

Guidelines for Mass General Brigham Individuals in Company Videos and Other Recordings

From time to time physicians and other individuals affiliated with Mass General Brigham (“MGB”) may be involved in an activity that will be recorded by a company.¹ This may involve a company-paid talk – allowed by MGB policy under certain circumstances; a company requesting an MGB individual to participate in a company-produced video or other form of recorded event on a particular disease, medical treatment, area of research, or other similar topic that is of interest to the company and that is within the area of expertise of the MGB individual; or other situations. These talks and presentations may provide significant medical information and education on an important medical topic.

At the same time, the participation of an MGB individual in such a company-produced recording, in conjunction with the use of the name of his/her affiliated MGB entity and with how the recording is used by the company, may create the perception that the MGB individual, and/or MGB, is promoting or endorsing the company or its products or services, which is not permitted under institutional policy.

This Guideline document sets out the conditions for appropriate involvement of MGB individuals in such company recordings and explains the individual’s responsibilities in connection with participation in company recordings.²

¹ The term “recorded” and “recording” in this Guideline are intended to include recording in any medium, whether digital, videotape, photographs, film, postings on social media, other types of images, and audio.

² This document is only intended to address situations where a company directly engages an MGB individual in a recorded activity. It is not intended to address situations that may occur where a company, without any direct involvement by or permission from the MGB individual, acquires access to a recording of an MGB individual made in other contexts, e.g., a talk given and recorded at a professional society or other academic conference, or given in a CME program. Any control over how a company makes use of a recording obtained in those circumstances is beyond the scope of this guideline document.

Compliance with MGB Company Speaking Policy

The MGB individual is responsible for making sure that the talk or presentation that is the subject of a company recording complies with the MGB Policy on Company Speaking Engagements. The key components of this policy are:

- The MGB individual must have complete control over the content of the recording – subject only to the company’s right to ensure compliance with its obligations under FDA law – and must be the source of the individual’s content in the recording. In addition, the MGB individual must have the right to review and approve of the final recording in its entirety before it is used by the company.
- The content provided by the MGB individual must be focused on an appropriate medical or academic topic. If the content involves the individual’s research and that research involves or relates to a company product or service, the nature of the research, its aims, results, and funding must be presented in a way that clearly distinguishes the results of scientific inquiry from product endorsement.
- The content provided by the MGB individual cannot be combined with company marketing or promotional content.
- The recording may refer to the MGB individual’s affiliation with MGB and its affiliated entities solely in a factual manner as one would on a C.V., and only so long as such use does not imply that either the MGB individual, MGB or the relevant MGB-affiliated entity endorses or takes responsibility for the company or its products or services. Otherwise, the recording may not use the name or logo of MGB or any of its affiliated institutions without specific permission from the appropriate institutional spokesperson as described below.
- The recording, taken as a whole, must not reasonably be viewed as a company promotional recording, or create the appearance of the MGB individual promoting or endorsing the company or its products/services.

In addition, the MGB individual must comply with other institutional policies including but not limited to the MGB Social Media Policy and policies relating to confidentiality of patient and MGB information.

Use of Recording by the Company

The MGB individual is responsible for communicating the following conditions to the company on the use of the recording by the company.

- The recording cannot be used by the company for its marketing or commercial promotional purposes. What this means in a given context will vary and may require assessment of the specific plans the company has for the recording.
 - Generally, the company may use the recording for internal use.
 - Where the recording is made for the purpose of a specific company program such as a conference that is not primarily a marketing program, the recording may be used for that program including in the company’s advertising of the program.
 - The recording may be posted on the company’s website but only so long as it is not intermingled with or part of the company promotional or marketing sections of the website. For example, it must not be directly accessible from the company’s product or service menus. An example of an acceptable placement on a company’s website is to place the recording link on a separate pull-down tab entitled “Additional information on [disease or medical condition]” or “Patient Education” and to have the recording be one educational piece among several that provide non-promotional medical information in a manner that is separate from any company marketing or promotional materials located elsewhere on the website.

- o It is not acceptable for the company to use the recording as part of its direct marketing activities to physicians or other users of its products or services.
- o Any other intended external use by the company of the recording must be specified in advance and reviewed and approved by MGB, and approval will only be given upon the assurance that such use will include appropriate separation of that use from the company's promotional or marketing activities.

Additional Responsibilities of MGB Individual Involved

The MGB individual is responsible for seeking institutional review as required by MGB policy and these Guidelines of any proposed written agreement with a company to participate in a company recording

Because it is not possible for there to be institutional oversight all aspects of how an MGB individual's engagement with a company that is to be recorded plays out, the MGB individual is responsible for ensuring that the recording and the company's use of the recording do not cross over into inappropriate promotional use by the company of the recording and the use of the names of MGB and its affiliated entities.

If the MGB individual has a financial relationship or other relevant relationship with the company, whether or not related specifically to the recording involved, the MGB individual is responsible for ensuring that that relationship is disclosed as part of the recording.

Institutional Review and Approval Process

If the company desires to use the recording for something that is not clearly within the description above of allowable uses, it is the company's responsibility to provide a detailed description of the intended use to the MGB individual. The MGB individual is responsible for providing that description to the Public Affairs office of the relevant MGB institution with which the MGB individual is affiliated, and to the MGB Office for Interactions with Industry, which will coordinate on the review process.

Participating in a Recording in the Individual's MGB Capacity

Most situations of recordings covered by this Guideline document involve the MGB individual operating in the context of an "outside activity" of the individual, a personal consulting or similar relationship with the company. From time to time, however, an MGB individual may be asked to participate in a company recording as part of their MGB role, for example to discuss the MGB's use of a company product or to otherwise provide commentary that directly relates to their MGB responsibilities.

For the most part the principles outlined above in this Guidance apply equally to recordings made in one's MGB capacity. The general rules requiring control of content, that the content not involve promotion or endorsement of the company, and the use by the company of the recording generally apply equally. Limited exceptions may be allowable in this context but only with full review and approval by the relevant Public Affairs office and the MGB Office for Interactions with Industry.