;
  - A photograph identifying number (even if just one photograph is taken); Facility name;
  - Survey number, as applicable; and
  - Non-personal identifier.

(Note: Many conventional cameras and digital cameras have the capacity to imprint a date and time on the photographic image.)

- Photographs must enhance, not replace written documentation. A surveyor should be able to recall, after referring to her/his notes, the following information:
  - The object or situation that was being recorded;
  - Facts surrounding the photograph—where the photograph was taken;
  - Who took the photograph;
  - Purpose of the photograph; and
  - Date and time of photograph.
- Do not modify an original photograph. A surveyor who wants to stress a key detail in a photograph should identify the detail by using a transparent overlay that can be removed to show the unaltered print.

**Examples of Photographic Evidence:**

- Evidence of abuse, such as contusions, bruises, lacerations, or burns
- Evidence of improper and dangerous use of restraints or other devices
- Evidence of improper positioning such as leaning, or hypo- or hyper-extension of neck and/or trunk
- Pressure ulcers
- Contractures
- Safety hazards
- Evidence of extensive pest infestation
- Evidence of faulty or dirty equipment