

 Samaritan Health 830 Washington Street Watertown, NY 13601	Response to Government Investigations		Document No. 3568
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Business Units:	Medical Center, Samaritan Home Health, Samaritan Keep Home, Samaritan Summit Village Assisted Living, Samaritan Summit Village Skilled Nursing, Centers and Clinics, Samaritan Medical Practice		

This Corporate Compliance Response to Government Investigation Policy is applicable to Samaritan Medical Center (SMC) and its Affiliates: Samaritan Keep Home, Samaritan Medical Practice, Samaritan Summit Village, and Samaritan Home Health (collectively, “Samaritan”).

PURPOSE:

To assist Affected Individuals (as hereinafter defined) in appropriately responding to requests from law enforcement agencies and governmental investigators and agents who may present themselves at Samaritan to allow Samaritan to provide a collaborative and timely response to any external investigation, notification, or request, and the opportunity to exercise its legal rights within established timeframes while cooperating with the investigation or request.

DEFINITIONS:

Affected Individuals - All persons affected by Samaritan’s risk areas, including employees, the chief executive officer of SMC and other senior administrators, managers, and contractors, agents, subcontractors, independent contractors, and governing body and corporate officers of Samaritan, as appropriate.

Department of Health and Human Services (DHHS or HHS) – The federal government's principal agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves.

Joint Commission (JC) – An independent, not-for-profit organization that evaluates and accredits health care organizations, including Samaritan.

Medicaid Fraud Control Unit (MFCU) – A division of the New York State Attorney General’s Office with statewide authority to investigate, penalize and prosecute health care providers that defraud the Medicaid program.

New York State Department of Health (NYSDOH) – A regulating agency of NYS that protects, improves and promotes the health, productivity and well-being of all New Yorkers.

New York State Department of Mental Hygiene - A department of the New York state government that is composed of several autonomous offices: the Office of Addiction Services and Supports (OASAS), the Office of Mental Health (OMH), and the Office for People With Developmental Disabilities(OPWDD).

Office of the Inspector General (OIG) – An independent and objective oversight unit of the DHHS established to carry out the mission of preventing fraud, waste and abuse, and promoting the economy, efficiency, effectiveness and integrity of DHHS programs and operations.

The Office of the Medicaid Inspector General (OMIG) – An independent entity created within the NYSDOH to promote and protect the integrity of the Medicaid program in New York State.

Search warrant – A legal document issued by a judge authorizing the search of a person or property to look for and confiscate evidence.

Subpoenas – A legal order issued by the court or an attorney commanding compliance with certain requests, including a witness’s appearance in court or other legal proceeding or the production of documents.

SUMMARY:

Affected Individuals of Samaritan may be contacted directly by government investigators during the course of an investigation. Government investigators, regulatory agencies, or other third parties may contact or arrive unannounced at Samaritan or at the homes of individuals, and outside of normal business hours, seeking interviews, documents, and information, or requesting to search Samaritan’s premises. Examples of regulatory agency visits, investigations, or requests for information that are subject to this policy include, but are not limited to, the following:

- Department of Justice (DOJ), Department of Health and Human Services (HHS) Office of Inspector General (OIG), U.S. and/or N.Y.S. Attorney General’s Office, Office of Medicaid Fraud Control Unit (MFCU), Office of Medicaid Inspector General (OMIG), Drug Enforcement Agency (DEA), New York State Department of Health (NYSDOH), and New York State Department of Mental Hygiene (NYSOMH).
- Law enforcement visits, including local, state, and federal investigators;
- Licensure investigations;
- Freedom of Information Act (FOIA) requests;
- Sunshine Act requests; and
- Non-routine Subpoenas.

This policy is not meant in any way to deter Affected Individuals from cooperating or assisting with any governmental request or investigation. However, if an Affected Individual is contacted, this information will allow the Chief Compliance Officer to promptly take any corrective actions that may be necessary.

POLICY:

Samaritan will cooperate with all law enforcement or governmental requests and investigations, while protecting the legal rights of the organization and individual caregivers. Samaritan shall be informed immediately by Affected Individuals of any governmental or other external investigations concerning its operations whenever contact by such agencies has been made with an Affected Individual. Contact includes any requests from governmental agencies to schedule interviews or meetings with an Affected Individual or requests for written information under circumstances where the request seems out of the ordinary. In order to ensure those protections and the proper conduct of the investigation or request, the Chief Compliance Officer and/or designee shall be involved in coordinating and directing, to the extent possible, the response to governmental investigations or requests, including, but not limited to, search warrants and subpoenas involving an investigation related to business conducted at Samaritan.

PROCEDURE:

Guidelines for Responding to External Investigators:

Initial Contact

1. Notify the Chief Compliance Officer immediately if an agent or investigator from a governmental or law enforcement agency approaches you for information or questioning regarding Samaritan **even if it is past normal business hours***. If the Chief Compliance Officer is unavailable, the Chief Executive Officer or Chief Operating Officer should be contacted. It is imperative at this time that the Affected Individual does not inadvertently waive personal or Samaritan's rights such as:
 - the attorney-client privilege;
 - the right to counsel; and
 - the right against self-incrimination.
2. ALWAYS request to see the agent's identification. The name, title, agency and telephone number of each federal or state representative should be documented. Photocopies of all documents presented (i.e., subpoenas, search warrants) should be made.
3. Explain to the agent you will be happy to cooperate, but you must first notify the Chief Compliance Officer. In the event the Chief Compliance Officer is unavailable, the Director of Quality Improvement or Risk Manager should be notified. Employees may notify their direct supervisor who will then be responsible for notifying the Chief Compliance Officer.

4. The Chief Compliance Officer or his/her designee will meet with the government agent(s) and will:
 - Verify the identity and legal documents presented before answering any questions or providing documents;
 - Request why the investigation was initiated, what the nature of the investigation is, and whether the investigation is civil or criminal; and
 - If applicable, inform the government agent(s) that legal counsel will be contacted and will coordinate the investigation.

The Chief Compliance Officer will also notify the Director of Human Resources/Risk Manager of the request or investigation to evaluate liability issues.

Search Warrants

1. In situations where the governmental agent(s) present a search warrant, the Chief Compliance Officer, the Director of Quality Improvement, Risk Manager, Chief Executive Officer, the Administrator-on-Call or designee (“Hospital Agent”) will personally escort the government agent(s) around Samaritan. Affected Individuals should not respond independently to the request.
2. Once the Chief Compliance Officer has been made aware that government agent(s) have arrived with a search warrant, legal counsel should be notified immediately and provided with an electronic copy of the search warrant (e.g., via facsimile or email) for review. A photocopy of the search warrant and any other information presented should be obtained.
3. After conferring with legal counsel, if possible, the Hospital Agent will then escort the agent(s) to the information requested or the area to be searched, as applicable. An escort is necessary to ensure the search remains within the confines of the search warrant and that a record is made of seized documents and other evidence. The Hospital Agent will remain present at all times while the agent(s) are conducting the search.
4. If the search warrant is presented to someone other than the Chief Compliance Officer, that individual should immediately contact the Chief Compliance Officer, **even if it is past normal business hours***, as provided herein.
5. Generally, a government agent or investigator with a search warrant should not be provided with or allowed to remove Samaritan documents or medical records unless specifically authorized or directed to do so by the Chief Compliance Officer or his/her designee, or Samaritan’s legal counsel. However, Affected Individuals should not use force or otherwise obstruct any governmental agent(s) if they insist on removing items. In such event, request to be provided with an “inventory list” of any documents or items seized by the agent(s), and record a separate list of the documents/items taken from the area using efforts to ensure that it is detailed enough to properly identify the documents/items taken.

Your Rights and Obligations

1. Affected Individuals have the choice to refuse to participate in any interviews with government agencies. A court may later compel testimony, but an individual has the right not to submit to an interview by law enforcement agents, but you should not in any way attempt to deter or obstruct a governmental investigation.
2. Samaritan takes no position on whether an Affected Individual should participate in an outside interview. Samaritan may not, under any circumstances, instruct an individual to refuse to submit to an interview. Samaritan may only advise individuals of their right to refuse an interview and that they may speak with their own hired legal counsel and/or Samaritan's attorneys prior to making that choice.
3. Samaritan's response to any subpoena or investigation must be complete and accurate. No Affected Individual shall alter, destroy or mutilate any document or record, not alter or delete any material from any computer, server, word processor, disk or tape.
4. Affected Persons should immediately contact the Chief Compliance Officer or his/her designee for guidance regarding any **non-routine** requests he or she may receive, even if not made as part of a formal investigation. This may include, but is not necessarily limited to, subpoenas and verbal or written requests for information received from law enforcement agencies and government investigators or agents regarding Samaritan and its operations, whether received at work or at home.

***Should a government agent/investigator present after hours, the Chief Compliance Officer or the Administrator-on-Call may be notified by calling the switchboard operator at 315-785-4000.**

REFERENCES:

Office of Inspector General
Office of Medicaid Inspector General
Centers for Medicare and Medicaid
Department of Health and Human Services
NYS Department of Health
NYS Department of Mental Hygiene

EFFECTIVE: 11/2012

REVISED: 7/2017, 3/2018; 2/2022; 3/13/2023