

SARATOGA COUNTY HEALTH INFORMATION POLICY AND PROCEDURES

In fulfilling the various functions and missions of Saratoga County government, many of the County's Departments have occasion to come into possession of and make use of information having to do with an individual's health care or medical or psychological condition. In 1996, congress enacted the Health Insurance Portability and Accountability Act (HIPAA) which authorized the Department of Health and Human Services to promulgate and enforce Regulations which are designed to ensure the security and privacy of an individual's health information.

I. POLICY

Saratoga County is committed to a policy that the security and privacy of an individual's health information will be protected and maintained to the greatest extent possible when it comes into the possession of a County Department. All Departments' procedures shall be such that any use or disclosure of an individual's health information shall be limited to the minimum necessary to achieve the purpose for which the Department needs the information.

Each Saratoga County employee shall limit his or her access to, use of, and disclosure or transmission of individually identifiable health information in the possession of the County to the minimum reasonably required to perform the functions and requirements of his or her job, as authorized by this Policy and Procedure. No employee shall obtain access to, use or disclose or transmit any individually identifiable health information unless authorized to do so by this Policy and Procedure.

II. HIPAA DESIGNATIONS

A. HYBRID ENTITY

Saratoga County is designated as a "Hybrid Entity" for purposes of compliance with HIPAA. The Chair of the Board of Supervisors shall appoint a HIPAA Administrator, a HIPAA Privacy Officer and a HIPAA Security Officer, each year.

B. OFFICERS

1. The HIPAA Administrator shall have overall responsibility for compliance with HIPAA regulations throughout the County government.
2. The HIPAA Privacy Officer shall oversee compliance with the "Standards for Privacy of Individually Identifiable Health Information" set by the United States Department of Health and Human Services, throughout Saratoga County.
3. The Security Officer shall oversee compliance with the "Standards for Electronic Transactions" set by the United States Department of Health and Human Services.

C. HEALTH CARE COMPONENTS

The following Departments of Saratoga County are designated as "Health Care Components" of Saratoga County: Mental Health, Public Health Nursing Service, and Maplewood Manor.

D. BUSINESS ASSOCIATE COMPONENTS

The following Departments of Saratoga County are designated as "Business Associate Components" of Saratoga County: Auditor, Aging, County Attorney, District Attorney, Employment & Training, Probation, Public Defender, Social Services, Youth Bureau, Coroner.

III. DEPARTMENT PROCEDURES

A. PROCEDURES REQUIRES

Each Health Care Component and each Business Associate Component shall formulate Health Information Procedures for that department. Each such departmental procedure shall be incorporated in and be a part of this Saratoga County HIPAA Policy and Procedure.

B. CONTENTS OF DEPARTMENTAL PROCEDURES

1. Each such departmental procedure shall identify by job title and/or job description each person within the department who is authorized to have access to individually identifiable health information to carry out their duties. Only those employees whose function or job description makes it necessary to have access shall be authorized to have such access.
2. The departmental procedure shall identify those categories of individually identifiable health information are needed to carry out the function and/or be authorized to obtain, access, or maintain only that information so identified.
3. The departmental procedure shall identify any and all conditions under which would be required access to individually identifiable health information, and shall authorize access only under those circumstances.
4. Each such departmental procedure shall designate one or more employees in the department charged with overseeing compliance with HIPAA.
5. Each such department shall set forth procedures for affording access to individuals to their health information for requests by individuals to amend their health care information, and to account to individuals for disclosure of their health information.
6. Each health care component shall institute policies for disclosing individually identifiable health information in its possession to other entities.
7. Each health care component shall provide individuals with notification of its disclosure policies and of individuals' rights and of the procedures to complain about the health care components policies and procedures, and about the procedures for access to, amendment of, and accounting for the individual's identifiable health information.
8. The departmental procedure shall provide for secure storage and transmission of individually identifiable health information.

C. REVIEW

All procedures and policies of all departments are subject to review and amendment by the HIPAA Administrator, the HIPAA Privacy Officer or the HIPAA Security Officer. The policies and procedures shall be designed to receive, maintain and disclose individually identifiable health information to the minimum extent possible, consistent with the need of the department to fulfill its purpose and mission.

IV. DISCLOSURE TO OTHER ENTITIES

A. WRITTEN ASSURANCES

Each department of Saratoga County which discloses, transmits or transfers individually identifiable health information to another entity shall obtain written assurances from the entity receiving the information that that entity will safeguard the information, and will afford the individual rights of access to, amendment of and accounting for disclosures of their health information.

1. In the case of outside agencies, the written assurance will be in the form of a binding contractual provision.
2. In the case of another County department or governmental agency, the written assurance will be in the form of a memorandum of understanding.

B. CONTENTS

1. The written assurance will define the information to be disclosed and the purpose or use of the receiving entity for the information.
2. The written assurance will permit the minimum disclosure of individually identifiable health information necessary to accomplish the purpose of the disclosure by the County department to the entity.
3. The written assurance will provide for HIPAA compliance by the receiving entity for any further disclosure of individually identifiable health information to third party entities.

C. REVIEW

The written assurance shall be subject to the approval of the Saratoga County as to form and content.

D. VIOLATIONS

The department shall take steps to remedy and/or correct any violations of the written assurances by the entity of which the department becomes aware.

V. TRAINING

The HIPAA Administrator shall ensure that all employees of Saratoga County receive training in HIPAA compliance, and shall assist the department heads of health care component and business associate departments in training their personnel in the application of HIPAA regulations and the County and the department's HIPAA policy and procedures as they apply to the

department. The HIPAA Administrator shall document the training and maintain such documentation as a HIPAA compliance record.

VI. VIOLATIONS

Violation of HIPAA rules and regulations and of the Saratoga County Health Information Policy and Procedure, including the policy and procedure of each department constitutes illegal behavior and is prohibited in any and every workplace in which County employees conduct business, and is punishable under the County's disciplinary procedures, set forth in Chapter 3 Section N of the Saratoga County Policies and procedures, and in accordance with any collective bargaining agreement covering the employee. Any employee in violation of such regulations, policies and/or procedures may be subject to counseling, reprimand, suspension with or without pay, or discharge, after completion of the appropriate disciplinary procedures.

VII. COMPLAINTS

A. An individual shall have the right to make complaints concerning the County's HIPAA Policy and Procedure, and/or with the compliance by the County with the Act.

B. Each Covered Component and each Business Associate Component shall provide for the filing of complaints and the documenting of responses, and forwarding complaints to the County HIPAA Administrator for review and action.

C. The County HIPAA Administrator will cause a review and if necessary an investigation of the complaint. The Administrator shall make a determination in writing as to whether the complaint is founded or unfounded.

1. If the Administrator determines the complaint to be founded, he shall state whatever measures he may determine to be necessary to address the complaint, including but not limited to the following:

- a. actions needed to mitigate the effects of the cause of the complaint;
- b. modifications needed in the County policy and procedure to prevent reoccurrence of the cause of the complaint;
- c. correction, training and taking needed action with personnel involved including discipline for violations of this policy.

2. If the Administrator determines the complaint to be unfounded he shall state his findings.

3. The Administrator shall furnish a copy of his determination to the individual making the complaint and shall advise the individual of his right to complain to the U.S. Secretary of Health and Human Services.

4. The Administrator shall maintain copies of all of the documents reviewed and of his determination as a HIPAA Compliance Record.

SARATOGA COUNTY PUBLIC HEALTH NURSING SERVICE

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PROCEDURE FOR ACCESS, USE AND DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

IN FULFILLING THE PURPOSES AND FUNCTIONS OF THE SARATOGA COUNTY PUBLIC HEALTH NURSING SERVICE (HEREINAFTER REFERRED TO AS THE "SERVICE"), CERTAIN INFORMATION COMES INTO THE DEPARTMENT'S POSSESSION WHICH RELATES TO THE PAST, PRESENT OR FUTURE PHYSICAL OR MENTAL HEALTH OR CONDITION OF AN INDIVIDUAL, THE PROVISION OF HEALTH CARE TO AN INDIVIDUAL, OR THE PAST, PRESENT OR FUTURE PAYMENT FOR PROVISION OF HEALTH CARE TO AN INDIVIDUAL. THIS INFORMATION IS CALLED INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA), AND THE ACCESS TO USE OF AND DISCLOSURE OF THIS INFORMATION BY THE SERVICE IS REGULATED BY THAT ACT.

THE FOLLOWING PROCEDURES FOR THE SARATOGA COUNTY PUBLIC HEALTH NURSING SERVICE HAVE BEEN ESTABLISHED PURSUANT TO THE REQUIREMENTS OF HIPAA AND OF THE SARATOGA COUNTY HEALTH INFORMATION POLICY AND PROCEDURES, ADOPTED BY THE SARATOGA COUNTY BOARD OF SUPERVISORS BY RESOLUTION 65 OF 2003. ALL EMPLOYEES WITHIN THE SERVICE SHALL FAMILIARIZE THEMSELVES WITH THESE PROCEDURES AND COMPLY WITH THEM.

I. DEPARTMENTAL HIPAA COMPLIANCE COORDINATOR

A. The Public Health Nursing Service HIPAA Compliance Coordinator shall be the **Director of Public Health or designee (Also known as the Privacy Officer)**

B. Duties

1. The Coordinator shall oversee compliance with these procedures by Service staff.
2. The Coordinator shall review and investigate complaints about the Service's health information procedures and allegations of violations of these procedures, County policy and procedures, and/or HIPAA regulations.
3. The Coordinator shall review and act on requests by individuals for access to, amendment of, restrictions on use of, and accounting for disclosures of their health information.
4. The Coordinator shall review and act on requests for individually identifiable health information from outside entities and within the Service.
5. The Coordinator shall be responsible for maintaining records concerning HIPAA compliance by the Service.
6. The Coordinator shall be responsible for training all employees of the Service in relation to HIPAA regulations, the County Health Information Policy and Procedure and these departmental procedures.

II. USE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

A. No employee in the Public Health Nursing Service shall receive, possess, use, disclose or transmit individually identifiable health information unless authorized to do so. Any receipt, possession, use, disclosure or transmission of health care information by an authorized employee shall occur only when necessary to accomplish a function or duty within the employee's designated job responsibilities. The employee shall endeavor to receive, possess, use, disclose or transmit only the minimum health information that is necessary to fulfill the function or duty. For example, an individual's entire medical record should never be used when only a portion is relevant to or needed for the specific function or duty involved.

B. AUTHORIZED EMPLOYEES

Employees holding the job titles set forth below are authorized to receive, possess, use, disclose and/or transmit the individually identifiable information indicated.

1. SUPERVISORY STAFF

a. Director of Public Health, Director of Patient Services, Supervising Public Health Nurses, and Therapy Supervisor shall have access to medical records, medical bills, insurance claims and all information necessary to carry out their supervisory duties over employees they supervise when it is necessary to use such information to review, assist, and otherwise supervise department employees.

2. PUBLIC HEALTH NURSES/REGISTERED NURSES

a. Public Health Nurses and Registered Nurses will have access to medical records and reports of patient's condition. These records are needed to render safe and adequate care.

3. FINANCIAL

a. The Fiscal Manager, Senior Account Clerk, and Account Clerk Typists will have access to medical records. These records are needed to determine insurance eligibility and bill for services.

4. CLERICAL STAFF

a. Information Processing Specialists, Senior Typists and Typists will have access to medical records, billing documents and claims.

b. Information Processing Specialists, Senior Typists, and Typists will have access to perform support functions such as filing, correspondence, etc.

C. SECURE STORAGE

Individually identifiable health information will be stored in a location that is secure and separate and apart from other documents generally accessible by persons not authorized by these procedures. Information stored on computers shall be accessible only by authorized employees who shall be given a password for access. Employees utilizing portable computing devices (lap tops, Personal Digital Systems (PDA), tablet PCs) containing individually identifiable health information shall maintain physical possession of such devices or shall secure same in a locked secure location. In the event an authorized employee leaves employment in an authorized

position, the password for that employee's computing device shall be changed and a new password issued for the employee's successor. Information stored in hard copy shall be stored in a location which is accessible only by a person authorized to use that information. The County HIPAA Security Officer shall approve the storage of individually identifiable health information.

D. DISCLOSURE

No employee shall transmit, whether orally, in written (hard copy) form, by facsimile copy, electronically, or otherwise disclose any individually identifiable health information to any other person or entity, except in compliance with these regulations, and in furtherance or fulfillment of a task, function or a duty of the employee's job.

1. The employee shall transmit or disclose only the minimum health information necessary to accomplish the employee's task, function or duty.
2. The employee shall create a written record of every transmission or disclosure of individually identifiable health information, including the date when and the person or entity to whom the disclosure was made, the purpose for the disclosure, and a description of the information disclosed.
3. The employee shall include a record of a routine disclosure of individually identifiable health information in the record pertaining to that individual.
4. The employee shall deliver a written record of non-routine disclosures to the Compliance Coordinator who shall maintain it as a HIPAA compliance record.
5. The employee shall obtain, where practical, a written assurance from the recipient of the health information that the entity will use the information consistent with these regulations and HIPAA regulations.

E. REQUESTS FOR HEALTH INFORMATION

1. Requests, other than routine requests as defined below, for individually identifiable health information in the possession of the Service from entities including outside entities, other County departments, and other units within the Service shall be in writing, where practical.
2. The request shall state the identity of the person requesting the information, the information requested, the purpose for the request, and the intended use of the information.
3. The Compliance Coordinator shall maintain the request as a HIPAA record. If the request is made orally, the request shall be documented and maintained by the Compliance Coordinator.
4. Non-routine request for disclosure of individually identifiable health information shall be reviewed and acted upon by the Compliance Coordinator. The Compliance Coordinator shall consider the following criteria in acting upon the request:

a. Has the individual authorized the disclosure? If so, the disclosure must comply with any limits of the authorization.

b. Is the request in the form of a court or administrative tribunal order? If so, the disclosure must disclose only the information expressly authorized by the order.

c. Has the information been requested by subpoena, discovery device or other legal process? If so, the Compliance Coordinator may disclose health information only if it is determined that the individual has had notice of the request and an opportunity to contest the request. Such determination may be made if:

1. The party requesting the information gives satisfactory assurance in writing that reasonable efforts have been made to give the individual reasonable notice of the request and that the time to raise objection by the individual has passed; or

2. All objections to the request have been resolved by the court or administrative tribunal; or

3. The Compliance Coordinator has sought a protective order from the court or administrative tribunal and the disclosure is made pursuant to the order of the court or tribunal.

d. Is the request made by a law enforcement officer? If so, the Compliance Coordinator may release as much health information as is relevant and material to a legitimate law enforcement inquiry and is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

e. Is compliance with the request required by law? The Compliance Coordinator shall determine and record the identity of the person requesting the information and the authority or legal requirement that requires the disclosure.

5. ROUTINE AND RECURRING REQUESTS

The following routine and recurring disclosures for the following categories of individually identifiable health information maintained by the following units of the Service may be made by the authorized employee without the review and authorization of the Compliance Coordinator (a record of a routine disclosure must be made and kept in the records pertaining to the individual):

a. Medical records, including clinic records and reports, will be sent for treatment purposes to providers, such as physicians, hospitals, therapists, home health aide agencies, Saratoga County DSS, Saratoga County OFA, Lifeline contractors, NYS DSS, NYS DOH, agencies from other counties, and schools.

b. Medical records and bills for reimbursement purposes will be sent to providers, such as insurance companies, Medicare, Medicaid, Saratoga County Auditor, Saratoga County Treasurer, Saratoga County OFA, and Saratoga County DSS.

III. RIGHTS OF INDIVIDUALS

A. ACCESS

1. An individual or his/her personal representative has a right of access to inspect and obtain a copy of his/her health information for as long as the information is maintained by the Department, except the individual may be denied access for:
 - a. Psychotherapy notes.
 - b. Health information obtained from someone under a promise of confidentiality and the access requested would be reasonably likely to reveal the source.
 - c. When a licensed health care professional has determined that the access is reasonably likely to endanger the life or safety of the individual or another person.
 - d. When the health information makes reference to another person, and a licensed health care professional has determined that access is reasonably likely to cause substantial harm to that person.
 - e. The request is made by the individual's personal representative, and a licensed health care professional has determined that access is reasonably likely to cause substantial harm to the individual.
2. The request for access shall be in writing and signed by the individual or personal representative and shall specify the records to which access is requested.
3. The Compliance Coordinator shall review requests by individuals for their individually identifiable health information.
4. Any denial of an individual's health information shall be made in writing, setting forth the basis for the denial, and for denials on the grounds of c. d., and e above, a statement that the individual has a right to a review of the denial, upon request in writing, by an independent health care professional designated by the Director of Services.
5. The Compliance Coordinator shall maintain the request for access and any denials as a HIPAA compliance record.
6. The Compliance Coordinator shall permit the individual access to inspect his health information within thirty (30) days of receipt of the request. The Compliance Coordinator will provide a copy of the individual's health information at a cost of \$.25 per page.

B. AMENDMENT

An individual may request that his health information in the possession of the Service be amended.

1. Any request for amendment of individually identifiable health information must be in writing and signed by the individual or personal representative and must identify that portion of the health information to be amended, the requested amendment, and the reason for the amendment.

2. The Compliance Coordinator shall review the request and, within sixty (60) days, either amend the information or deny the request in writing, stating the reason therefore.

3. A request to amend health information may be denied if:
- a. it was not created by the Service;
 - b. access to the information could be denied under III (A) (1) above;
 - c. the information is accurate and complete.

4. The denial must be in writing and a copy provided to the individual. The denial must set forth the grounds for the denial and describe the procedures by which the individual may complain of the denial (see III (E) below).

5. If the Compliance Coordinator approves the amendment, the information shall be amended and notification of the amendment shall be given to the individual, to any entity identified by the individual as having received the information which is being amended, and to all entities that the Service knows have the information being amended and which may have or are relying on such information.

6. If the amendment is denied, the individual may file a written statement of disagreement with the Compliance Coordinator. The request for amendment, the denial and any statement of disagreement will be appended to the disputed health information. Copies of all documents concerning the request to amend shall be maintained by the Compliance Coordinator as a HIPAA compliance record. Subsequent disclosures of the health information requested to be amended to other entities shall include all of said documents.

C. ACCOUNTING

An individual shall have the right to request an accounting by the Service of disclosures or transmissions made by the Service to other entities, including outside entities, governmental agencies, other departments of Saratoga County, and other units of the Department. The Service shall account for those disclosures and transmissions which are required to be accounted for by law.

1. The request for an accounting must be in writing and signed by the individual or personal representative and may request an accounting for disclosures which occurred after April 23, 2003, or up to six years prior to the request, whichever period of time is shorter.

2. The Compliance Coordinator shall provide the individual with a written accounting of all disclosures or transmissions of the individual's health information by the Service, which are required by law to be accounted for (except for the disclosure listed in paragraph 3 below) to include:

- a. the date of the disclosure;
- b. the name of the person or entity to whom the disclosure was made;
- c. a brief description of the information disclosed;
- d. a brief statement of the purpose for the disclosure.

3. The Compliance Coordinator shall not include the following disclosure in an accounting:
- a. disclosures made to carry out treatment, payment, or health care operations
 - b. disclosures made to the individual
 - c. disclosures made pursuant to an authorization
 - d. disclosures in the facility's directory
 - e. disclosures permitted by regulation
 - f. disclosures made for national security or intelligence purposes
 - g. disclosures made to correctional institutions about an inmate where the disclosure was for the provision of health care to the inmate; was necessary for the health and safety of the individual, other inmates, or of the employees of the facility; or for the administration and maintenance of the safety, security and good order of the institution.
 - h. disclosures incidental to a use or disclosure otherwise permitted or required by regulation.

4. SUSPENSION OF ACCOUNTING

The Compliance Coordinator shall suspend an accounting of disclosure to a health oversight agency or to a law enforcement official for a time to be specified by the agency as official in a written statement that such accounting would be reasonably likely to impede the agency's or official's activities. If the agency's or official's statement to the above effect is made orally, the suspensions of the accounting shall be for thirty (30) days only.

D. COMPLAINTS

An individual shall have the right to make complaints concerning this policy and procedure and/or about any decision, determination, or action of an employee and/or Service's Compliance Coordinator.

1. Persons indicating they disagree with a policy or procedure of the Service concerning health information, or with a decision, determination, or action of an employee of the Service with respect to their individually identifiable health information shall be advised of their right to complain to:
 - a. Saratoga County pursuant to this procedure and/or
 - b. the U. S. Secretary of Health and Human Services
2. A complaint must be in writing and signed by the individual complaining.
3. A complaint must describe the provisions of this procedure about which the complaint is being made and/or omissions believed to be in violation of HIPAA or these procedures.
4. The complaint must be filed within 180 days of the date when the complainant knew or should have known that the act or omission complained of occurred.
5. The complaint, together with all documentation relevant to the complaint shall be forwarded to the Saratoga County HIPAA Administrator. The Service Compliance Coordinator

may prepare and forward a response to the complaint, a copy of which will be supplied to the complainant. The complaint shall thereafter be addressed in accordance with the Saratoga County HIPAA Policy and Procedures.

6. The Compliance Coordinator shall retain a copy of the complaint and all documents forwarded to the County HIPAA Administrator.

IV. TRAINING

The Compliance Coordinator shall train all employees of the Service in the requirements of this procedure upon their initial employment in the Service and annually thereafter. Each employee shall be given a copy of this procedure and of the Saratoga County HIPAA Policy and Procedure and shall execute in writing acknowledging receipt, which shall be retained by the Compliance Coordinator as a HIPAA document.