

VIDEO & SOUND RECORDING / ELECTRONIC MONITORING

Common Areas. In order to protect the privacy of all residents and staff at our facility, we do not permit video or sound recordings to be made in the common areas of our facility. This policy applies to all forms of video and sound recording devices.

Resident Rooms. We allow our residents to install a surveillance instrument with a fixed position (no ability to zoom or move camera angle remotely) video camera or an audio recording device, or a combination of the two, that is installed in a resident's room and broadcasts or records activities or sounds occurring in the room. Devices that allow two way communication are prohibited. Devices such as Amazon Alexa, Amazon Echo, Google Home, or similar are not considered electronic monitoring devices, and are prohibited.

Who Can Authorize. Because electronic monitoring can present a significant invasion of the resident's privacy, under the law, only one of three individuals can authorize the use of video and sound recording devices in the resident's room:

- A. Resident. The resident themselves. The resident should be competent and able to understand the effects of authorizing electronic monitoring.
- B. Attorney-in-fact. Some residents execute a power of attorney (POA) designating someone to make health care decisions for them, called an "attorney-in-fact". When a resident's attending physician determines that the resident has lost the capacity to make decisions, the attorney-in-fact can authorize electronic monitoring. If a resident still has capacity to make their own decisions, the resident, and not an attorney-in-fact, makes the decision whether to allow electronic monitoring.
- C. Guardian. Sometimes a probate court will appoint an individual to make health care decisions for an individual when they are determined to be incompetent and therefore unable to make decisions on their own. Only a guardian of the person with letters of authority from the probate court evidencing their appointment can authorize electronic monitoring.

Electronic Monitoring Rules. Installation and use of video and sound recording devices for electronic monitoring is subject to the following rules:

1. Authorization Form. The resident, attorney-in-fact, or guardian must authorize the installation and use of the device for remote monitoring on our standard authorization form.
2. Withdrawing Authorization. The resident, attorney-in-fact, or guardian may withdraw their authorization for electronic monitoring at any time.
3. Who Can Install. The facility must prior approve any electronic monitoring devices to make sure that they are the type allowable by law, and only facility personnel may install the devices after they have been approved. Facility personnel will discuss placement options with Authorized Person, including whether or not placement of the device will be inside the boundaries of the privacy curtain.
4. Responsibility for Cost. The resident, attorney-in-fact, or guardian is responsible for all costs associated with installing, operating, and maintaining the device (except electricity).

5. Roommate Consent. If the resident has a roommate, the roommate must also consent before any electronic monitoring device is installed and used. If the resident's roommate does not consent, either resident can move to another room, if one is available.
6. Posting Notice. We may post notices in and outside the resident's room that electronic monitoring is in use.
7. Who Can View/Listen. Only the resident, their attorney-in-fact, their guardian, and law enforcement personnel are permitted under the law to view or listen to recordings from the electronic monitoring device. However, the resident, their attorney-in-fact, or their guardian can choose to allow others access to view recordings.
8. Connectivity. The Electronic Monitoring Device cannot be connected to Facility Wifi or internet. If live access to the Device is desired, Authorized Person should coordinate with Facility on an alternative means to access the Device.
9. Incident Reporting. Authorized Person must immediately report to the Facility, following viewing of the recording/video, any concerns, including abuse and neglect or a possible injury to the resident.

Illustrative Examples

- a. Resident is the decisionmaker. A resident's son and daughter want to install a video camera in their mother's room to monitor her remotely. The resident resides in a private room, she is competent to make the authorization, and she wishes to allow both her son and daughter to monitor through the video camera. The resident can authorize the installation and use of the video camera using our authorization form and identify that both her son and daughter are authorized to monitor recordings, and the family can proceed with installing and monitoring using the video camera.
- b. Resident does not want electronic monitoring. A resident's son and daughter want to install a video camera in their mother's room to monitor her remotely. The resident is competent to make the decision, and she does not want to install a camera because she is concerned about her privacy. In this case, because the resident has authority over electronic monitoring, the children would not be permitted to install or use a video camera to monitor their mother.
- c. Roommate does not want electronic monitoring. A resident wants to install a video camera in her room so that her son can monitor her remotely. The resident has a roommate, and the roommate does not wish to allow video camera recording in their room. If another room is available, we will allow either resident to transfer to the available room. However, if no other room is available, the resident would not be able to install or use the video camera.
- d. The attorney-in-fact is the decisionmaker. A resident's daughter wants to install a video camera to monitor her mother, but the resident has appointed her son as attorney-in-fact under a Durable Power of Attorney for Health Care. The resident's attending physician has made the determination that the resident is incapacitated, and noted that in the resident's medical record, so, in this case, the son has authority over electronic monitoring, not the daughter. Therefore, if the son does not want to authorize remote monitoring, or if he does not wish to allow his sister access to the recordings, he can refuse to sign the authorization or refuse to

identify his sister as an individual authorized to view recordings. In that case, the sister would not be permitted to monitor their mother.

- e. A guardian is needed. A resident's daughter wants to install a video camera to monitor her mother. However, the attending physician determines that the resident is incapacitated, and the resident has not named an attorney-in-fact through a Durable Power of Attorney for Health Care. In this case, there is no individual with appropriate authority to authorize electronic monitoring. Therefore, before the daughter can authorize install and use of the video camera, she would need to petition the probate court to be named as guardian for her mother. If the probate court determines that the resident is incompetent and names the daughter as guardian, she could then authorize electronic monitoring.

- f. A determination of incapacity is needed. A resident's daughter wishes to install a camera to monitor her mother. The resident executed a Durable Power of Attorney for Health Care naming her daughter the attorney-in-fact. However, the resident's attending physician has not determined that the resident is incapacitated. In that case, the DPAHC is not effective, and the resident still has authority over electronic monitoring, not the daughter. If the resident appears unable to make the authorization, the daughter can ask the attending physician to make a determination whether the resident is incapacitated. Once the attending physician has made the determination that the resident is incapacitated, the DPAHC goes into effect, and the daughter can now authorize electronic monitoring.