

## Kenneth A. Giraldo, M.D., P.A.

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Phone: 941-343-1040 Fax: 941-343-1098

### NOTICE OF PRIVACY PRACTICES

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

#### I. Our Commitment To You

Kenneth A. Giraldo, M.D., P.A. is committed to maintaining the privacy of your health information. During your treatment with us, physicians, nurses, and other personnel may collect information about your health history and your current health status. This Notice explains how that information, called "Protected Health Information" may be used and disclosed to others. The terms of this Notice apply to health information produced or obtained by Kenneth A. Giraldo, M.D., P.A.

#### II. Our Legal Duties

The U.S. HIPAA Privacy Law requires us to provide this Notice to you regarding our privacy practices, our legal duties to protect your private information and your rights in regard to health information about you. We are required to follow the privacy practices described in this Notice whenever we use or disclose your protected health information. Other companies or persons that perform services on our behalf (called Business Associates) must also protect the privacy of your information. Business Associates are not allowed to release it to anyone else unless specifically permitted by law. There may be other state and federal laws that we will follow that provide additional protections related to communicable disease, mental health, substance or alcohol abuse, or other health conditions.

#### III. Your Health Information May Be Used And Disclosed

Kenneth A. Giraldo, M.D., P.A. is permitted by HIPAA Privacy Law to make uses and disclosures of your health information for purposes of treatment, payment and health care operations.

- **Treatment:** We will use and may share health information about you for your health care and treatments. For example, a nurse or medical assistant will obtain treatment information about you and record it in a medical record. Alternatively, one of our physicians may use information about you for a consultation with or a referral to another physician to diagnose your illness and determine which treatment option, such as surgery or medication, will best address your health needs. Except in emergency circumstances, we will make a "good faith effort" to get your permission prior to making disclosures outside Kenneth A. Giraldo, M.D., P.A. for treatment purposes.
- **Payment:** We may use and disclose health information about you to obtain payment for the care and services that we have provided to you. For example, we may need to provide your

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health plan provider with information about you, your diagnosis, and the treatment provided to you at Kenneth A. Giraldo, M.D., P.A. so that your health insurer will pay us or reimburse you for the treatment. We may also contact your health insurance to obtain prior approval about a potential treatment.

- **Health Care Operations:** We may use and share health information about you for Kenneth A. Giraldo, M.D., P.A.'s health care operations, which include planning, management, quality assessment, and improvement activities for the treatments that we deliver. For example, we may use your health information to evaluate the skills of our physicians, nurses, and other health care providers in caring for you. We also may use your information to review quality and health outcomes. We will obtain your written permission before making disclosures to others outside Kenneth A. Giraldo, M.D., P.A. for health care operations purposes.
- **Appointment Reminders:** We may use your health information to contact you by phone to confirm an appointment, or to change one, or to send you reminders of a future appointment. For example, we may let you know that it is time for a follow-up appointment or a regular check-up.
- **Health-Related Benefits, Services and Treatment Alternatives:** We may also contact you about new or alternative treatments or other health care services.
- **People Assisting in Your Care:** In certain limited situations, Kenneth A. Giraldo, M.D., P.A. may disclose essential health information to people such as family members, relatives, or close friends who are helping care for you or helping you pay your health care bills. We will disclose information to them only if these people need to know the information to help you. For example, we may provide limited information to a family member so that they may pick up a prescription for you. Generally, we will ask you prior to making disclosures if you agree to such disclosures. If you are unable to make health-related decisions or it is an emergency, Kenneth A. Giraldo, M.D., P.A. will determine if it would be in your best interest to disclose pertinent health information about you to the people assisting in your care.
- **Research:** Federal law permits Kenneth A. Giraldo, M.D., P.A. to use or disclose health information about you for research purposes if the research has been reviewed and approved by an Institutional Review Board to protect the privacy of your health information before the study begins. We may disclose your information if we have your written authorization to do so. In some instances, researchers may be allowed to use information about you in a restricted way to determine whether the potential study participants are appropriate. We will make a "good faith effort" to acquire your permission or rejection to participate in any research study prior to releasing any protected information about you.
- **As Required by Law:** We must disclose health information about you if we are required by federal, state, or local law.
- **Serious Threat to Health or Safety:** We may use and disclose your health information when necessary to avert a serious threat to your health and safety, or the health and safety of the public or another person. We will only disclose your information to someone reasonable able to help prevent the threat, such as law enforcement, and when the disclosure is

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specifically required by law, including the limited circumstances in which Kenneth A. Giraldo, M.D., P.A.'s health care professionals have a "duty to warn."

#### IV. Special Situations In Which Your Health Information May Be Released

Your health care information may be released in the following special situations:

- **Public Health Risks:** As authorized by law, we may disclose health information about you to public health or legal authorities whose official responsibilities generally include the following:
  - o to prevent or control disease, injury or disability;
  - o to report births and deaths,
  - o to report child abuse or neglect;
  - o to report reactions to medications or problems with products;
  - o to notify people of recalls of products they may be using;
  - o to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition; and
  - o to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence. We will only make this disclosure if you agree or when required or authorized by law.
- **Organ and Tissue Donation:** Consistent with applicable law, we may release your health information to organ procurement organizations or others engaged in the transplantation of organs to enable a possible transplant.
- **Specialized Government Functions:** If you are a member of the military or a veteran, we will disclose health information about you as required by command authorities; or if you give us your written permission. We may also disclose your health information for other specialized government functions such as national security or intelligence activities.
- **Workers Compensation:** If you are seeking compensation due to a work-related injury, we may release health information about you to the extent necessary to comply with laws relating to Workers Compensation claims.
- **Employers:** We may release health information to your employer if we provide health treatment to you at the request of your employer, and the health care services are provided either to conduct an evaluation relating to medical surveillance of the workplace or to evaluate whether you have a work-related illness or injury. In such circumstances, we will provide you with written notice of such information disclosure. Any other disclosures to your employer will be made only if you sign a specific authorization for the release of that information.
- **Health Oversight Activities:** We must disclose health information to a health oversight agency for activities that are required by federal, state or local law. Oversight activities include investigations, inspections, industry licensures, and government audits. These activities are necessary to enable government agencies to monitor various health care systems, government programs, and industry compliance with civil rights laws. Most states require that identifying information about you, such as your social security number, be

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removed from information releases for health oversight purposes, unless you have provided written permission for the disclosure.

- **Lawsuits and Disputes:** If you are involved in a lawsuit, dispute, or other judicial proceeding, we may disclose health information about you in response to a court order or subpoena, other lawful process, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.
- **Law Enforcement:** We may disclose your health information to a law enforcement official if required or allowed by law, such as for gunshot wounds and some burns.

We may also disclose information about you to law enforcement that is not a part of your health record for the following reasons:

- o to identify or locate a suspect, fugitive, material witness, victim of a crime, or missing person;
  - o about a death we believe may be the result of criminal conduct;
  - o about criminal conduct at our location; and
  - o in emergency circumstances to report a crime; the location of the crime or victims; or the identity, description or location of the person who committed the crime.
- **Correctional Facilities:** If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may disclose health information about you to the correctional institution or law enforcement official only as required by law or with your written permission. We may release your health information for your health and safety, for the health and safety of others, or for the safety and security of the correctional institution.
  - **Coroners, Medical Examiners, and Funeral Directors:** We may disclose certain health information about you to a coroner or medical examiner in the case of certain types of death. This may be necessary, for example, to make a positive identification of you or to determine the cause of your death. We may also release the fact of death and certain demographic information about you to funeral directors as needed to carry out their duties. Other releases of your health information will require the written permission of a surviving spouse, parent, a person appointed by you in writing, or your legally authorized representative.
  - **Required by HIPAA Law:** The Secretary of the Department of Health and Human Services (HHS) may investigate privacy violations. If your health information is requested as part of an investigation, we must share your information with the HHS.

## V. Situations In Which Your Health Information May Be Disclosed With Your Written Consent

For any purpose other than the ones described above, we may only use or share your health information when you give us your written authorization to do so. For example, you will need to sign an authorization form before we can send your health information to your life insurance company. You may revoke an authorization at any time.

- **Marketing:** We must also obtain your written authorization before using your health information to send you any marketing materials. The only exceptions to this requirement are that (1) we can provide you with marketing materials in a face-to-face encounter or a

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promotional gift of very small value, if we so choose, and (2) we may communicate with you about products or services relating to your treatment, to coordinate or manage your care, or provide you with information about different treatments, providers or care settings.

- **Highly Confidential Information:** Federal and state law requires special privacy protections for certain “Highly Confidential Information” about you, including any part of your health information that is about: 1) child abuse and neglect; 2) domestic abuse of an adult with a disability; 3) mental illness or developmental disability treatment or services; 4) alcohol or drug dependency diagnosis, treatment, or referral; 5) HIV/AIDS testing, diagnosis, or treatment; 6) sexually transmitted disease; 7) sexual assault; 8) genetic testing; 9) In Vitro Fertilization (IVF); or 10) maintained in psychotherapy notes. Before we share your Highly Confidential Information for a purpose other than those permitted by law, we must obtain your written permission.

## VI. Your Rights Regarding Health Information We Maintain About You

- **Right to Inspect and Copy:** You have the right to inspect and/or to receive a copy of your health information that that we maintain in designated records and for which we use to make decisions about your care.

If you wish to inspect and/or receive a copy of your health information, you must submit your request in writing to **HIPAA Privacy Officer**, Kenneth A. Giraldo, M.D., P.A., 5831 Bee Ridge Rd., Ste. 100 Sarasota, FL 34233. Your request must state that you want access to your health information and must be signed by you or your personal representative. We may charge you a fee for copying and postage.

We may deny your request to inspect and/or copy your information in certain limited circumstances. For example, we may deny access if your physician believes it will be harmful to your health, or could cause a threat to others. If you are denied access to your health information, you may request that the denial be reviewed. Another licensed health care professional chosen by Kenneth A. Giraldo, M.D., P.A. will review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.

- **Right to Request Amendment:** If you believe that any health information we have about you is incorrect or incomplete, you have the right to ask us to change the information. You have the right to request an amendment for as long as the information is kept by or for Kenneth A. Giraldo, M.D., P.A.

To request an amendment to your health information, your request must be in writing, signed, and submitted to **HIPAA Privacy Officer**, Kenneth A. Giraldo, M.D., P.A., 5831 Bee Ridge Rd., Ste. 100, Sarasota, FL 34233. In addition, you must provide a reason for your request.

We are not obligated to make all requested amendments but we will give each request careful consideration. We may deny your request if you ask us to amend information that:

- o Was not created by us, unless the person or location that created the information is no longer available to make the amendment;
- o Is not part of the health information kept by or for us;

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- o Is not part of the information that you would be permitted to inspect and copy; or,
  - o Is accurate and complete.

If your request is denied, you will be informed of the reason for the denial and will have an opportunity to submit a statement of disagreement to be maintained with your records.

- **Right to Request Restrictions on Use and Disclosure:** You have the right to request a restriction or limitation on certain uses and disclosures of your health information.

To request restrictions, you must make your request in writing to **HIPAA Privacy Officer**, Kenneth A. Giraldo, M.D., P.A. 5831 Bee Ridge Rd., St.100, Sarasota, FL 34233. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure, or both; and (3) to whom you want the limits to apply – for example, if you want to prohibit disclosures for insurance payment, health care operations, for disaster relief purposes, to persons involved in your care, or to your spouse. It must be signed by you or your personal representative.

*We are not required to agree to your request*, but we will attempt to accommodate reasonable requests when appropriate. We retain the right to terminate an agreed-to restriction if we believe such termination is appropriate. In the event of a termination by us, we will notify you of such termination. You also have the right to terminate, in writing or orally, any agreed-to restriction.

- **Right to an Accounting of Disclosures:** You have the right to receive an “accounting of disclosures” made by us of health information about you, as required by law. This accounting will not include any disclosures for treatment, payment, or health care operations; disclosures that you have authorized or that have been made to you; disclosures for national security or intelligence purposes; disclosures to correctional institutions or law enforcement with custody of you; disclosures that took place before April 14, 2003; and certain other disclosures.

Your accounting request must be in writing and signed by you or your personal representative, and submitted to Kenneth A. Giraldo, M.D., P.A., 5831 Bee Ridge Rd., Ste.100, Sarasota, FL 34233. Your request must state a time-period for which you would like the accounting. The accounting period may not go back further than six years from the date of the request, and it may not include dates before April 14, 2003. You may receive one free accounting in any 12-month period. We will charge you for additional requests.

- **Right to Request Confidential Communications:** You have the right to request that we communicate with you about health issues by alternative means or at an alternative location. For example, you may request that messages not be left on voice mail or sent to a particular address.

A request for confidential communications must be in writing, signed by you or your personal representative, and submitted to **HIPAA Privacy Officer**, Kenneth A. Giraldo, M.D., P.A., 5831 Bee Ridge Rd., Sarasota, FL 34233. Your request must specify how or where you wish to be contacted, and we may require you to provide information about how confidential payments will be managed. We are required to accommodate all reasonable requests.

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- **Right to Receive a Copy of this Notice:** You have the right to receive a paper copy of this Notice. You may ask us to give you a copy of this Notice any time. This Notice is available at our reception desk and from our website, [www.doctorgiraldo.com](http://www.doctorgiraldo.com).
  - **Right to Cancel Authorization to Use or Disclose:** Other uses and disclosures of your health information not covered by this Notice or the laws that govern us will be made only with your written authorization. You have the right to revoke your authorization in writing at any time, and we will discontinue future uses and disclosures of your health information for the reasons covered by your authorization. We are unable to take back any disclosures that were already made with your authorization, and we are required to retain the records of the care that we provided to you.
  - **For further information:** If you have questions, or would like additional information, you may contact Kenneth A. Giraldo, M.D., P.A., 941-343-1040.
  - **To File a Complaint:** If you believe your privacy rights have been violated, you may file a written complaint with us at **HIPAA Privacy Officer**, Kenneth A. Giraldo, M.D., P.A., 5831 Bee Ridge Rd., Ste. 100, Sarasota, FL 34233. You may also file a written complaint with the Secretary of the U.S. Department of Health and Human Services in Washington, D.C., within 180 days of a violation of your rights. ***There will be no retaliation for filing a complaint.*** We cannot, and will not, require you to waive the right to file a complaint as a condition of receiving treatment from us.

**Changes to this Notice:** Kenneth A. Giraldo, M.D., P.A. reserves the right to amend, change, or eliminate the terms of this Notice at any time. If we change this Notice, we may make the new Notice's terms effective for all Protected Health Information that we maintain, including any information created or received prior to issuing the new Notice. If our information practices change, we will amend our Notice. You are entitled to receive a revised copy of the Notice by calling and requesting a copy of our "Notice" or by visiting our reception desk and picking up a copy, or downloading one from our Web site at [www.doctorgiraldo.com](http://www.doctorgiraldo.com).

**Effective Date:** This Notice is effective as of January 8, 2013.

## NOTICE OF PRIVACY PRACTICES

**THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED, HOW YOU CAN GET ACCESS TO THIS INFORMATION, YOUR RIGHTS CONCERNING YOUR HEALTH INFORMATION AND OUR RESPONSIBILITIES TO PROTECT YOUR HEALTH INFORMATION. PLEASE REVIEW IT CAREFULLY.**

State and Federal laws require us to maintain the privacy of your health information and to inform you about our privacy practices by providing you with this Notice. We are required to abide by the terms of this Notice of Privacy Practices. This Notice will take effect on September 18, 2013 and will remain in effect until it is amended or replaced by us.

We reserve the right to change our privacy practices provided law permits the changes. Before we make a significant change, this Notice will be amended to reflect the changes and we will make the new Notice available upon request. We reserve the right to make any changes in our privacy practices and the new terms of our Notice effective for all health information maintained, created and/or received by us before the date changes were made.

You may request a copy of our Privacy Notice at any time by contacting our Privacy Officer, Ann W. Information on contacting us can be found at the end of this Notice.

### **We will keep your health information confidential, using it only for the following purposes:**

**Treatment:** While we are providing you with health care services, we may share your protected health information (PHI) including electronic protected health information (ePHI) with other health care providers, business associates and their subcontractors or individuals who are involved in your treatment, billing, administrative support or data analysis. These business associates and subcontractors through signed contracts are required by Federal law to protect your health information. We have established "minimum necessary" or "need to know" standards that limit various staff members' access to your health information according to their primary job functions. Everyone on our staff is required to sign a confidentiality statement.

**Payment:** We may use and disclose your health information to seek payment for services we provide to you. This disclosure involves our business office staff and may include insurance organizations, collections or other third parties that may be responsible for such costs, such as family members.

**Disclosure:** We may disclose and/or share protected health information (PHI) including electronic disclosure with other health care professionals who provide treatment and/or service to you. These professionals will have a privacy and confidentiality policy like this one. Health information about you may also be disclosed to your family, friends and/or other persons you choose to involve in your care, only if you agree that we may do so. As of March 26, 2013 immunization records for students may be released without an authorization (as long as the PHI disclosed is limited to proof of immunization). If an individual is deceased you may disclose PHI to a family member or individual involved in care or payment prior to death. Psychotherapy notes will not be used or disclosed without your written authorization. Genetic Information Nondiscrimination Act (GINA) prohibits health plans from using or disclosing genetic information for underwriting purposes. Uses and disclosures not described in this notice will be made only with your signed authorization.

**Right to an Accounting of Disclosures:** You have the right to request an "accounting of disclosures" of your protected information if the disclosure was made for purposes other than providing services, payment, and or business operations. In light of the increasing use of Electronic Medical Record technology (EMR), the HITECH Act allows you the right to request a copy of your health information in electronic form if we store your information electronically. Disclosures can be made available for a period of 6 years prior to your request and for electronic health information 3 years prior to the date on which the accounting is requested. If for some reason we aren't capable of an electronic format, a readable hardcopy will be provided. To request this list or accounting of disclosures, you must submit your request in writing to our Privacy Officer. Lists, if requested, will be \$ 1.00 for each page and the staff time charged will be \$ \_\_\_\_\_ per hour including the time required to locate and copy your health information. Please contact our Privacy Officer for an explanation of our fee structure.

**Right to Request Restriction of PHI:** If you pay in full out of pocket for your treatment, you can instruct us not to share information about your treatment with your health plan; if the request is not required by law. Effective March 26, 2013, The Omnibus Rule restricts provider's refusal of an individual's request not to disclose PHI.

**Non-routine Disclosures:** You have the right to receive a list of non-routine disclosures we have made of your health care information. You can request non-routine disclosures going back 6 years starting on April 14, 2003.

**Emergencies:** We may use or disclose your health information to notify, or assist in the notification of a family member or anyone responsible for your care, in case of any emergency involving your care, your location, your general condition or death. If at all possible we will provide you with an opportunity to object to this use or disclosure. Under emergency conditions or if you are incapacitated we will use our professional judgment to disclose only that information directly relevant to your care. We will also use our professional judgment to make reasonable inferences of your best interest by allowing someone to pick up filled prescriptions, x-rays or other similar forms of health information and/or supplies unless you have advised us otherwise.

**Healthcare Operations:** We will use and disclose your health information to keep our practice operable. Examples of personnel who may have access to this information include, but are not limited to, our medical records staff, insurance operations, health care clearinghouses and individuals performing similar activities.

**Required by Law:** We may use or disclose your health information when we are required to do so by law. (Court or administrative orders, subpoena, discovery request or other lawful process.)

We will use and disclose your information when requested by national security, intelligence and other State and Federal officials and/or if you are an inmate or otherwise under the custody of law enforcement.

**National Security:** The health information of Armed Forces personnel may be disclosed to military authorities under certain circumstances. If the information is required for lawful intelligence, counterintelligence or other national security activities, we may disclose it to authorized federal officials.

**Abuse or Neglect:** We may disclose your health information to appropriate authorities if we reasonably believe that you are a possible victim of abuse, neglect, or domestic violence or the possible victim of other crimes. This information will be disclosed only to the extent necessary to prevent a serious threat to your health or safety or that of others.

**Public Health Responsibilities:** We will disclose your health care information to report problems with products, reactions to medications, product recalls, disease/infection exposure and to prevent and control disease, injury and/or disability.

**Marketing Health-Related Services:** We will not use your health information for marketing purposes unless we have your written authorization to do so. Effective March 26, 2013, we are required to obtain an authorization for marketing purposes if communication about a product or service is provided and we receive financial remuneration (getting paid in exchange for making the communication). No authorization is required if communication is made face-to-face or for promotional gifts.

**Fundraising:** We may use certain information (name, address, telephone number or e-mail information, age, date of birth, gender, health insurance status, dates of service, department of service information, treating physician information or outcome information) to contact you for the purpose of raising money and you will have the right to opt out of receiving such communications with each solicitation. Effective March 26, 2013, PHI that requires a written patient authorization prior to fundraising communication include: diagnosis, nature of services and treatment. If you have elected to opt out we are prohibited from making fundraising communication under the HIPAA Privacy Rule.

**Sale of PHI:** We are prohibited to disclose PHI without an authorization if it constitutes remuneration (getting paid in exchange for the PHI). "Sale of PHI" does not include disclosures for public health, certain research purposes, treatment and payment, and for any other purpose permitted by the Privacy Rule, where the only remuneration received is "a reasonable cost-based fee" to cover the cost to prepare and transmit the PHI for such purpose or a fee otherwise expressly permitted by law. Corporate transactions (i.e., sale, transfer, merger, consolidation) are also excluded from the definition of "sale."

**Appointment Reminders:** We may use your health records to remind you of recommended services, treatment or scheduled appointments.

**Access:** Upon written request, you have the right to inspect and get copies of your health information (and that of an individual for whom you are a legal guardian.) We will provide access to health information in a form / format requested by you. There will be some limited exceptions. If you wish to examine your health information, you will need to complete and submit an appropriate request form. Contact our Privacy Officer for a copy of the request form. You may also request access by sending us a letter to the address at the end of this Notice. Once approved, an appointment can be made to review your records. Copies, if requested, will be \$ 1.00 for each page and the staff time charged will be \$\_\_\_\_\_ per hour including the time required to copy your health information. If you want the copies mailed to you, postage will also be charged. Access to your health information in electronic form if (readily producible) may be obtained with your request. If for some reason we aren't capable of an electronic format, a readable hardcopy will be provided. If you prefer a summary or an explanation of your health information, we will provide it for a fee. Please contact our Privacy Officer for an explanation of our fee structure.

**Amendment:** You have the right to amend your healthcare information, if you feel it is inaccurate or incomplete. Your request must be in writing and must include an explanation of why the information should be amended. Under certain circumstances, your request may be denied.

**Breach Notification Requirements:** It is presumed that any acquisition, access, use or disclosure of PHI not permitted under HIPAA regulations is a breach. We are required to complete a risk assessment, and if necessary, inform HHS and take any other steps required by law. You will be notified of the situation and any steps you should take to protect yourself against harm due to the breach.

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## **QUESTIONS AND COMPLAINTS**

You have the right to file a complaint with us if you feel we have not complied with our Privacy Policies. Your complaint should be directed to our Privacy Officer. If you feel we may have violated your privacy rights, or if you disagree with a decision we made regarding your access to your health information, you can complain to us in writing. Request a Complaint Form from our Privacy Officer. We support your right to the privacy of your information and will not retaliate in any way if you choose to file a complaint with us or with the U.S. Department of Health and Human Services. **HOW TO CONTACT US:**

Practice Name: Kenneth A. Giraldo, M.D.,P.A.      Privacy Officer: Ann W.

Telephone:941-343-1040 Fax: 941-343-1098

Email: \_\_\_\_\_

Address: 5831 BeeRidge Road, Suite 100, Sarasota, Fl 34233