

## Photo and Video Imaging in Cases of Suspected Child Sexual Abuse, Physical Abuse and Neglect

**Summary** The NSW Health photo and video imaging in cases of suspected child sexual abuse, physical abuse and neglect (0-17 years), provides statewide direction on the required standards for capturing, storing and managing clinical imaging. The policy outlines procedures to support compliance with consent, privacy, and documentation management and retention policies.

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**Distributed to** Public Health System, Divisions of General Practice, Ministry of Health, Private Hospitals and Day Procedure Centres, Tertiary Education Institutes

**Audience** Medical; psychosocial; sexual assault and child protection practitioners and medical photographers

### Secretary, NSW Health

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is mandatory for NSW Health and is a condition of subsidy for public health organisations.

## PHOTO AND VIDEO IMAGING IN CASES OF SUSPECTED CHILD SEXUAL ABUSE, PHYSICAL ABUSE AND NEGLECT

### PURPOSE

The purpose of this Policy Directive is to:

- Define the NSW Health requirements and minimum standards for the use and management of photo and video imaging in cases of suspected child sexual abuse, physical abuse and neglect
- Guide NSW Health staff when capturing, storing and managing images for the purpose of documenting health and clinical features and informing possible future judicial proceedings that require medical opinion.

### MANDATORY REQUIREMENTS

This policy requires that:

- The immediate and longer-term physical and emotional needs of the child and their parent(s) / guardian(s) are identified and taken into account when considering photo and video imaging.
- Imaging is captured for the primary purpose of documenting a clinical finding for the health care record and limited other relevant purposes, and is not excessive or unreasonably intrusive.
- Imaging is only captured where informed consent is sought and obtained for each purpose for which it may be used.
- Capture, recording and storage of images is limited to LHD / SCHN owned memory devices.
- Images are stored securely and are stored separately from the principal health care record, to maintain patient privacy.
- Limited access is provided to images, to maintain patient privacy.
- Capture, use and management of photo and video images in cases of suspected child abuse is conducted in accordance this Policy Directive, in conjunction with:

[Child Wellbeing and Child protection Policies and Procedures for NSW Health](#)  
(PD\_2013\_007)

Current Standards and Practice Guidelines for NSW Health Sexual Assault Services

[Child Wellbeing and Child Protection – NSW Interagency Guidelines,](#)

- Consent, privacy, confidentiality, management and retention is preserved in accordance with the [NSW Health Consent to Medical Treatment - Patient Information policy](#), 2005, [NSW Health Privacy Manual for Health Information](#), 2015, [NSW Health Care Records – Documentation and Management Policy](#) (PD2012\_069), [NSW Health Electronic Information Security Policy](#) (PD2013\_033), [NSW Government Digital Information Security Policy](#) M2012-15,

[NSW Health Subpoena policy](#) (PD2010\_065) and [NSW Government General Retention and Disposal Authority policy](#) (GDA17; 2011).

## IMPLEMENTATION

Chief Executives are responsible and accountable for:

- Establishing mechanisms to ensure the directives and requirements of this policy are applied, achieved and sustained
- Ensuring that NSW Health staff understand and are aware of their obligations in relation to this policy and related policies and procedures
- Ensuring resources are available to deliver and meet the directives and requirements of this policy
- Ensuring that NSW Health staff are trained to operationalise and implement this Policy
- Ensuring NSW Health staff are advised that compliance with this policy is part of their patient / client care responsibilities
- Ensuring that procedures for capture, storage, access and security are subject to risk analysis reassessment over time.

Facility managers are responsible for:

- Ensuring the requirements of this policy directive are disseminated and implemented in their service / department / hospital
- Establishing local validated processes for image preparation, capture, processing, storage, transmission, archiving, retention and disposal
- Monitoring implementation and compliance with this policy.

NSW Health workers are responsible for:

- Implementing and complying with the directives and requirements of this policy
- Ensuring that their knowledge of consent, privacy and documentation management processes is maintained, consistent with the requirements of this policy directive.

## REVISION HISTORY

Version	Approved by	Amendment notes
October 2015 (PD2015_047)	Deputy Secretary, Public and Population Health	New policy

## ATTACHMENTS

1. Photo and video imaging in cases of suspected child sexual abuse, physical abuse and neglect: Procedures.

**PHOTO AND VIDEO IMAGING**  
**+ IN CASES OF SUSPECTED**  
**+ CHILD SEXUAL ABUSE,**  
**+ PHYSICAL ABUSE AND**  
**NEGLECT**

**POLICY**

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October 2015

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## 1 INTRODUCTION

### 1.1 Rationale

Clinical evaluation of a child or young person who is suspected of having been abused or neglected involves a holistic assessment of their physical needs, psychosocial needs, medical history, and any social or familial risk factors. NSW Health practitioners are required to document and report suspicion of harm and may use clinical photo and video imaging to supplement and enhance the detail in written notes and diagrams. Imaging can assist the physician to review the facts associated with clinical examination and history as part of their clinical diagnosis: in an attempt to ensure the accuracy of a diagnosis this may include professional peer review. Diagnoses in cases of suspected child abuse have an impact on the safety, welfare and wellbeing of a child or young person. Clinical photo and video imaging is an important tool in the achievement of accurate clinical conclusions to support the needs of children and young people.

This policy defines the NSW Health requirements and minimum standards for the use and management of photo and video imaging in cases of suspected child sexual abuse, physical abuse and neglect. It will guide NSW Health workers to know what actions to take when capturing, storing and managing images for the purpose of documenting health and clinical features, and informing possible future judicial proceedings that require medical opinion. A development group was convened to inform the development of this policy. Details of membership appear at Appendix 5.5.

### 1.2 Who this policy applies to

This policy applies to NSW Health workers in Local Health Districts (LHDs) and the Sydney Children's Hospitals Network (SCHN) who are employed or contracted to capture or manage imaging in cases of suspected child abuse, including:

- Medical practitioners or other specialist staff undertaking medical and forensic examinations of children and young people aged under 18 who are suspected of having been sexually abused, physically abused or neglected
- Psychosocial, sexual assault and child protection practitioners, coordinators and managers
- Medical photographers, Joint Investigation Response Teams (JIRTs), Aboriginal health services and other clinical and allied health staff
- Managers or officers who support the capture, viewing, accessibility, transmission or management of photo and video imaging. This includes data custodians, IT technical and support staff, health information managers and staff in medical records departments.

The policy may also be of interest to:

- NSW Health interagency child protection partners
- Those who work in the wider criminal justice setting and child health and advocacy settings
- Networks that support children and young people who have experienced sexual abuse, physical abuse or neglect and their non-offending family members



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- Those who work in private health settings who wish to adopt minimum standards for the use and management of photo and video imaging in cases of suspected child abuse.

### 1.2.1 Exclusions

This policy does not apply to:

- Sexual abuse examinations utilising clinical colposcopic equipment without capture of imaging
- Photo and video imaging taken in other types of medical examinations (i.e. those that do not relate to suspected child abuse)
- Medical imaging such as Magnetic Resonance Images (MRIs), Computerised Tomography (CT) scans, skeletal surveys, radioisotope scans or post-mortem imaging.

## 1.3 Service users

Children or young people who use NSW Health services in relation to suspected sexual abuse, physical abuse and/or neglect and, depending on the age of a young person, this may include parent(s), carer/(s) or guardian(s).

## 1.4 Context for practice

### 1.4.1 Interagency context

Medical and forensic examinations and associated photo and video imaging take place in the context of an interagency response to child protection. Interagency roles and responsibilities are outlined in the [Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#), 2013, current standards and guidelines for NSW Health Sexual Assault Services and [NSW Interagency Guidelines](#).

### 1.4.2 NSW Health context

The psychosocial and medical needs of a child or young person are a priority and need to be responded to appropriately. NSW Health's role is to provide an integrated psychosocial and medical response to all suspected child abuse presentations including assessment, crisis intervention and counselling. The medical response will potentially include a medical and forensic examination. Medical and forensic examinations are critical to the crisis response required on presentation of: a child victim of sexual abuse to a Sexual Assault Service or Emergency Department; or a child with suspected physical abuse or neglect to a medical practitioner, Emergency Department, or other health service.

Related child protection and violence prevention, privacy, security and document management policies are listed in Appendices 5.1 to 5.4.

### 1.4.3 Clinical context

Clinical photography has assisted in the development of medical knowledge and skills within the NSW Health workforce over the last two decades, and aided the interpretation and evaluation of injuries, for the benefit of examiners and their patients. Medical and forensic assessment of children suspected of having been abused occurs within a

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framework that responds to the immediate psychosocial and medical needs of a child and their family – who are often traumatised and distressed.

This context includes:

- Identification of children at risk who require a medical and forensic assessment
- Recording of medical history and examination findings complemented by appropriate clinical photo or video imaging
- Forensic specimen collection where relevant (as in recent sexual abuse)
- Medical treatment of injuries or other sequelae of the abuse, such as the risk of exposure to sexually transmitted diseases or pregnancy
- Interpretation of clinical findings, with a reference to any allegation of abuse.

Anatomical diagrams are useful for recording certain features of an injury, such as the number of injuries, the type of injuries, their overall size and shape and the general location of the injuries on the body. It is difficult for a doctor to record adequately sufficient information for detailed medical and forensic assessment of many injuries with diagrams and words alone. Medical illustration is a specialised career. It takes both skill and time to produce an accurate and useful medical drawing. The extra detail provided by a photo or video record is of particular relevance when a medical and forensic examiner is asked to comment, sometime after the medical examination, on whether a particular account of accidental injury, provided by a caregiver, might reasonably account for the clinical findings.

Several advantages of photography can be summarised as below:

- Photo and video images allow review of injuries or other clinical findings, such as evidence of dermatological conditions or malnutrition, in a more comprehensive manner. Indeed there are many reasons why a child's injuries may need to be reviewed. The original examining doctor may review photos when preparing an expert certificate and/or prior to appearing in court. Photo and video imaging can assist the examining doctor when they review the patient for ongoing clinical care, or if the police provide additional information and ask for a clinical opinion, in regards injury causation. Photo and video imaging is useful for gaining a second opinion by a senior colleague as to the significance of the injury and also helps determine if specialist referral is necessary. It may also prevent the need for a child to travel long distances to a specialist centre
- Imaging can overcome the difficulties presented by children and young people having to lie still for extended periods of time. Children can naturally wriggle and not want to lie still – especially if they have experienced sexual abuse or if there is injury or recent assault. This is particularly relevant to examining the ano-genital regions, especially in pre-pubertal females where there is a need to assess in detail the significance of small anatomical structures which may be a normal variant or an indicator of recent or earlier injury
- Sexual abuse assessment in pre-pubertal children is complex. Paediatric genital anatomy is variable and accurate observation and interpretation is difficult. Forensic colposcopic imaging allows the examination to proceed with the knowledge that a child or young person can benefit from subsequent specialist review of the imaging as a record of the complex clinical findings

- Photo and video imaging may enable the medical examiner to capture a clear picture of an area that was only exposed for a few seconds. The use of photo and video imaging can in many cases prevent the need for a child or young person to return for a repeat examination, or undergo examination under anaesthesia.

It is best practice in Forensic Medicine to rigorously separate the observation and recording of findings from the interpretation of those findings. Photo and video imaging enables the examiner to concentrate on observation, which is demanding, and then to later consider all possible causes.

#### 1.4.4 Intimate images, sensitive evidence and retention

Photo and video imaging captured as part of a medical and/or forensic assessment may include intimate images.

Intimate images are defined as depicting the genitalia, anus or post-pubertal female breast ([Faculty of Forensic & Legal Medicine, 2014](#)) and may also include other parts of the body, such as the buttocks or chest of a pre-pubertal child.

These images are considered as 'sensitive evidence' under the [Criminal Procedure Act 1986](#) (Section 281B). Where they are held by the NSW Police Force and Office of the Director of Public Prosecutions (ODPP) access to them is restricted. These restrictions do not extend to images held by NSW Health. Where a subpoena has been validly lodged, the court is not obliged to restrict access to intimate images held by NSW Health.

In accordance with health care record retention policies, once an image is captured as a medical record it can be subpoenaed, shown in court and remains on a medical record file for at least 30 years ([NSW Government General Retention and Disposal Authority policy, 2004, revised 2011](#)).

## 2 NSW HEALTH MINIMUM STANDARDS

When use of photo and video imaging is being considered during medical and forensic examinations in cases of suspected child sexual abuse, physical abuse and neglect, NSW Health will ensure that:

1. The immediate and longer-term physical and emotional needs of the child and their parent(s)/guardian(s) are identified and taken into account. (Section 2.1)

2. Imaging is captured for the primary purpose of documenting a clinical finding for the health care record and other directly related purposes, and is not excessive or unreasonably intrusive. (Section 2.2)

3. Imaging is only captured where informed consent is sought and obtained for the specific purposes for which it may be used. (Section 2.3)

4. There are standardised procedures for capturing and documenting images to reduce variation across statewide services. (Section 2.4)

5. Capture, recording and storage of images is limited to LHD/SCHN owned memory devices. (Section 2.5)

6. Images are stored securely and separately from the principal health care record, to maintain patient privacy. (Section 2.6)

7. Restricted access is provided to images, to maintain patient privacy. (Section 2.7)

8. The integrity of images is maintained in the longer-term. (Section 2.8)

## 2.1 Physical and emotional needs of the child or young person

**Standard: The immediate and longer-term physical and emotional needs of the child and their parent(s)/guardian(s) are identified and taken into account when considering photo and video imaging**

In accordance with the [Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#), 2013 and current standards and guidelines for NSW Health Sexual Assault Services:

- In cases of suspected physical abuse and neglect, optimally, assessment should be conducted by the medical officer with a social worker or other health professional colleague, e.g. a nurse, present to facilitate a holistic assessment ([Suspected Child Abuse and Neglect \(SCAN\) Medical Protocol](#), 2014).
- In cases of suspected sexual assault a joint response by the medical practitioner and counsellor from the Sexual Assault Service or Child Protection Unit provides the professional response required in these circumstances ([Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#), 2013).

When deciding whether and how to capture images in this context, NSW Health workers must:

- Identify and take into account:
  - Factors arising from the life circumstances of the child or young person, their psychosocial development, vulnerability to particular risks and their linguistic, cultural and religious needs
  - The circumstances in which the child or young person was alleged to have been assaulted, abused or neglected
  - The need for an appreciation and understanding of Aboriginal people and communities' inter-generational trauma legacies, the impact of power dynamics, the importance for understanding an Indigenous world-view, including cultural practices and protocols, the multiple and inter-related factors that contribute to the poorer health status of Aboriginal people, and the limitations of Western approaches in the assessment and treatment of trauma (see <http://www.health.nsw.gov.au/aboriginal/pages/default.aspx>).
- Ensure that children, young people and their parent(s)/guardian(s) have:
  - Access to health information relative to their wellbeing
  - The opportunity to participate in decision making

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- Access to an interpreter if required (see [Interpreters – Standard procedures for working with Health Care Interpreters](#))
  - Access to an Aboriginal Health worker if desired. It is important to determine at the beginning the most appropriate person or people to communicate with in relation to the patient.

## 2.2 Purpose of imaging

**Standard: Imaging is captured for the primary purpose of documenting a clinical finding for the health care record and other directly related purposes, and is not excessive or unreasonably intrusive**

In accordance with the [NSW Health Privacy Manual for Health Information](#), 2015:

- The primary purpose for collecting photo and video imaging is to document a clinical finding for the medical record
- Imaging must be relevant to the purpose, not excessive, accurate, up to date, complete and must not be unreasonably intrusive
- Collection of photo and video imaging must supplement, not replace, other methods of documenting findings
- Other directly related purposes for collecting photo and video imaging may include:
  - Peer review to assist diagnosis
  - Providing an aide-memoire for potential future legal proceedings
  - Teaching, research and quality improvement activities (sections 2.3.3, 2.7.1, 2.8 and 2.9).

LHDs/SCHN must ensure that images are only captured and used for relevant purposes in accordance with the [NSW Health Privacy Manual for Health Information](#), 2015.

## 2.3 Seeking consent

**Standard: Imaging is only captured where informed consent is sought and obtained for the specific purposes for which it may be used**

LHDs/SCHN must ensure that NSW Health workers act in accordance with the [NSW Health Consent to Medical Treatment - Patient Information](#) policy, 2005 and the [NSW Health Privacy Manual for Health Information](#), 2015 and comply with 2.3.1 to 2.3.3 below. Additional advice may be sought from NSW Health Legal and Regulatory Services.

### 2.3.1 Who should seek consent

An examiner must ensure that valid consent has been obtained. An examiner may ask another health care practitioner to seek consent, however the examiner maintains responsibility and may be held responsible in some circumstances if consent is not sought correctly ([NSW Health Privacy Manual for Health Information](#), 2015).

### 2.3.2 Who can provide consent

Where a child or young person is less than 14 years of age, consent given by a parent or legal guardian is generally necessary. In some circumstances, consent can be given by

the young person if he or she is considered by the treating health care practitioner to be mature enough, and if this would be appropriate in the circumstances. See '*Gillick* competence' in the 'Glossary'.

Where a young person is aged 14 or 15 they are generally able to consent, however an assessment of their maturity and understanding will still need to be made. Effort should be made to seek the consent of a parent or legal guardian unless the young person indicates a strong objection, and this is reasonable in the circumstances. Alternatively a parent or legal guardian can provide consent, however it would be exceptional to proceed on the basis of parent or guardian consent without the acquiescence of the young person aged 14 or 15.

Where the young person is 16 years of age or over they should generally be capable of consenting themselves ([NSW Health Consent to Medical Treatment - Patient Information](#) policy, 2005; [NSW Health Privacy Manual for Health Information](#), 2015).

For guidance on capacity to consent see the [NSW Health Consent to Medical Treatment - Patient Information](#) policy, 2005 and the [NSW Health Privacy Manual for Health Information](#), 2015.

Occasionally, a parent delegates their responsibility for consenting to medical treatment on behalf of their minor child, to another adult. This may occur in certain cultures, for example, in relation to Aboriginal children, where an extended family member, rather than the child's mother or father, might be responsible for giving consent on their behalf. Where NSW Health workers require advice about who is able to provide consent for imaging they should consider the following options:

- Refer to policy relating to:
  - The broader context of consent for the examination ([NSW Health Consent to Medical Treatment - Patient Information](#) policy, 2005; [NSW Health Privacy Manual for Health Information](#), 2015)
  - [Child Wellbeing and Child protection Policies and Procedures for NSW Health](#), 2013 and current standards and guidelines for NSW Health Sexual Assault Services
- Contact NSW Health Legal and Regulatory Branch or NSW Kids and Families during business hours
- Contact the Guardianship Division of the NSW Civil and Administrative Tribunal.

### **2.3.3 The consent process**

Where child sexual abuse, physical abuse or neglect is suspected and the capture and use of photo and video imaging is considered as part of a medical and forensic examination, informed consent must:

- Be sought in accordance with the [NSW Health Consent to Medical Treatment - Patient Information](#) policy, 2005 and the [NSW Health Privacy Manual for Health Information](#), 2015 and
- Address consent for the capture of the image(s) and the separate specific purposes for which image(s) may be used.

The consent process must include:

- Patient/parent/guardian access to culturally appropriate information
- Seeking written informed consent for the capture of photos to document a clinical finding
- An explanation to the child or young person and/or their parent(s)/guardian(s)
  - What the procedure for capturing imaging will involve
  - That imaging may include ano-genital and breast/chest areas of the body and that they may opt to exclude imaging of these or other specific body areas
  - That any records of examinations, findings, photos, videos, samples/specimens taken in accordance with the consent/s given
    - Will be stored in accordance with [NSW Health: Health Care Records – Documentation and Management policy](#), 2012 and the [NSW Government General Retention and Disposal Authority policy](#), 2004 (revised 2011) for a minimum of 30 years
    - May be referred to another clinician for a second opinion and peer review
    - May be forwarded to the NSW Police Force, ODPP, and by the court under subpoena, including the judge, the jury, the defendant, counsel for both prosecution and defence and any other people whom the judge considers relevant
    - May be produced to comply with a request to a NSW Health organisation under the legislation set out in the [Children and Young Persons \(Care and Protection\) Act](#) 1998
    - May be forwarded to parties in Family Court proceedings under subpoena

For the purpose of this policy the consent process must also include:

- Seeking separate informed consent for the use of copies of photo and video imaging for a) teaching and/or b) approved research. All such copies must be de-identified, the teaching and research activities must be compliant with the [NSW Health Privacy Manual for Health Information](#), 2015 and other relevant NSW Health policies and research must be approved by a Research Ethics Committee (for example, see <https://hrep.nhmrc.gov.au/certification/hrecs>, <http://www.ahmrc.org.au/ethics2.php> and [www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf](http://www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf)). [Human Research Ethics Committees – Quality Improvement & Ethical Review: A Practice Guide for NSW](#) can help to determine whether an activity constitutes a research or quality improvement activity.
- An explanation that consent for the future use of images for a) teaching and/or b) approved research activities may be withdrawn by the person who provided consent or the person depicted in the image(s) once they are Gillick competent.

An interim NSW Health consent form is located in Appendix 5.6.

## 2.4 Procedures for capturing and documenting imaging

**Standard: There are standardised procedures for capturing and documenting images to reduce variation across statewide services**

LHDs/SCHN must support NSW Health workers to comply with 2.4.1 and 2.4.2 below.

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### 2.4.1 Capturing imaging

Capture of imaging in cases of suspected child abuse must be conducted in accordance with the [NSW Health Privacy Manual for Health Information](#), 2015, and must be restricted to NSW Health workers with suitable training and experience in the procedures required to comply with this photo and video imaging policy.

At a minimum, NSW Health workers must:

- Carefully explain to the child or young person, and where appropriate their parent(s)/guardian(s), what the procedure is going to involve in advance of the examination
- Provide the opportunity for the child or young person, and/or parent(s)/guardian(s) to ask questions and receive answers in a way that takes into consideration the person's level of development and understanding as described in section 2.1 of this policy
- Seek informed consent as described in section 2.3 of this policy directive via a process that:
  - Explains what consent means in relation to the separate specific purposes for which images may be used (as described in section 2.3 of this policy directive) and the implications that may arise for the child, young person or their parent/guardian providing consent
  - Provides options for providing or refusing consent at any time during the course of the examination for:
    - The capture of images of specific areas of the body
    - The specific purposes for which images may be used.
- Consider whether the child or young person and their parent(s)/guardian(s) would find it helpful if the practitioner or other NSW Health worker demonstrated the use of the video colposcope and observation monitor. This could be achieved by displaying real time magnified images of objects and/or non ano-genital body parts on a monitor placed in a location easily seen by the child or young person and examiner
- Ensure that images of a child or young person's face are not captured, unless it is required to document a clinical finding
- Capture the minimum number of images required to adequately document a clinical finding
- Adopt the following good practice techniques:
  - Use a RAW (digital negative that requires processing), TIFF or JPEG format for capturing still images
  - Use a procedure that will allow reliable identification of the recording(s) in relation to the particular child or young person and the time that the image(s) was taken. For example, include the child's hospital ID label for identification purposes
  - Include some form of further visual identification on the first and last image, including the child's name or initials, Medical Record Number (MRN) and/or Area Unique Identifier (AUID) and the date
  - Include a scale in the image, where possible



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- Consider anterior, posterior and lateral images of the patient and document the anatomical location of each image (an example 'Request for medical photography services' form is located in Appendix 5.7).

When conducting telehealth NSW Health workers must:

- Consider the professional capacity of the host and remote site examiners as either the supervising or the supervised clinician based on their relevant and appropriate training and experience
- Act in accordance with the requirements of this policy directive
- Consider using the good practice techniques set out in the Agency for Clinical Innovation [Guidelines for the use of telehealth for clinical and non-clinical settings in NSW](#), 2015.

NSW Health does not support recording of an entire telehealth consultation with a patient or any audio recording.

#### 2.4.2 Documenting imaging

NSW Health workers must:

- Act in accordance with [NSW Health: Health Care Records – Documentation and Management policy](#), 2012 and the [NSW Health Privacy Manual for Health Information](#), 2015
- Reference images using an individual health care patient identification system including a child or young person's name or initials, Medical Record Number (MRN) and/or Area Unique Identifier (AUID), date of birth (DOB), the date the images were captured and the name of the treating physician
- Document consent and the existence of images in the patient's medical records. For physical abuse and neglect the [Suspected Child Abuse and Neglect \(SCAN\) Medical Protocol](#), 2014 may be used, unless this is being assessed in conjunction with suspected sexual abuse when the Child Sexual Assault Medical Protocol in the Sexual Assault Investigation Kit (SAIK) may be used. Details must include:
  - Any refusal of consent for capturing photo and video imaging
  - Any withdrawal of consent for the capture or use of photo and video imaging before and during the examination
  - The name of the photographer, the date and time, and the location of where the images were taken to maintain integrity in the event of legal action or issuing of a subpoena
  - The number and type of images that were taken
- Note that child abuse and neglect images must be stored securely and separately from a child or young person's principal health care record (see section 2.6.2) and a reference placed on the health care record where the images are located to identify the existence of any principal health care record or other relevant health related documents. Index or patient administration systems must reference the existence of satellite/decentralised health care records that address a specific issue and that are kept separate from the principal health care record

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- Document authorised permission for release/transmission in the patient's medical records (see section 2.6.3 of this policy directive).

Where telehealth is used, document at both sites that the consultation has occurred and ensure that this documentation concurs.

It is good practice to disclose the existence of images to NSW Police Force on the Expert Certificate.

## 2.5 Devices used to capture, record, store and transmit images

**Standard: Capture, recording and storage of images is limited to LHD/SCHN owned memory devices**

LHDs/SCHN must ensure that:

- In cases of suspected child abuse, medical and forensic imaging is captured on dedicated LHD/SCHN owned:
  - Clinical camera imaging devices used for the sole purpose of documenting suspected sexual abuse, physical abuse, and neglect;
    - or where the sole purpose of a clinical camera is not restricted to documenting abuse or neglect, such as in an Emergency Department, the clinical camera must accommodate an LHD/SCHN owned removable memory device and images must be captured onto the removable device and not the camera, using one removable device per patient
  - Clinical colposcope imaging equipment, preferably used for the sole purpose of documenting sexual abuse
  - Portable or removable memory devices, such as DVDs, memory sticks and external hard drives
- Single Lens Reflex (SLR) clinical camera equipment is the preferred option and:
  - Includes a flash
  - Includes a lens with a close up facility
  - Has at least six megapixels.

A 'stand-alone' personal camera (i.e. one that is not part of a mobile telephone or ipad) may be used in exceptional circumstances and only where:

- No LHD/SCHN owned equipment is available and
- The personal camera can accommodate an LHD/SCHN owned removable memory device and use is restricted to capturing images onto the removable device and not the personal camera, using one removable device per patient.
- All equipment complies with [NSW Health Electronic Information Security Policy](#), 2013 and [NSW Health Privacy Manual for Health Information](#), 2015
- Imaging equipment is:
  - Capable of producing an accurate representation of any evidential clinical finding being recorded

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- Appropriately maintained and managed, such as updating date and time settings recharging/replacing batteries
  - Strictly governed and controlled and adequately secured using lockable facilities
  - Monitored in respect of who accesses and uses it.
  - Any equipment or devices used for remote access to NSW Health networks from an external location must be authenticated and authorised by the LHD/SCHN and connectivity must be protected by approved controls. This includes mobile devices, smartphones, tablets, netbooks, notebooks, palmtops, handheld personal organisers, laptops, modems, PDAs, wireless access points, portable or removable storage devices, CD/DVD burners and printers
  - All imaging is protected and managed according to [NSW Health Electronic Information Security Policy](#), 2013, [NSW Government Digital Information Security Policy](#), 2015, and [NSW Health: Health Care Records – Documentation and Management policy](#), 2012.

NSW Health does not support:

- The use of any other personal equipment or devices for the purpose of capturing or storing images in relation to suspected child abuse. Examples include cell phones, smartphones, tablet devices, netbooks, notebooks, palmtop, handheld personal organisers, laptops, USB drives, DVDs and removable memory cards and sticks
- Use of Skype or other insecure software/platforms in NSW Health care settings.

## 2.6 Security and storage of images

**Standard: Images are stored securely and separately from the principal health care record, to maintain patient privacy**

LHDs/SCHN must support NSW Health workers to comply with 2.6.1 to 2.6.6 below.

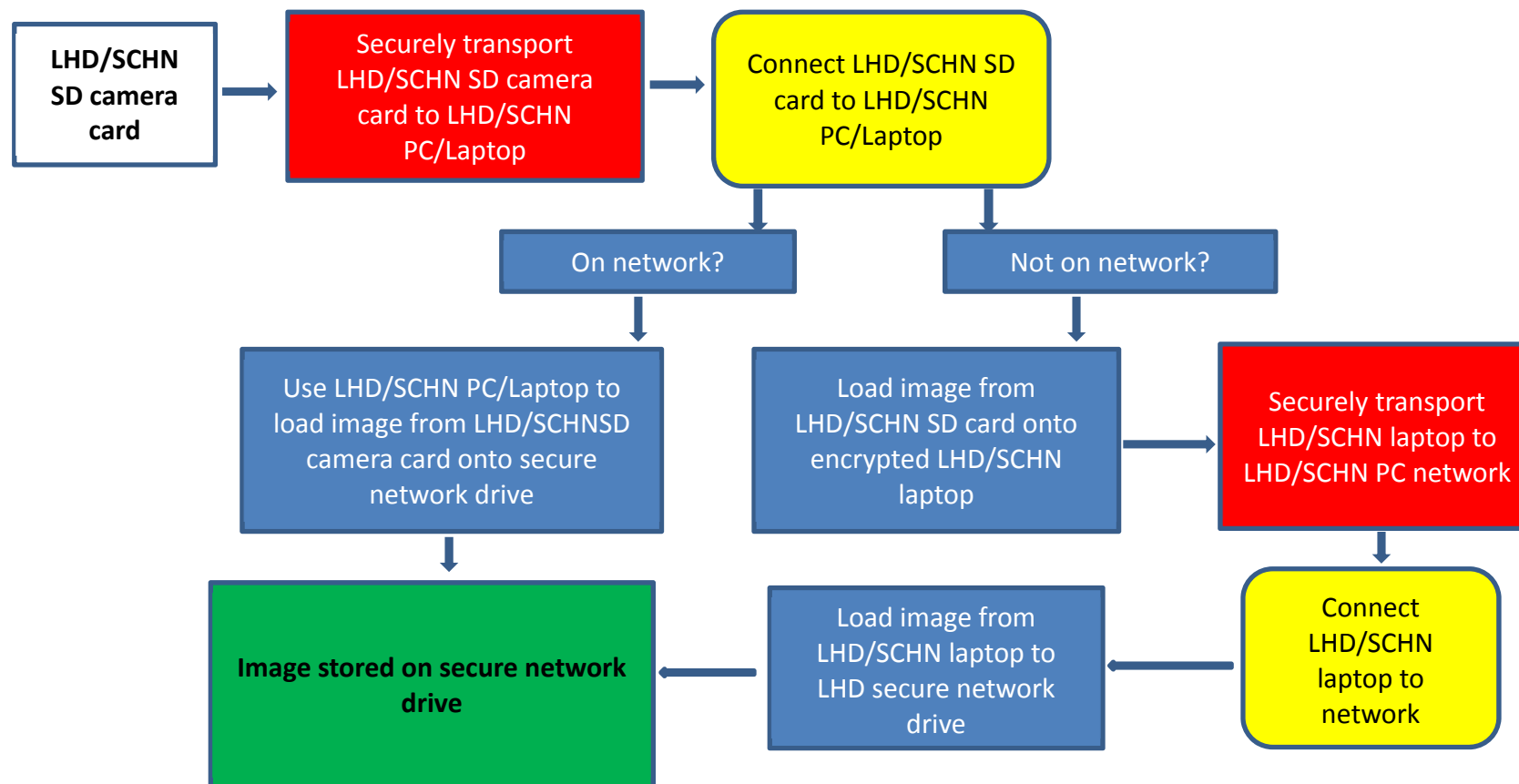
### 2.6.1 Transfer of images from the capture equipment to secure storage

NSW Health workers who capture and/or support the management of medical and forensic photo and video imaging in cases of suspected child abuse must:

- Check the original images on the camera equipment/LHD removable memory device and:
  - Consider deleting those where at the time the examiner first views the image(s), in the opinion of the practitioner, it is not usable. For example, the image depicts surrounding context rather than the patient or the lighting or exposure impedes what is depicted. Caution must be exercised and where the practitioner is unsure the image must be retained
  - Delete those where the person that provided consent for imaging withdraws consent before completion of the examination
  - Where images are deleted, document the number of images that were deleted and for each image, the reason why it was deleted
- Transfer the retained original image/s from the capture equipment/LHD removable memory device to LHD/SCHN secure network storage facilities as soon as possible and usually within one working day (see Figure 1)

- 
- Archive retained original image/s. A 'read only' format or the equivalent facility is preferred to ensure the integrity of the original image/s and restrict the potential for editing
  - Use a separate working copy of an original image for any editing that might be required
  - Check images have successfully transferred to LHD/SCHN secure network storage facilities and then delete images that are left on the camera equipment/LHD removable memory device
  - Periodically format capture camera equipment/LHD removable memory devices to ensure data recovery processes cannot be used to recover deleted images: Where a removable memory device per patient is used, such as in personal or non-dedicated cameras, formatting must occur as soon as possible after transfer to LHD/SCHN secure network storage facilities and usually within one working day
  - Act in accordance with the [NSW Health Electronic Information Security Policy](#), 2013, [NSW Government Digital Information Security Policy](#), 2015, [NSW Health: Health Care Records – Documentation and Management policy](#), 2012 and the [NSW Health Privacy Manual for Health Information](#), 2015.

Figure 1: Flowchart for transfer of images from camera to LHD secure network drive



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## 2.6.2 Storage of images

NSW Health workers who capture and/or support the storage and management of medical and forensic photo and video imaging in cases of suspected child abuse must act in accordance with the [NSW Health Electronic Information Security Policy](#), 2013, [NSW Government Digital Information Security Policy](#), 2015, [NSW Health: Health Care Records – Documentation and Management policy](#), 2012 and the [NSW Health Privacy Manual for Health Information](#), 2015.

Photo and video imaging in cases of suspected child abuse, together with the medical records associated with the imaging, must be stored securely and separately from a child or young person's principal health care record.

LHD/SCHN secure storage facilities may be within a Child Protection Unit, Sexual Assault Service, an Emergency Department or other LHD/SCHN facility offering medical and forensic examinations.

All original photo and video images and any separate working copies used for editing must be stored on LHD/SCHN owned restricted secure network drives. Such restriction(s) to be determined by the Chief Executive Officer, or officer delegated responsibility for the security of LHD/SCHN medical records relating to cases of suspected child abuse.

Where LHD/SCHN owned restricted, secure network drives are not immediately available, in some remote areas for example, electronic/digital photo and video imaging must be:

- Transferred from the camera equipment/removable memory device to an LHD/SCHN owned laptop using appropriate safeguards, such as password or PIN codes, together with encryption technology (see Figure 1)
- Kept in lockable facilities with restricted access.

It is preferred that original images are stored using a 'read only' format, or equivalent, and images must be maintained in an original state and not subject to processes that cause permanent alteration.

All hard copy images must be stored securely in LHD/SCHN owned lockable facilities with restricted access. Such restriction(s) to be determined by the Chief Executive Officer, or officer delegated responsibility for the security of LHD/SCHN medical records relating to cases of suspected child abuse.

To maintain the integrity of the images in the event of legal action, images must be stored with:

- A copy of the consent form and documentation that includes the name of the photographer, the date and time the image/s were taken, and the location where the images were taken (see section 2.4.2)
- Accompanying documentation that includes a child or young person's initials, Medical Record Number (MRN) and/or Area Unique Identifier (AUID), date of birth (DOB), the date the images were captured and the name of the treating physician
- A reference that identifies the existence of any other relevant health related records or documents that are kept separately from the images, such as the location of the principal health care record. The images can be linked to the principal health care record via a notation on the principal record that a 'confidential health record exists'.

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The restricted access electronic and hard copy storage facilities must have an auditing or tracking procedure that documents:

- Who, other than restricted access workers, views an image
- When an image leaves the location where it is stored and its destination
- When an image is copied and by whom.

### **2.6.3 Transmission of images**

For the purpose of security and patient privacy, NSW Health workers involved in the transmission of medical and forensic photo and video imaging in cases of suspected child abuse must act in accordance with the [NSW Health Electronic Information Security Policy, 2013](#), [NSW Government Digital Information Security Policy, 2015](#), [NSW Health: Health Care Records – Documentation and Management policy, 2012](#) and the [NSW Health Privacy Manual for Health Information, 2015](#) and:

- Restrict access to images as described in section 2.7 of this policy directive
  - Obtain authorised written permission to release/transmit a copy of an image from a senior member of NSW Health staff, such as the attending medical and forensic practitioner, health information manager or a senior medical records officer/manager. Archived original image(s) should be retained as described in section 2.6.1 of this policy
  - Document the authorised permission for release/transmission in the patient's medical record and:
    - The details of the request for release, including the reason for release
    - The number and type of images released
    - The date
    - The person/recipient to whom the image/s have been released
    - Full details of the address/location that the image/s were sent to.
- Within NSW Health
- Consideration must first be given to restricted party viewing of the images at the NSW Health source site.
  - Where this is not possible and electronic transmission occurs, it must occur:
    - Within NSW Health email
    - From NSW Health email accounts to another recognised NSW Health address
    - Using appropriate safeguards such as encryption technology, password or PIN codes and delivery/receipt confirmations, where available
    - From LHD/SCHN owned computers, equipment or devices or those that are authenticated and authorised by the LHD/SCHN with connectivity protected by approved controls or, through NSW Health Secure File Transfer solutions.

In all cases consider whether it is feasible to remove or abbreviate patient identifiers on the image and in any subject lines whilst the image is in transit in liaison with the recipient.

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### External to NSW Health

Where it is necessary to release images to restricted parties outside NSW Health, such as the court or under rigorously restricted information sharing practices relating to Chapter 16A and Section 248 of the [Children and Young Persons \(Care and Protection\) Act 1998](#) (see section 2.7.1 to 2.7.4 for details of permitted access):

- Consideration must first be given to restricted party viewing of the images at the NSW Health source site
- Where this is not possible:
  - Electronic copy/copies on a removable memory device under strict governance and control using appropriate security safeguards such as encryption technology, password or PIN codes, or where this is not possible
  - Hard copy/copies

should be transported sealed in an appropriately robust sealed envelope (or similar package) with a unique number allocated from a register held by the NSW Health source site. The envelope/package should be delivered by hand by an employee of NSW Health, registered post or courier and a receipt should be obtained.

At no time must a portable or removable device be used if it is not securely encrypted and released using these safeguards.

- Where this is not possible it should be noted that electronic transmission of personal health information to destinations external to NSW Health are not considered secure ([NSW Health Privacy Manual for Health Information, 2015](#)) and where electronic transmission is necessary, the following must occur:
  - Appropriate safeguards must be used such as encryption technology, password or PIN codes and where available, delivery/receipt confirmations
  - LHD/SCHN owned computers, equipment or devices or those that are authenticated and authorised by the LHD/SCHN with connectivity protected by approved controls must be used.

In all cases consider whether it is feasible to remove or abbreviate patient identifiers on the image and in any subject lines whilst the image is in transit in liaison with the recipient. Images must never be emailed or uploaded via the internet to cloud services. Personal email accounts must never be used to transmit patient information.

- Communication using File Transfer Protocol (FTP), telnet, Mobile SMS, instant messaging and web traffic (HTTP) is not permitted by NSW Health as a secure process for sharing photo and video imaging ([NSW Health Electronic Information Security Policy, 2013](#)).

#### **2.6.4 Ownership and copyright**

Images, recordings and documentation produced by NSW Health workers in a NSW Health service facility remain the property of the health service, including those taken by visiting medical officers.

Copyright of all recordings is owned by the State of New South Wales through the Local Health District/Speciality Network.



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### 2.6.5 Destruction of images and medical record information

An original image on the camera equipment/device may be deleted in accordance with section 2.6.1 of this policy directive.

In all other cases, NSW Health workers must act in accordance with the [NSW Government General Retention and Disposal Authority policy](#), 2004 (revised, 2011) and retain images for a minimum of 30 years after legal action is completed and resolved (where known), *or* after last contact for legal access *or* 30 years after the individual attains *or* would have attained the age of 18 years, whichever is the longer.

### 2.6.6 Images received from external sources

With the exception of formal, professional clinical peer group requests, review of an image sent to a practitioner from any other source, for example, a family member, in the context of investigating allegations of child abuse needs to be carefully managed. Offering an opinion on such images needs to be done with caution because the practitioner may be exposed to various risks, including difficulties arising from the quality of the image, uncertainties about the date and time it was captured, the identity of the person depicted in the image(s) and an inability to document a clear chain of evidence. In these circumstances:

- Where a person depicted in an image has not been examined by an appropriate practitioner, a NSW Health practitioner that receives the image must not provide advice based solely on the image
- The image should be retained as a record of a request for review, stored separately from images that the examiner has captured and include a notation with full details of the request (for example, the source and date) and any response.

## 2.7 Access to images for relevant purposes

**Standard: Restricted access is provided to images, to maintain patient privacy**

LHDs/SCHN must ensure that NSW Health workers comply with 2.7.1 to 2.7.5 below.

### 2.7.1 Permitted access

NSW Health workers who capture and/or support the management of medical and forensic photo and video imaging in cases of suspected child abuse must ensure that access is restricted to:

- Designated NSW Health workers providing treatment to children or young people or involved in their safety who have unique user identification, individual password authentication and permission controls
- Circumstances where:
  - It is reasonably necessary, and directly associated with the primary purpose/s of collection and
  - The patient/their parent(s)/guardian(s) would reasonably expect the information to be used for that purpose, or
  - Separate informed consent has been obtained for the purpose of a) teaching and/or b) research activities

- The patient or their parent(s)/guardian(s), unless release would affect the personal affairs of any person, including a request by a parent or guardian where such access may lead to child abuse or prejudice a child's physical or mental health. Caution must be exercised and an interpretation and explanation of the clinical findings is preferable to the provision of access to images
- Approved teaching and/or research activities (section 2.8) where:
  - the young person and/or their parent/guardian has provided separate informed consent, and
  - images are de-identified and anonymity of patients is maintained, and
  - the teaching and/or research activities are compliant with the [NSW Health Privacy Manual for Health Information](#), 2015 and other relevant NSW Health policies and the research has received ethical approval (for example, see <https://hrep.nhmrc.gov.au/certification/hrecs>, <http://www.ahmrc.org.au/ethics.php> and [www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf](http://www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf)), and
  - electronic and digital information is used in accordance [NSW Health Electronic Information Security Policy](#), 2013 and [NSW Government Digital Information Security Policy](#), 2015
- Quality improvement activities (section 2.9) where:
  - images are de-identified and anonymity of patients is maintained, and
  - [Human Research Ethics Committees – Quality Improvement & Ethical Review: A Practice Guide for NSW](#) is used to help to determine the activity, and
  - the quality improvement activities are compliant with [NSW Health Privacy Manual for Health Information](#), 2015 and other relevant NSW Health policies.
- Information sharing under Chapter 16A and Section 248 of the [Children and Young Persons \(Care and Protection\) Act](#) 1998 (sections 2.72 and 2.7.3)
- Requests under a court subpoena (see section 2.7.4)
- The requirements of the Health Privacy Principles NSW Health Privacy Manual for Health Information, 2015.

**Where access to images is deemed necessary, consideration must be given to viewing the images at the NSW Health source site.**

Where release is deemed necessary it should be restricted to the above circumstances and integrity of security must be maintained in accordance with section 2.6.3 of this policy directive and [NSW Health Electronic Information Security Policy](#), 2013, [NSW Government Digital Information Security Policy](#), 2015, the [NSW Health Privacy Manual for Health Information](#), 2015 and [NSW Health: Health Care Records – Documentation and Management policy](#), 2012.

### **2.7.2 Information sharing under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998**

Chapter 16A establishes a scheme for sharing information relating to the safety, welfare or wellbeing of children and young persons between prescribed bodies.

All applications and requests for access to photo and video imaging under Chapter 16A must be forwarded to an appropriate Health worker, medical and forensic examiner involved in the case, manager of the relevant service that authorised the images to be taken (e.g. Sexual Assault Service, Child Protection Unit, Emergency Department or Paediatric Unit), or LHD/SCHN Central Contact Point, regardless of the author of the recording.

The LHD/SCHN will provide a medical report or Expert Certificate to summarise findings to support investigation, assessment, decision making and coordination of services. Access to images of ano-genital, breast/chest and other sensitive areas of the body must be rigorously restricted and considered in the context that such images can only be interpreted by qualified medical and forensic examiners.

Consideration must be given to the relevance of access to or release of photo and video imaging relating to suspected physical abuse and neglect to prescribed bodies for the purpose of the safety, welfare or wellbeing of the child or young person. Where a request is granted, accompanying interpretation or explanation of clinical findings must also be provided.

- Where a medical examination has taken place in accordance with Section 173 of the [Children and Young Persons \(Care and Protection\) Act](#) 1998 a medical report is provided for the Secretary of Family and Community Services (FACS). An existing Expert Certificate could also be provided.

### 2.7.3 Information sharing under Section 248 of the Children and Young Persons (Care and Protection) Act 1998

Section 248 governs the exchange of information relating to the safety, welfare and wellbeing of children and young people between the Department of Family and Community Services and prescribed bodies

Requests under Section 248 should be directed to the LHD/SCHN Central Contact Point and come from the Secretary, Family and Community Services (or delegate).

Under Section 248 FACS can request access to a child or young person's medical record, which includes the Child Sexual Assault Medical Protocol/SAIK and [Suspected Child Abuse and Neglect \(SCAN\) Medical Protocol](#), 2014. The LHD/SCHN will provide a medical report or Expert Certificate to summarise findings to support investigation, assessment, decision making and coordination of services. Access to images of ano-genital, breast/chest and other sensitive areas of the body must be rigorously restricted and considered in the context that such images can only be interpreted by qualified medical and forensic examiners.

Consideration must be given to the relevance of access or release of photo and video imaging relating to suspected physical abuse and neglect to the Secretary of the Department of Family and Community Services and prescribed bodies for the purpose of the safety, wellbeing and welfare of the child or young person. Where a request is granted, accompanying interpretation or explanation of clinical findings must also be provided.

Where a medical examination has taken place in accordance with Section 173 of the [Children and Young Persons \(Care and Protection\) Act](#) 1998 a medical report is provided for the Secretary of FACS. An existing Expert Certificate could also be provided.

## 2.7.4 Subpoenas

For the purpose of a subpoena, a 'document' includes 'an electronic medical record or information contained on a computer file, such as photos and/or video' ([NSW Health Subpoenas policy](#), 2010) and

For the purpose of this policy directive a photo or video image captured in a case of suspected sexual abuse, physical abuse or neglect, constitutes a 'sensitive record' (section 4.3: [NSW Health Subpoenas policy](#), 2010).

LHDs/SCHN must act in accordance with the [NSW Health Subpoenas policy](#), 2010, and ensure that the LHD/SCHN designated officer (e.g. medical records health information manager or medico-legal officer or risk manager) is informed about the subpoena, as well as, where possible, the senior health care provider and treating health care provider.

NSW Health workers who manage subpoenas must:

- Be aware of whether any claim for privilege over the images can be applied and take appropriate action
- Follow the precautions for 'sensitive records' (see section 6.4: [NSW Health Subpoenas policy](#), 2010)
- Where images are produced, provide only those that are captured under the schedule of the subpoena
- Retain a copy of the subpoena and the images that the Health service provided under the subpoena.

Where the patient whose records are subpoenaed are not a party to the proceedings before the court, the LHD/SCHN must notify the patient:

- That the subpoena has been received
- The date that the photo/video imaging must be provided to the court, so that the patient can arrange to attend court if they so wish.

## 2.7.5 Sexual assault communications privilege

Records relating to the counselling of victims of sexual abuse may be protected from production to the court. Photo and video imaging is not covered under this privilege (see Chapter 6 of the [Criminal Procedure Act](#) 1986).

## 2.8 Use of imaging for teaching and research

LHDs/SCHN must ensure that NSW Health workers comply with the following:

- Specific informed consent must be obtained from the young person or their parent(s)/guardian(s) for de-identified photo and video imaging to be used for a) teaching and/or b) approved research activities. This must include an explanation that consent for future teaching and/or approved research activities may be withdrawn by the person who provided consent or the person depicted in the image(s) once they are Gillick competent

For this purpose, where consent is provided for de-identified images to be used for the purposes of teaching and/or approved research activities there must be a process to

ensure that withdrawal of consent may be withdrawn. An example of good practice is described in Appendix 5.8

- Anonymity of patients must be maintained during case presentations, demonstrations, teaching, research and at seminars and conferences. Where possible, fictitious data must be used and identification of individuals must not occur. Use of images that would identify the child or young person must not occur. Images of the face must be de-identified and use of blocked sections or cropping, for example, could be used for this purpose
- Research must abide by relevant NSW Health policies and be approved by a Research Ethics Committee (for example, see <https://hrep.nhmrc.gov.au/certification/hrecs>, <http://www.ahmrc.org.au/ethics.php> and [www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf](http://www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf))
- Act in accordance with the [NSW Health Privacy Manual for Health Information](#), 2015.

## 2.9 Use of imaging for quality improvement activities

LHDs/SCHN must ensure that NSW Health workers comply with the following:

- Quality improvement activities must:
  - use de-identified images and maintain anonymity of patients, and
  - be determined by reference to [Human Research Ethics Committees – Quality Improvement & Ethical Review: A Practice Guide for NSW](#), and
  - comply with [NSW Health Privacy Manual for Health Information](#), 2015 and other relevant NSW Health policies.

## 2.10 Maintaining the integrity of images in the longer-term

**Standard: The integrity of images is maintained in the longer-term**

The extent and range of digital image capturing devices, communication technologies and storage systems create a complex environment and significant challenges and opportunities for those that provide forensic science services and their patients ([Australia New Zealand Policing Advisory Agency](#), 2013).

- LHDs/SCHN must use risk analysis and management techniques to reassess the procedures used for capture, storage, access and security for the purpose of maintaining the integrity of images in the longer term. (See, for example, [NSW Health Electronic Information Security Policy](#), 2013, [NSW Government Digital Information Security Policy](#), 2015, and [NSW Health: Health Care Records – Documentation and Management policy](#), 2012.)

### 3 REFERENCES

<p>ACI (2015). Agency for Clinical Innovation. <a href="#"><i>Guidelines for the Use of Telehealth for Clinical and Non Clinical Settings in NSW</i></a>. Chatswood, NSW.</p>
<p>Australia New Zealand Policing Advisory Agency (2013). <a href="#"><i>Australia and New Zealand Guidelines for Digital Imaging Processes</i></a>. National Institute of Forensic Science, Australia. Docklands, Victoria. Available at: <a href="https://www.anzpaa.org.au/corporate-news-and-publications/anzpaa-publications">https://www.anzpaa.org.au/corporate-news-and-publications/anzpaa-publications</a></p>
<p>Department of Health (2002). <i>Child Sexual Assault Medical Protocol</i>. Department of Health. Sydney, NSW.</p>
<p>Faculty of Legal &amp; Forensic Medicine (2014). <a href="#"><i>Guidance for Best Practice for the Management of Intimate Images that May Become Evidence in Court</i></a>. Royal College of Paediatrics and Child Health and Association of Chief Police Officers. May 2014. London, UK.</p>
<p>Government of New South Wales (2004, revised 2011). <a href="#"><i>General Retention and Disposal Authority. Public health services: Patient/Client records</i></a>. State Records Authority of New South Wales. ISBN 0-9750563-5-2.</p>
<p>NSW Health (2015). <a href="#"><i>Privacy Manual for Health Information</i></a> (Version 3). NSW Ministry of Health. Sydney, NSW.</p>
<p>NSW Health PD2012_069. <a href="#"><i>Health Care Records – Documentation and Management policy</i></a>. Ministry of Health. Sydney, NSW.</p>
<p>NSW Health PD2010_065. <a href="#"><i>Subpoenas</i></a>. NSW Ministry of Health. Sydney, NSW.</p>
<p>NSW Health PD2005_405. <a href="#"><i>NSW Health Consent to Medical Treatment - Patient Information</i></a> policy, 2005.</p>
<p>NSW Health PD2013_007. <a href="#"><i>Child Wellbeing and Child Protection Policies and Procedures for NSW Health</i></a>. NSW Kids and Families. Sydney, NSW.</p>

## 4 Glossary

<p>Capture</p>	<p>Capture is the process of recording (acquiring) data, such as an image or video sequence (<a href="#">Australia New Zealand Policing Advisory Agency</a>, 2013).</p>
<p>Child Sexual Assault Medical Protocol (the written protocol in the Sexual Assault Investigation Kit (SAIK))</p>	<p>A written record used by forensic examiners in NSW Health Sexual Assault Services to record all types of sexual abuse examinations for children 0-14 years of age and, where appropriate, may be used for young people 14 -17 years, otherwise an adult Medical and Forensic Examination Record (MFER) may be used. It is part of the Child Sexual Assault Investigation Kit (SAIK).</p> <p>The Adult Sexual Assault Medical Protocol may be used where a young person aged 14 or above attends an adult Sexual Assault Service.</p> <p>In young people aged 14 to 17, which Protocol is used is contingent upon consideration of the circumstances of the child or young person and whether a child or adult SAIK represents the most appropriate pathway.</p> <p>The Protocols provide guidance to facilitate the medical and forensic examination of victims of sexual abuse and ensure that laboratory specimens are collected correctly and legal requirements are fulfilled.</p>
<p>Children and young people</p>	<p>Child: A person who is under the age of 16 years.</p> <p>Young person: A person who is aged 16 years or above but who is under the age of 18 years.</p> <p>(Section 3. <a href="#">Children and Young Persons (Care and Protection) Act</a> 1998).</p>
<p>Colposcope</p>	<p>A lighted, magnifying medical instrument used to examine the tissues of the genitalia. It allows an examiner to take a closer look at a child or young person’s genitalia and check for abnormal areas. Some devices can be fitted with photographic or video equipment that can capture still (photographic) or moving (video) images.</p>
<p>Cultural competence</p>	<p>Violence, trauma and neglect occur in culturally diverse contexts. Cultural competence is the ability to identify and challenge one’s own cultural assumptions, values and beliefs. It is about developing empathy and appreciating that there are many different ways of viewing the world, as this is influenced by culture.</p>
<p>FACS</p>	<p>Department of Family and Community Services</p>

<p><i>Gillick</i> competence</p>	<p>Whilst parents, or those having parental responsibility rights, generally have the legal authority to provide consent for medical procedures for children and young people under the age of 16 years, the Gillick principle (1985 decision of the House of Lords in <i>Gillick v West Norfolk and Wisbech Area Health Authority and anor</i>) provides that a child's competence to consent to medical procedures increases as they approach maturity, that is a minor under the age of 16 years may be capable of independently consenting to medical treatment when they have achieved a sufficient level of understanding and intelligence to enable them to fully understand what is proposed. Medical practitioners must decide on a case-by- case basis whether a minor has achieved this level of understanding and intelligence.</p>
<p>Guardian</p>	<p>A person with 'parental responsibility' as defined in Section 79A of the <a href="#">Children and Young Persons (Care and Protection) Act 1998</a>.</p>
<p>HRIPA</p>	<p><a href="#">Health Records and Information Privacy Act 2002</a>. The Health Privacy Principles (or HPPs) contained in the HRIP Act establish 15 rules for the management of information.</p>
<p>Intimate image</p>	<p>A photo or video image depicting the genitalia, anus or post-pubertal female breast (<a href="#">Faculty of Forensic &amp; Legal Medicine, 2014</a>) and may also include other parts of the body, such as the buttocks or chest of a pre-pubertal child.</p>
<p>JIRT (Joint Investigation Response Team)</p>	<p>JIRT is a collaborative partnership between the Department of Family and Community Services, the NSW Police Force and NSW Health workers that jointly manages statutory child protection matters that may require a criminal justice response and a health response.</p>
<p>JPEG</p>	<p>A digital compression and coding standard (<a href="#">Australia New Zealand Policing Advisory Agency, 2013</a>).</p>
<p>JRU (JIRT Referral Unit)</p>	<p>JRU is comprised of professionals from the Department of Family and Community Services, the NSW Police Force and NSW Health and ensures that reports of risk of significant harm of children and young people to the Child Protection Helpline that require a child protection response, and may require a health and criminal justice response, are jointly assessed for a response by the three JIRT partner agencies.</p>
<p>LHD</p>	<p>Local Health District.</p>
<p>Medical and forensic examiner</p>	<p>A trained Medical Officer, Sexual Assault Nurse Examiner (SANE) or Forensic Nurse who has specialised education and clinical experience in the treatment of children and young people who may have experienced child sexual abuse, physical abuse</p>



	or neglect and the collection of forensic evidence.
Medical and forensic examination	A medical and forensic examination is an examination of a patient for the purpose of providing medical care and collecting forensic documentation and evidence.
Neglect	Where a child or young person’s basic needs (e.g. supervision, medical care, nutrition, shelter and education) have not been met, or are at risk of not being met, to such an extent that it can reasonably be expected to have a significant adverse impact on the child or young person’s safety, welfare or well-being. This lack of care could be constituted by a single act or omission or a pattern of acts or omissions such as failing to attend medical appointments or failing to ensure that a school age child attends school. ( <a href="#">Child Wellbeing and Child Protection Policies and Procedures for NSW Health</a> , 2013).
ODPP	Office of the Director of Public Prosecutions.
Original image	The first image that is captured onto any media.
Peer review	The evaluation of work or performance by colleagues in the same field with the aim of maintaining or enhancing the quality of work or performance in that field ( <a href="#">Faculty of Forensic &amp; Legal Medicine</a> , 2014a). It includes: <ul style="list-style-type: none"> <li>• Discussion about clinical decision making and interpretation of examination findings and results of investigations</li> <li>• Meetings undertaken by and with peers with the aim of updating knowledge and improving practice through presenting of work to peers for review (<a href="#">Medical Board of Australia</a>, 2014a).</li> </ul>
Personal device	A personal device is one which is not owned by a NSW Health Public Health Organisation. Examples of a personal mobile device include a phone, camera, ipad or other tablet and laptop computer.

<p>Photo and video imaging</p>	<p>Photo and video imaging depicts an image that:</p> <ul style="list-style-type: none"> <li>• Documents the findings of a medical or forensic examination</li> <li>• Is captured, recorded and in some cases, transmitted for clinical or forensic purposes</li> <li>• Exists in live 'real time' or is stored in hard copy or electronic form</li> <li>• Can be transmitted in real time or stored and transmitted at a later point in time</li> <li>• May become evidence in a legal proceeding.</li> </ul> <p>Photo and video imaging can be captured using a camera or video recorder. Both can be used in conjunction with a colposcope to enhance magnification and lighting.</p> <p>For the purpose of this policy, photo and video imaging constitutes part of a health care record.</p>
<p>Physical abuse</p>	<p>Physical abuse occurs if a child or young person sustains a non-accidental injury or is being treated in a way that may have or is likely to cause injury. The injury may be inflicted by a parent, carer, guardian, other adult or other child or young person. (<a href="#">Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013</a>).</p>
<p>Prescribed body</p>	<p>Chapter 16A of the <a href="#">Children and Young Persons (Care and Protection) Act 1998</a> establishes a scheme for sharing information relating to the safety, welfare or wellbeing of children and young persons between prescribed bodies. A 'prescribed body' is any organisation specified in Section 248 (6), <a href="#">Children and Young Persons (Care and Protection) Act 1998</a> or in clause 7, <a href="#">Children and Young Persons (Care and Protection) Regulation, 2000</a>, or in clause 8, <a href="#">Children and Young Persons (Care and Protection) Regulation, 2012</a>.</p>
<p>Public Health Organisation</p>	<p>A 'Public Health Organisation' is:</p> <ol style="list-style-type: none"> <li>a) A local health district, or</li> <li>b) A statutory health corporation, or</li> <li>c) An affiliated health organisation in respect of its recognised establishments and recognised services.</li> </ol> <p>Section 7. <a href="#">Health Services Act 1997</a>.</p>
<p>SAIK</p>	<p>Sexual Assault Investigation Kit (see 'Child Sexual Assault Medical Protocol').</p>
<p>SCAN Protocol</p>	<p><a href="#">Suspected Child Abuse and Neglect (SCAN) Medical Protocol, 2014</a>.</p>

SCHN (Sydney Children's Hospitals Network)	The Sydney Children's Hospitals Network comprises The Children's Hospital at Westmead, Sydney Children's Hospital, Randwick, Bear Cottage, the Newborn and Paediatric Emergency Transport Service (NETS), the Pregnancy and Newborn Services Network (PSN) and the Children's Court Clinic.
Sexual abuse	The terms sexual abuse and sexual assault are often used interchangeably.  For the purposes of this policy directive 'sexual abuse' is used to refer to sexual activity or behaviour that is imposed, or is likely to be imposed, on a child or young person by another person ( <a href="#">Child Wellbeing and Child Protection Policies and Procedures for NSW Health</a> , 2013).
Sexual assault	See 'sexual abuse'.
Sexual Assault Communications Privilege (SACP)	As set out in the <a href="#">Criminal Procedure Act</a> 1986, the SACP allows courts to exclude evidence that would disclose confidential communications made in the course of a professional or sexual abuse counselling relationship. See Appendix A of the <a href="#">NSW Health Subpoenas policy</a> , 2010, for further information.
Standard	A standard is a key principle that must be followed.
Subpoena	A subpoena is an order from a court or tribunal which directs someone that they must on a given date: <ul style="list-style-type: none"> <li>a) Produce to a court certain (existing) documents for use in legal proceedings</li> <li>b) Attend a court on a particular date to be a witness in a hearing and give evidence, or</li> <li>c) Do both.</li> </ul> <p>A subpoena can only be issued if legal proceedings have been commenced.</p> <p>For the purposes of a subpoena a 'document' includes, 'an electronic medical record or information contained on a computer file, such as photos and/or video' (<a href="#">NSW Health Subpoenas policy</a>, 2010).</p>
Telehealth	Telehealth is the delivery of health care at a distance using information and communications technology (Wade (2014). Available at <a href="http://www.e-unicare.com.au/wp-content/uploads/2013/06/unicare_ebook.pdf">http://www.e-unicare.com.au/wp-content/uploads/2013/06/unicare_ebook.pdf</a>

References

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Australia New Zealand Policing Advisory Agency (2013). [\*Australia and New Zealand Guidelines for Digital Imaging Processes\*](#). National Institute of Forensic Science, Australia. Docklands, Victoria.

Faculty of Forensic & Legal Medicine (2014a). [\*Peer Review in Sexual Offences Including Child Sexual Abuse Cases and the Implications for the Disclosure of Unused Material in Criminal Investigations and Prosecutions\*](#). Crown Prosecution Service. March 2014. London, UK.

Medical Board of Australia, 2014. General Registrant CPD FAQ. Available at: <http://www.medicalboard.gov.au/documents/default.aspx?record=WD14%2F13816&dbid=AP&checksum=OVSLSa7lkYjLIAM3T9x0LQ%3D%3D>

Wade, V. (2013). *How To Make Telehealth Work: Defining Telehealth Processes and Procedures*. Unicare e-health. Available at: [http://www.e-unicare.com.au/wp-content/uploads/2013/06/unicare\\_ebook.pdf](http://www.e-unicare.com.au/wp-content/uploads/2013/06/unicare_ebook.pdf)

## 5 APPENDICES

### 5.1 List of relevant policy documents

Government of New South Wales, 2004, revised 2011	<a href="#"><u>General Retention and Disposal Authority policy</u></a> . Public health services: Patient/Client records. 2011. State Records Authority of New South Wales. ISBN 0-9750563-5-2.
NSW Health PD2013_033	<a href="#"><u>Electronic Information Security Policy</u></a> .
NSW Government OFS-2015-05	<a href="#"><u>Digital Information Security Policy</u></a> .
NSW Health PD2012_069	<a href="#"><u>Health Care Records – Documentation and Management policy</u></a> .
NSW Health PD2013_007	<a href="#"><u>Child Wellbeing and Child Protection Policies and Procedures for NSW Health</u></a> .
NSW Health PD2010_065	<a href="#"><u>Subpoenas policy</u></a> .
NSW Health PD2005_405.	<a href="#"><u>NSW Health Consent to Medical Treatment - Patient Information policy</u></a> .
NSW Ministry of Health 2015	<a href="#"><u>NSW Health: Privacy Manual for Health Information</u></a> (Version 3). ISBN 978-1-76000-002-8.

### 5.2 Related policies and procedures

<i>Child Sexual Assault Medical Protocol</i> <sup>1</sup> (2002).
Child Wellbeing and Child Protection NSW Interagency Guidelines (2011).
<a href="#"><u>Guidelines for the Use of Telehealth for Clinical and Non Clinical Settings in NSW</u></a> , (2015). Agency for Clinical Innovation.
JIRT Referral Unit (JRU) + Interim Procedures for NSW Health (2015).
Joint Investigative Response Teams (JIRT) Local Planning and Response Procedures (2013). NSW Health, Human Services – Community Services, and NSW Police Force.

<sup>1</sup> Often referred to as the SAIK (Sexual Assault Investigation Kit)

Joint Investigation Response Teams (JIRT) Policy and Procedures (2001). NSW Department of Community Services, NSW Police Service and NSW Health.

[\*Suspected Child Abuse and Neglect \(SCAN\) Medical Protocol\*](#), GL2014\_12.

*Sydney Children’s Hospitals Network and Kaleidoscope Greater Newcastle (SCHN KGN) Clinical Guideline on Photography and Video Recording of Children and Young People under 18 years who are Suspected of Having Been Physically Abused, Neglected or Sexually Abused who Present to any of the Children’s Hospitals in NSW (2012).*

### 5.3 Key related policies and procedures to respond to adult sexual assault:

*Sexual Assault Services Policy and Procedures Manual (Adult)*, PD2005\_607.

NSW Police, NSW Health and Office of the Director of Public Prosecutions (2006). *Guidelines for Responding to Adult Victims of Sexual Assault*. NSW Department of Health, North Sydney.

*Clinical Practices – Adult Sexual Assault Forensic Examinations Conducted by Nurse Examiners*, PD2005\_614.

### 5.4 Key Aboriginal health policies and procedures

*Aboriginal Health Impact Statement and Guidelines*, PD2007\_082. NSW Health.

*NSW Aboriginal Health Information Guidelines*. State Health Publication No. (AHB) 980128. August 1998.

*NSW Aboriginal Health Plan 2012-2023*, PD2012\_066. December 2012. NSW Health.

## 5.5 Membership of the Photo and Video Imaging Reference Group

Name	Title	Organisation	LHD/SCHN
Professor Graham Vimpani AM	Chair of the Reference Group Senior Clinical Adviser	Child Protection and Wellbeing	NSW Kids and Families
Mr David Bennett	JIRT Police Officer	NSW Police Force	N/A
Ms Sue Burke	District Manager, Sexual Assault Services and JIRT Health	Bloomfield Hospital	Western NSW LHD
Ms Danielle Clark	Manager	Violence Prevention and Response	NSW Kids and Families
Ms Lisa Crawford	Senior Analyst	Violence Prevention and Response	NSW Kids and Families
Mr Paul de Sensi	Medical Photographer	Sydney Children's Hospital, Randwick	Sydney Children's Hospitals Network
Dr Rosemary Isaacs	Medical Director, Sexual Assault	Royal Prince Alfred and Liverpool Hospitals	Sydney and South West Sydney LHDs
Ms Robyn Lamb	Dept. Head (Allied Health), Child Protection	Sydney Children's Hospital, Westmead	Sydney Children's Hospitals Network
Ms Jenny Marshall	Acting Director	Child Protection and Violence Prevention	NSW Kids and Families
Ms Julia Martinovich	Telehealth Implementation Officer	NSW Agency for Clinical Innovation	N/A
Dr David McDonald	Senior Staff Paediatrician	Tamworth Rural Referral Hospital	Hunter New England LHD
Ms Lorna McNamara	Director  Acting Director	Education Centre Against Violence  Child Protection and Violence Prevention	NSW Health  NSW Kids and Families
Ms Petra Milnes	Executive Officer	NSW e-health	N/A

<b>Name</b>	<b>Title</b>	<b>Organisation</b>	<b>LHD/SCHN</b>
Dr Louise Millward	Senior Analyst	Violence Prevention and Response	NSW Kids and Families
Ms Elena Mirenzi	Manager	Violence Prevention and Response	NSW Kids and Families
Ms Lynn Mitchell	Senior Analyst	Violence Prevention and Response	NSW Kids and Families
Ms Chloe Moddel	Telehealth Implementation Officer	NSW Agency for Clinical Innovation	N/A
Dr Maria Nittis	Department Head, Forensic Medical Units	Blacktown Hospital	Western Sydney LHD
Mr Hugh Percival	Legal Officer	Legal and Legislative Services	NSW Ministry of Health
Dr Anne Piper	Community Paediatrician/Training Adviser, Child Protection	John Hunter Children's Hospital	Hunter New England LHD
Detective S/Sergeant Ian Priest	Staff Officer, Child Abuse Squad	NSW Police Force	N/A
Dr Shanti Raman	Paediatrician/Medical and Forensic Practitioner	Liverpool Hospital	South West Sydney LHD
Dr Carol Stevenson	General Practitioner in Aboriginal Health, Medical Educator, Medical Coordinator	Lismore Sexual Assault Service	Northern NSW LHD
Dr Dimitra Tzioumi	Staff Specialist, Child Protection Unit	Sydney Children's Hospital, Westmead	Sydney Children's Hospitals Network



**5.6 Interim NSW Health consent form**



Holes Punched as per AS2828.1: 2012  
BINDING MARGIN - NO WRITING

	FAMILY NAME	MRN
	GIVEN NAME	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE
Facility:	D.O.B. ____ / ____ / ____	M.O.
<b>CONSENT FOR IMAGING - SUSPECTED CHILD ABUSE</b>		
LOCATION / WARD		
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE		

Reference should be made to: Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013 (PD2013\_007); current standards and guidelines for NSW Health Sexual Assault Services; NSW Interagency Guidelines; Suspected Child Abuse and Neglect (SCAN) Protocol (GL2014\_012) and the Child Sexual Assault Medical Protocol in the child Sexual Assault Investigation Kit (SAIK).

**I understand that:**

- imaging may include ano-genital and breast/chest areas of the body. I have the option to exclude imaging of these or other specific body areas and can advise the examiner accordingly.
- photo and video imaging will be stored securely and confidentially by the NSW Health organisation. Photo and video imaging must be held by the NSW Health organisation for at least 30 years and cannot be destroyed until that time has passed.
- photo and video imaging may be viewed by another forensic examiner for the purposes of obtaining a second opinion or for peer review or by other authorised health workers.
- photo and video imaging can be subpoenaed by the court system as evidence. Where these images are used as evidence they may be viewed by the Judge, the Jury, the Defendant, Counsel for both Prosecution and Defence and any other people whom the Judge considers relevant.
- access to photos and/or video imaging can be requested by and may be released to the NSW Police Force and/or NSW Department of Family and Community Services.

**I consent** to de-identified copies of my photo / video imaging being used in: *(Please tick as applies)*

- a) teaching  Yes  No  
 b) research  Yes  No

**NOTES: Forensic examiners will:-**

- a) record any discussions and respect any requests made by me to **exclude imaging of specific body areas**.  
 b) inform me that I have the option of withdrawing my consent for the future use of images for **teaching and research at any stage**, noting that in some cases it may not be possible for images that have already been used for education or publication prior to the withdrawal of consent to be withdrawn from circulation.  
 c) inform me that in order to withdraw my consent for **teaching and research I must contact the Hospital/Service attended** for information on the procedure required.

*Forensic examiner to document any special requests made by the patient and/or discussions relating to specific consents for imaging below.*

\_\_\_\_\_

\_\_\_\_\_

Please tick the relevant option:

I do /  I do not consent to the imaging and specific requests documented above.

Please tick the relevant option:

I am the:  Patient  Patient's Person Responsible  Guardian  Parent  Other \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Family Name \_\_\_\_\_

Given Names \_\_\_\_\_

**For Examiner**  
**I am satisfied the person providing consent has both the capacity and authority to consent to the imaging.**

Examiner's name \_\_\_\_\_ Designation \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Interpreters name \_\_\_\_\_ Designation \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

NH700101 170915

CONSENT FOR IMAGING - SUSPECTED CHILD ABUSE

SMR020.028

NO WRITING

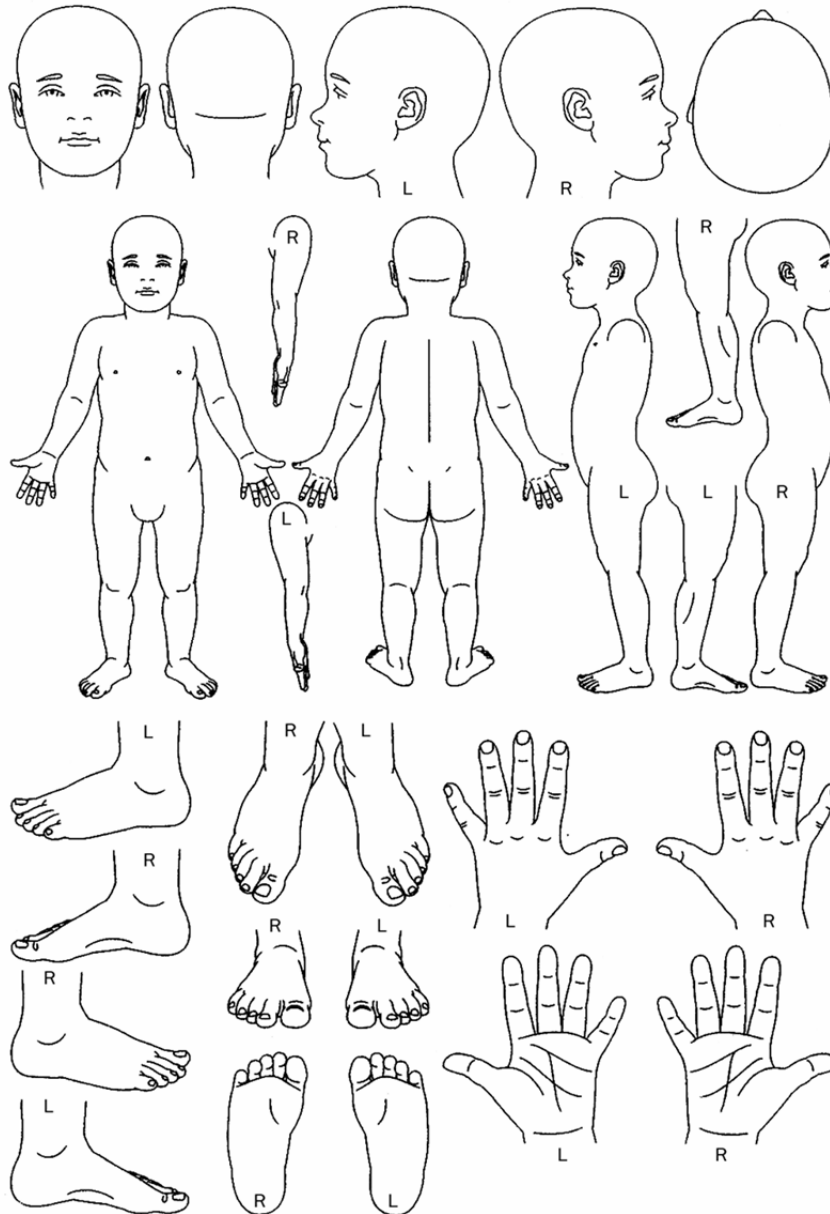
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## 5.7 Request for Medical Photography Services

Consent must be sought before sending this form to the medical photographer.

Request for Medical Photography Services (to be completed by Health Professional requesting service)	
Requester	Diagnosis (If known/please print)
Designation/Department	Location of patient (Outpatient, Inpatient or Ward)
Signature (of Requester)	Date of Request
Type of request Case history print <input type="checkbox"/> Digital file <input type="checkbox"/> Colour prints <input type="checkbox"/> Black and white prints <input type="checkbox"/> Video/audio <input type="checkbox"/>	Instructions to photographer (indicate area to be photographed below)

Name of Reporter/Photographer:



**Indicate area to be photographed**

---

## 5.8 Good practice example of a process for complying with a withdrawal of consent for de-identified images to be used for future a) teaching and/or b) research activities

For the purpose of complying with a withdrawal of consent for de-identified images to be used for future a) teaching and/or b) approved research activities:

- On receipt of consent
  - Each de-identified image should be assigned a reference notation
  - The reference notation should be recorded in the patient's file
  - A register should be:
    - Kept to document and link the reference notation of the de-identified image with the patient file and
    - Maintained for a minimum of 30 years ([NSW Government General Retention and Disposal Authority policy](#), 2004, revised, 2011)
  - A copy of the consent must be stored with the de-identified image(s).
- On receipt of a withdrawal of consent, for the purpose of compliance and risk analyses, the de-identified image/s must be deleted from:
  - Files that are kept and used for the purposes of future teaching and/or research
  - Existing training materials, including Powerpoint files, where they are known to exist.