



Policy and Procedure: *HIPAA/HITECH Compliance*

Topic: *Information Disclosures*

HIPAA Regulation:

- *Use and Disclosures* § 164.502, §164.504, §164.506, §164.508, §164.510, §164.512, §164.514

Policy Purpose:

The purpose of this policy is to provide guidance in the use and disclosure of protected health information in accordance with the HIPAA requirements.

Policy Description:

It is the policy of **Saratoga Bridges** to make routine and non-routine disclosures of protected health information (PHI) in accordance with applicable state law and the Health Information Portability and Accountability Act (HIPAA).

Where required by law, Saratoga Bridges will disclose only the minimum information necessary to accomplish the purpose of the disclosure.

Policy Responsibilities:

Saratoga Bridges

1. Determines whether or not the disclosure requires an authorization by the individual or the individual's personal representative (i.e., parent, guardian, healthcare proxy, etc.). **All disclosures except the following require an authorization:**
 - a. For treatment, payment, or health care operations.
 - b. To the individual or to a personal representative of the individual.
 - c. To demonstrate compliance with HIPAA regulations (cooperation with the Department of Health and Human Services when it conducts compliance reviews or investigates complaints).
 - d. To cooperate with courts, public health authorities, law enforcement agencies, or for other "public purposes".
2. If the disclosure is pursuant to an authorization by the individual or his/her personal representative, ensures the authorization is valid. To be valid, an authorization must include:
 - a. A description of the information to be disclosed.
 - b. Organization specifically named as authorized to disclose the information.
 - c. The name of the person or organization specifically authorized to receive the information.
 - d. A description of the purpose for which the information will be disclosed.
 - e. An expiration date or expiration event.



- f. Signature of the individual to whom the information pertains. (The signature of the personal representative must include the relationship to the individual.)
 - g. The date on which the authorization was signed.
 3. Discloses only the minimum amount of information necessary to accomplish the purpose of the disclosure. NOTE: The "minimum necessary" rule does not apply to the following:
 - a. Uses or disclosures for treatment purposes.
 - b. Disclosures to the Department of Health and Human Services for compliance review or complaint investigation purposes.
 - c. Disclosures to the individual or his/her personal representative concerning information that pertains to the individual.
 - d. Disclosures authorized by the individual.
 - e. Disclosures that are required by law.
 - f. Disclosures necessary for HIPAA compliance.
 4. Confirms the identity of the party (if not known) before the disclosure is made.
 5. If the disclosure is "accountable", records the disclosure on the Disclosure Tracking Log. The following disclosures are not "accountable":
 - a. Disclosures for the purpose of treatment, payment, and health care operations.
 - b. Disclosures made to the individual or to personal representatives of the individual.
 - c. Disclosures that were authorized by the individual (or the individual's personal representative).
 - d. Disclosures made for national security or intelligence purposes.
 - e. Disclosures made to correctional institutions or law enforcement officials.
 - f. Disclosures of limited data set information.
 - g. "Incidental" disclosures (defined as unintended disclosures that cannot reasonably be prevented, are limited in nature, and that occurs as a result of another use or disclosure that is permitted by HIPAA).
 - h. Disclosures that occurred prior to April 14, 2003.
 6. Consults Privacy Officer if assistance or direction is needed.

Actions To Be Taken When Disclosing Information to Law Enforcement

Executive Director or Designee

1. Immediately notifies Quality Assurance Coordinator of any requests for information by law enforcement officials.

Quality Assurance Coordinator

1. Determines if law requires the disclosure. Contacts Privacy Officer and/or legal counsel, if unsure.

Quality Assurance Coordinator

1. Obtains authorization from the individual or his/her personal representative to disclose information to law enforcement authorities if the individual is a victim of a crime.

Quality Assurance Coordinator

1. Provides minimum necessary information to law enforcement authorities when notifying authorities of a missing person, or suspected crime committed against the individual.



2. Provides the necessary and relevant information to law enforcement authorities if the crime occurred on Saratoga Bridges' premises.
3. Provides the necessary and relevant information to report abuse or neglect.

Actions To Be Taken When Disclosing Information To Public Authorities

Quality Assurance Coordinator or Designee

1. Discloses all information required by law when reporting abuse or neglect.
2. Informs the individual (or his/her personal representative) of the disclosure *unless* a licensed health care provider, in their professional judgment, determines that doing so could endanger the individual.

Actions To Be Taken When Disclosing Information For A Judicial Or Administrative Proceeding

All Saratoga Bridges Staff

1. Must notify the Executive Director or Designee immediately upon receipt of a court order, subpoena, or administrative order or search warrant.

Executive Director or Designee

1. Contacts Saratoga Bridges' legal counsel and reviews the request with counsel. Follows direction of legal counsel.

Privacy Officer

1. Discloses only the information described in the request.

Actions To Be Taken When Disclosing Information For Research, Marketing, Or Fundraising Purposes

Privacy Officer

1. For marketing or fundraising purposes, ensures that a valid authorization has been obtained and filed before disclosing information for marketing or fundraising.
2. Discloses only such information as allowed by the authorization.

Privacy Officer

1. For research purposes, determines that Saratoga Bridges Research Review Board has approved the research purpose.
2. Ensures that a valid authorization has been obtained and filed before disclosing information for research purposes.
3. Discloses only such information as allowed by the authorization.

Actions To Be Taken When Disclosing Information To The Department Of Health and Human Services as Part Of A Compliance Review



Saratoga Bridges must cooperate fully with the Department of Health and Human Services (DHHS) when conducting compliance reviews. Employees must answer all questions of DHHS compliance investigators and provide access to DHHS personnel to all requested records.

Actions To Be Taken When Disclosing Information About Deceased Individuals

Privacy Officer

1. Discloses information about deceased individuals to law enforcement only when they are suspected to be victims of a crime (or required to by court order or for purposes of identifying the perpetrator of a crime).
2. Discloses information about deceased individuals to medical examiners or funeral directors only as necessary to carry out their duties.
3. Obtains authorizations from personal representative for all other disclosures except for activities related to treatment, payment, or health care operations.
4. Discloses information to persons involved in deceased individual's care or payment, provided that the information is relevant to such person's involvement and the release of information is not contrary to any previously expressed restriction of disclosures by the individual.

NOTE: Information regarding deceased individuals may not be released until 50 years after the death except for the aforementioned purposes.