

Request for Authorized Electronic Monitoring

I, _____, OR
(name of resident, if you are the resident completing the form)

I, _____,
(Mark below who you are in relation to the resident)

guardian legal representative

wish to conduct authorized electronic monitoring, in accordance with House Bill 2232 now codified as K.S.A. 39-981. I
release _____
(name of facility)

from any civil liability for a violation of _____'s (name of resident) privacy rights relating to the use of the electronic
monitoring device.

Is the monitoring device a video surveillance camera? Yes No

If the monitoring device is a video surveillance camera, the camera should:

always be unobstructed

be obstructed under the following circumstances:

Do you/does the resident reside in a multi-person room? Yes No

This form may be signed only by the resident, the guardian, or legal representative of the resident.

Resident only

Print Name

Signature – Resident

Date

Signature of Guardian of resident or Legal representative of resident (circle appropriate title)

Print Name

Signature – DPOA/Guardian

Date

Consent by Roommate for Authorized Electronic Monitoring

I, _____, OR
(name of resident)

I, _____, on behalf of _____,
(name of requestor) (resident name)

(Mark below who you are in relation to the resident)

guardian legal representative

consent _____ (name of resident or requestor) to the request of _____ (name of facility) to conduct authorized electronic monitoring, in accordance with K.S.A. 39-981 House Bill 2232. I release _____ (name of facility) from any civil liability for a violation of (check the box): my the resident's privacy rights relating to the use of the electronic monitoring device.

Check all that apply below. NOTE: Implementation of restrictions with electronic monitoring is the responsibility of the person signing this form.

- No restrictions on the authorized electronic monitoring.
- If the monitoring device is a video surveillance camera, the camera must be pointed away from _____ (name of resident).
- The use of an audio electronic monitoring device is prohibited, OR
- The use of an audio electronic monitoring device is prohibited under the following circumstances:

This form may be signed only by the roommate resident in the room of a resident who has requested electronic monitoring or the guardian/legal representative of the roommate resident.

Resident only

Print Name	Signature – Resident	Date
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Signature of Guardian of resident or Legal representative of resident (circle appropriate title)

Print Name	Signature – DPOA/Guardian	Date
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Information Regarding Authorized Electronic Monitoring for Adult Care Homes

A resident or the resident's guardian or legal representative is entitled to conduct authorized electronic monitoring (AEM) under K.S.A. 39-981 (HB 2232). To request AEM, you, your guardian or your legal representative must:

- 1) complete the Request for AEM form (available from the facility);
- 2) obtain the consent of other residents, if any, in your room, using the Consent to Authorized Electronic Monitoring form (available from the facility); and
- 3) give the form(s) to the facility administrator or designee.

Who may request AEM?

- 1) The resident, if the resident has capacity to request AEM and has not been judicially declared to lack the required capacity.
- 2) The guardian of the resident, if the resident has been judicially declared to lack the required capacity.
- 3) The legal representative of the resident, if the resident does not have capacity to request AEM and has not been judicially declared to lack the required capacity.

Who determines if the resident does not have the capacity to request AEM?

The resident's physician will make the determination regarding the capacity to request AEM. When the resident's physician has determined the resident lacks capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legal representative for the limited purpose of requesting AEM:

- 1) a person named in the resident's medical power of attorney or other advance directive;
- 2) the resident's spouse;
- 3) an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision-maker;
- 4) a majority of the resident's reasonably available adult children;
- 5) the resident's parents; or
- 6) the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.

Who may consent to AEM?

- 1) The other resident(s) in the room.
- 2) The guardian of the other resident, if the resident has been judicially declared to lack the required capacity.
- 3) The legal representative of the other resident, if the resident does not have capacity to sign the form, but has not been judicially declared to lack the required capacity. The legal representative is determined by following the procedure for determining a legal representative, as stated above, under "Who determines if the resident does not have the capacity to request AEM?"

Can a resident be discharged or refused admittance for requesting AEM?

A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct AEM. If either of these situations occur, you should report the occurrence to the Kansas Department for Aging and Disability Services.

Is notice of AEM required?

The adult care home shall post a conspicuous notice at the entrance to the adult care home and each resident's room stating that the rooms of some residents may be monitored electronically by or on behalf of the room's resident or residents.

What is required for the installation of monitoring equipment?

The resident or the resident's guardian or legal representative must pay for all costs associated with conducting AEM, including installation in compliance with national fire protection association 101 life safety code, maintenance, removal of the equipment, or repair following removal of the equipment, other than the cost of electricity. A facility may require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room. A facility may also require that AEM be conducted in plain view. The facility must make reasonable physical accommodation for AEM, which includes providing:

- 1) a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and:
- 2) access to power sources for the video surveillance camera or other electronic monitoring device.
- 3) making reasonable accommodations if a resident in a multi-resident room wishes to conduct electronic monitoring and the resident or residents with whom the resident shares the room do not consent to the monitoring, including offering to move the resident who wishes to conduct electronic monitoring to another shared room that is available or becomes available, and
- 4) make reasonable accommodations if a resident in a multi-resident room wishes to conduct electronic monitoring and another resident begins residing in the multi-resident room who does not consent to the monitoring before moving the resident wishing to conduct electronic monitoring.

If the facility refuses to permit AEM or fails to make reasonable physical accommodations for AEM, you should report the facility's refusal to Kansas Department for Aging and Disability Services.

How does AEM affect the reporting of abuse and neglect?

If abuse or neglect has occurred, the most important thing is to report it. Abuse and neglect cannot be addressed unless reported.

What is required for the use of a tape or recording by an agency or court?

No court or state agency shall admit into evidence or consider during any proceeding any tape or recording created using an electronic monitoring device in a resident's room in an adult care home, or take or authorize any action based on such tape or recording unless:

- 1) the tape or recording shows the time and date the events on the tape or recording occurred, if the tape or recording is a video tape or recording, and
- 2) the contents of the tape or recording have not been edited or artificially enhanced.

Are there additional provisions of the law?

A person is prohibited from knowingly hindering, obstructing, tampering with or destroying, without the consent of the resident or individual who authorized electronic monitoring, an electronic monitoring device installed in a resident's room.

A person is prohibited from knowingly hindering, obstructing, tampering with or destroying, without the consent of the resident or individual who authorized electronic monitoring, a video or audio recording.

Any person who violates [house bill 2232 subsection (n) now codified as K.S.A. 39-981] shall be guilty of a class B nonperson misdemeanor. Any person who violates [house bill 2232 subsection (n) now codified as K.S.A. 39-981] with the intent to commit or conceal the commission of a misdemeanor offense shall be guilty of a class A nonperson misdemeanor. Any person who violates [house bill 2232 subsection (n) now codified as K.S.A. 39-981] with the intent to commit or conceal the commission of a felony offense shall be guilty of a severity level 8 nonperson felony.

Resident only

Print Name	Signature – Resident	Date
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Signature of Guardian of resident or Legal representative of resident (circle appropriate title)

Print Name	Signature – DPOA/Guardian	Date
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