



**City of Winchester
Fire & Rescue Department
STANDARD OPERATING PROCEDURE**



Section:	HIPAA	SOP:	14.6
Subject:	HIPAA Violation Reporting and Workforce Sanctions	Executed:	May 28, 2015
		Revised:	
Approved:			
 Allen W. Baldwin, Fire Chief			

Purpose

Winchester Fire & Rescue is responsible under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) to administer appropriate sanctions to its workforce members who violate the HIPAA policies and procedures of the organization. This policy outlines the appropriate procedure on how to report HIPAA violations and our approach to all violations of our HIPAA policies and procedures. Winchester Fire & Rescue takes any breach of our policies and procedures very seriously.

Scope

This policy applies to all Winchester Fire & Rescue staff/volunteer members, including those staff/volunteer members who may learn of patient information indirectly, and even if use of this information is not part of the staff/volunteer member’s responsibilities with Winchester Fire & Rescue.

Procedure – Reporting Incidents

1. It is the responsibility of all staff/volunteer members of Winchester Fire & Rescue to report all known or suspected breaches of unsecured PHI and/or HIPAA violations. Any incidents should be reported on an “Internal HIPAA Breach Reporting Form” (Attachment A) and forward to their direct supervisor or the HIPAA Compliance Officer/EMS Billing Manager.

NOTE: Any sanctions under this policy or any other policy will not apply to staff/volunteer members who 1) file a complaint with the federal government about potential HIPAA violations, 2) testify, assist, or participate in an investigation or compliance review proceeding or official government proceeding investigating HIPAA issues, and 3) oppose any actions by Winchester Fire & Rescue that are unlawful

under HIPAA, when that opposition is made with the good faith belief that Winchester Fire & Rescue was violating HIPAA (as long as any opposition or filing of a complaint did not result in improper disclosure of PHI).

Procedures – Level of Violations

Winchester Fire & Rescue will apply disciplinary sanctions when responding to members found to have violated PHI disclosure provisions. Considering offenses in violation of the City of Winchester Code of Ethics, Standards of Conduct, and Winchester Fire & Rescue policies and procedures, Winchester Fire & Rescue may impose sanctions of progressive discipline up to and including termination of employment. The type of sanction imposed will depend on the severity of the violation, and the individual's employment history with the City of Winchester. The offenses listed below are not all-inclusive, but illustrate the range of possible offenses, organized according to the severity of the violation.

- **Level I - Improper or Unintentional Disclosure of PHI or Records:**
This level of breach occurs when a member unintentionally or carelessly accesses, reviews, or reveals patient PHI to him/herself or others without a legitimate need-to-know. Examples include, but are not limited to: members discussing patient's PHI in public areas while not performing treatment of the patient, members leaving Winchester Fire & Rescue documentation containing PHI or other PHI left in public area or unsecured.
- **Level II -Unauthorized Use and/or Misuse of PHI or Records:**
This level of breach occurs when a member intentionally accesses or discloses PHI in a manner that is inconsistent with Winchester Fire & Rescue Policies and Procedures, but is unrelated to personal gain. Examples include, but are not limited to: a member utilizing the Firehouse System or other media that contains PHI for non-operational purposes. For instance, a friend or significant other contacts a member asking for specific information about an incident and the member uses the Firehouse System or other media to acquire information about an incident that contains PHI; a member accesses a completed Patient Care Report of a patient out of curiosity.
- **Level III -Willful and/or Intentional Disclosure of PHI or records:**
This level of breach occurs when a member accesses, reviews or discloses PHI for personal gain and/or with malicious intent. Examples include a member using a patient's PHI in a personal relationship or for personal gain; a member contacts a patient for non-operational purposes; a member utilizes PHI for illegal purposes

Procedures – Workforce Sanctions

- **Level I Breach:** An employee who has committed a clear cut Level I Breach shall work with his or her immediate supervisor to develop and implement an appropriate Corrective Action Plan. Winchester Fire & Rescue's HIPAA Compliance Officer/EMS Billing Manager shall document the breach, the Corrective Action Plan, and the outcome. While all Level I Breaches reported will be documented and result in a Corrective Action Plan, not all will result in formal Winchester Fire & Rescue disciplinary sanctions. Repeated Level I Breaches in confidentiality may result in further disciplinary action.
- **Level II and III Breaches:** For all levels other than a Level I Breach, the HIPAA Compliance Officer/EMS Billing Manager will establish an investigation team that will conduct a full investigation, commensurate with the facts and the level of the breach. This may include, but is not limited to, interviewing the member accused of the breach, interviewing other members and reviewing related documentation. Upon conclusion of the investigation, the Investigation Team will prepare a written report including all findings and conclusions and disciplinary recommendations regarding the alleged breach, and forward it to the Fire & Rescue Chief.
- All Internal Breach Notification Forms and all other related documentation will be filed in the personal record of the individual staff/volunteer member's file. Adherence to our HIPAA policies may also be considered as part of the staff/volunteer member's performance evaluation.

Attachment A



Internal HIPAA
Breach Form.doc