

HIPAA Investigations Policy

Introduction

STRATEQ HEALTH, INC. has adopted this HIPAA Investigations Policy in order to recognize the requirement to comply with the Health Insurance Portability and Accountability Act ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act of 2009 (Title XIII of division A and Title IV of division B of the American Recovery and Reinvestment Act "ARRA") and the HIPAA Omnibus Final Rule (Effective Date: March 26, 2013).

STRATEQ HEALTH, INC. hereby acknowledges our duty and responsibility to protect the privacy and security of Individually Identifiable Health Information ("IIHI") generally, and Protected Health Information ("PHI") as defined in the HIPAA Regulations, under the regulations implementing HIPAA, other federal and state laws protecting the confidentiality of personal information, and under principles of general and professional ethics. We also acknowledge our duty and responsibility to support and facilitate the timely and unimpeded flow of health information for lawful and appropriate purposes.

Scope of Policy

This policy governs HIPAA Investigations for **STRATEQ HEALTH, INC.** All personnel of **STRATEQ HEALTH, INC.** must comply with this policy. Demonstrated competence in the requirements of this policy is an important part of the responsibilities of every member of the workforce.

Officers, agents, employees, Business Associates, contractors, affected vendors, temporary workers, and volunteers must read, understand, and comply with this policy in full and at all times.

Assumptions

- STRATEQ HEALTH, INC.** hereby recognizes its status as a Business Associate under the definitions contained in the HIPAA Regulations.
- STRATEQ HEALTH, INC.** must comply with HIPAA and the HIPAA implementing regulations, in accordance with the requirements at 45 CFR Parts 160 and 164, as amended.
- Full compliance with HIPAA is mandatory and failure to comply can bring severe sanctions and penalties. Possible sanctions and penalties include, but are not limited to: civil monetary penalties, criminal penalties including prison sentences, and loss of revenue and reputation from negative publicity.
- STRATEQ HEALTH, INC.** recognizes that the U.S. Department of Health and Human Services ("HHS"), its Office for Civil Rights ("OCR") and other designees, as well as State

Attorneys General, are all authorized and empowered to investigate Covered Entities and Business Associates in matters of HIPAA compliance and enforcement.

- ❑ **STRATEQ HEALTH, INC.** recognizes that timely and full cooperation with such investigative bodies is mandatory under HIPAA law; and that failure to cooperate with any HIPAA investigation is itself a violation of HIPAA Rules.

Policy Statement

- ❑ It is the Policy of **STRATEQ HEALTH, INC.** to fully comply with HIPAA law and with all HIPAA-related investigations conducted by HHS.
- ❑ It is the Policy of **STRATEQ HEALTH, INC.** to not impede or obstruct any HIPAA-related investigations conducted by HHS.
- ❑ It is the Policy of **STRATEQ HEALTH, INC.** to provide all documentation or assistance required by law in connection with any HIPAA-related investigations conducted by HHS.

Procedures

Workforce members who are designated to assist with HIPAA-related investigations conducted by HHS must adhere to the following procedures:

- ❑ Whenever a HHS investigation is discovered, the following persons must be immediately notified:
 - Attorneys (HIPAA counsel and local counsel, if different)
 - Executive Management
 - Privacy Officer
 - Security Officer
 - Compliance Officer
- ❑ Cooperate, but do not volunteer information or records that are not requested.
- ❑ Ask for the official government agency-issued identification of the investigators (Business cards are NOT official identification); write down their names, office addresses, telephone numbers, fax numbers and e-mail addresses. If investigators cannot produce acceptable I.D., call legal counsel immediately and defer the provision of any PHI until after you confer with counsel or until the investigators produce acceptable I.D. BE SURE that you've made appropriate requests for I.D. and that they've been unreasonably refused before you do.)
- ❑ Have at least one, if not two witnesses available to testify as to your requests and their responses.
- ❑ Ask for the name and telephone number of the lead investigator's supervisor, but only if, in your judgment, his/her demeanor indicates that you can ask such a question without engendering "hard feelings." Under NO circumstances should you take any action to escalate tensions, except if you genuinely doubt the identity or authority of the investigators.
- ❑ Determine if there are any law enforcement personnel present (i.e., FBI, US Attorney investigators, State Prosecutor investigators, etc.). If law enforcement personnel are present, then the investigation is likely a criminal one, with much more severe penalties than may result from a civil investigation. Generally, guns strapped to hips are a good indicator of the presence of law enforcement personnel; but, if in doubt, ask.
- ❑ Permit the investigators to have access to protected health information ("PHI"), in accordance with our notice of privacy practices ("NPP"), and Federal and State law. Once

investigators have verified their identities and have also verified their authority to access PHI, it is a violation of HIPAA to withhold PHI from them, if the PHI sought is the subject matter of the investigation, or reasonably related to the investigation. Again, ask investigators to verify that they are seeking access to the information because it is directly related to their legitimate investigatory purposes; and document their responses in your own written records.

- ❑ Have a witness with you when you ask about their authority to access PHI, and the use that they will make of the PHI they are seeking access to, who can later testify as to what they told you. Two witnesses are even better. All witnesses should also prepare a written summary of the conduct and communications they observed as soon as possible after the incident; these summaries should be annotated with the time and date of the event, the time and date that the summaries were completed, and the witnesses signature.
- ❑ Send staff employees elsewhere, if possible, during this first investigation encounter. There is no requirement that we provide witnesses to be questioned during the initial phase of an investigation.
- ❑ Do NOT instruct employees to hide or conceal facts, or otherwise mislead investigators.
- ❑ Ask the investigators for documents related to the investigation. For example, request:
 - copies of any search warrants and/or entry and inspection orders
 - copies of any complaints
 - a list of patients they are interested in
 - a list of documents/items seized
- ❑ Do NOT expect that investigators will provide any of the above, except for the search warrant and a list of documents/items seized (if any).
- ❑ Do not leave the investigators alone, if possible. Assign someone to “assist” each investigator present.
- ❑ Do not offer food (coffee, if already prepared, and water, if already available, is ok). Don’t do anything that could be construed as a “bribe” or a “kickback” to induce favorable treatment, such as offering to buy the investigators lunch.
- ❑ Tell investigators what you are required by law to tell them. Answer direct questions fully and to the best of your ability. Always defer to the advice of legal counsel if you are unsure of what or how much to say.

Compliance and Enforcement

All managers and supervisors are responsible for enforcing this policy. Employees who violate this policy are subject to discipline up to and including termination in accordance with **STRATEQ HEALTH, INC.’s** Sanction Policy.