

## “Doc, mind if I record this?” - Recording Visits Between Patients and Medical Providers

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In today's world, people are accustomed to accessing endless information with their mobile phone. Accessibility to their own conversations regarding their health may not be any different. What happens when a patient wants to use this technology to preserve his or her access to medical information by recording their medical appointment? A recent study by the Dartmouth Institute for Health Policy and Clinical Practice examined patient recordings of clinical encounters and found they are becoming more common. However, like many trends related to advances in technology, such recordings present an array of complex legal issues.

Patients and providers alike can benefit from recording medical visits. Recording visits may reduce patient stress about trying to remember everything said during the visit, leading to more focused exchanges of information between patient and provider. In addition, patients may choose to share recordings of provider visits with other providers and family members involved in their overall medical care. This can result in better comprehensive care for the patient. Healthcare organizations may be able to use visit recordings as part of their quality improvement and training programs. Visit recordings also could lead to more efficient adjudication and resolution of malpractice claims.

Healthcare providers considering allowing patients to record visits or implementing their own visit recording system must weigh the potential benefits discussed above against some possible pitfalls. For example, would recordings dilute the doctor-patient privilege? Might recordings make patients less inclined to be candid in their communications with the provider? Does the presence of recording devices create an undue risk of inadvertent invasion of the privacy of nearby patients? Healthcare providers also may want to consider whether their general patient population is likely to have a negative or a positive view on recording patient visits.

Despite the near ubiquitous presence of mobile phones with recording capability and the myriad issues this raises, the Dartmouth Institute for Health Policy and Clinical Practice study found that very few of even the largest health systems have developed policies to address these issues. Developing policies is important because recording visits raises several legal issues, including state laws on consent to recordings and HIPAA regulations on how recordings are transmitted and stored. Organizations also should consider whether different types of visits and recording media warrant different guidelines. For example, an organization may want to prohibit video recording of physical examinations or prohibit any recording of certain topics. Organizations also may consider posting signs in waiting rooms and hallways prohibiting recording to protect other patients' privacy. When considering whether to record patient visits, healthcare providers also must determine the impact of privacy laws on their employees, and whether recording visits raises collective bargaining issues.

The healthcare industry should prepare for the growing trend of recording patient visits. It would be prudent for healthcare organizations to consider these complex issues on a systemic basis rather than addressing them on a case-by-case basis.

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