

| STANDARD OPERATING PROCEDURE | |
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| SUBJECT: | EMS Billing |
| TOPIC: | HIPAA Complaint Violation Process |
| Reference Number: | EMS-06-012 |
| Effective Date: | July 1, 2006 |
| Date Last Reviewed: | |
| Signature of Approval: | Frank E. Wright, Fire & Rescue Chief |

1.01 **PURPOSE:**

To describe the procedure for receiving, documenting, and taking appropriate action on complaints from patients concerning inappropriate uses and disclosures of Protected Health Information (PHI) or the Winchester Fire & Rescue Department's (WFRD) failure to exercise privacy rights under the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

1.02 **GENERAL:**

To stay within the guidelines of The Health Insurance Portability and Accountability Act (HIPAA) of 1996 to protect healthcare information obtained and safeguard the use of the PHI.

1.03 **RESPONSIBILITY:**

It is the responsibility of The Privacy Officer and Alternate Privacy Officer, to thoroughly train and familiarize WFRD members regarding HIPAA policies and procedures.

1.04 **POLICY:**

The Winchester Fire & Rescue Department (WFRD) shall have a method by which any person can make a complaint to the WFRD's HIPAA Privacy Officer or Alternate Privacy Officer regarding the compliance with HIPAA rules and regulations. All responsible personnel receiving and/or responding to complaints shall be familiar with this policy and shall follow this procedure. In addition, any person may make a complaint to the Secretary of the Department of Health and Human Services regarding the WFRD's compliance HIPAA.

1.05 **PROCEDURE:**

- **Submission of Complaints:**

Any person may submit a complaint regarding a department member's failure to comply with the regulations of HIPAA to the department's WFRD's Privacy Officer, Alternate Privacy Officer, or the Secretary of the Department of Health and Human Services (HHS).

1. If a person inquires on how to file a complaint, he/she shall be directed to contact the WFRD's Privacy Officer or Alternate Privacy Officer.
2. If a person wants to file a formal complaint against the WFRD, he/she may submit a completed HIPAA Individual Rights Complaint Form (Appendix A) to the WFRD's Privacy Officer or Alternate Privacy Officer. The HIPAA Feedback Form is available on the City of Winchester website. (<http://www.winchesterva.gov/>)
3. If a person wants to file his/her complaint with the Secretary of HHS, he/she should be directed to and follow the steps provided on the Office for Civil Rights website (www.hhs.gov/ocr/hipaa).
4. A formal complaint must be submitted within 180 days of the alleged violation.

- **Responsibilities of the Privacy Officer or Alternate Privacy Officer upon Receipt of a Complaint**

1. **Documentation**

The Privacy Officer or Alternate Privacy Officer will document each privacy complaint received including in the documentation and brief description of and/or the basis for the complaint.

2. **Investigation**

The Privacy Officer or Alternate Privacy Officer will conduct an investigation to determine:

- a. What, if any, PHI was misused or improperly disclosed or if privacy rights were restricted.
- b. If PHI was misused or improperly disclosed, whether such misuse or improper disclosure violates WFRD policies, procedures, and practices.
- c. If the complainant suffered any harmful effects.
 - Whether additional training of department members is required to avoid a repeat violation.
 - If any intimidation or retaliation in violation of the WFRD SOP's existed.

3. **Notice of violation by a business associate**

If the complaint concerns the actions of a business associate, the Privacy Officer or Alternate Privacy Officer will:

- a. Require an investigation of the business associate and the violation. The Privacy Officer or Alternate Privacy Officer shall apply a corrective action plan to mitigate any harmful effects or end the violation within 30 days.

- **Cooperation with Investigations**

1. Members involved in the complaint shall cooperate fully with the HIPAA Privacy Officer, Alternate Privacy Officer or with personnel assigned to the Professional Standards Section or with any other person conducting the investigation.

- **Resolution**

1. If the investigation determines a violation has occurred, the Privacy Officer, Alternate Privacy Officer together will determine an appropriate corrective action plan to mitigate any harmful effects to the patient, to avoid future violations. The corrective action plan will be implemented within 30 days.
2. The Privacy Officer or Alternate Privacy will determine the level of violation in accordance to the HIPAA Disciplinary Sanction Procedures. The recommendation will be submitted to the Fire & Rescue Chief for the assessment of sanctions.
3. Business Associates are required by the Business Associate Agreement to cure the breach or end the known violation. If the Business Associate fails to perform as required by the Business Associate Agreement, the Privacy Officer or Alternate Privacy Officer may recommend to the Fire & Rescue Chief that the agreement for services with the known Business Associate be immediately terminated.

- **Notification**

1. The HIPAA Privacy Officer or Alternate Privacy Officer will prepare a response to the complainant, and submit the prepared response to the County Attorney for review. The response shall be sent to the complainant by certified mail.

1.06 **REFERENCES:**

HIPAA Privacy Regulations, 65 Fed. Reg. 82563, 82748 (December 28, 2000).

1.07 **APPENDIX A:** HIPAA Individual Rights Complaint Form

1.08 **REVOCATION:**

1.09 **REVISION:**