

STANDARD OPERATING PROCEDURE	
SUBJECT:	EMS Billing
TOPIC:	HIPAA: DISCIPLINARY SANCTION PROCEDURES
Reference Number:	EMS-06-013
Effective Date:	July 1, 2006
Date Last Reviewed:	
Signature of Approval:	Frank E. Wright, Fire & Rescue Chief

1.01 **PURPOSE:**

To ensure the confidentiality and integrity of patient Protected Health Information (PHI) as required by law and the City of Winchester Code of Ethics.

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 Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that covered entities have and apply appropriate sanctions to members of their workforce who fail to comply with the agency's privacy policy and procedures. Accordingly, it is the intention of the Winchester Fire & Rescue Department (WFRD) to ensure the confidentiality and integrity of patient protected health information (PHI) as required by law and the City of Winchester Code of Ethics. This procedure outlines WFRD guidelines and standards for workforce performance and expectations in carrying out provisions of HIPAA and disciplinary actions that will be used to address privacy and security violations.

Patient PHI is confidential and may not be used or disclosed except to authorize users for approved purposes. Access to PHI is limited to that required for direct patient care, billing and/or training/quality management purposes, as described in SOP EMS-06-005 Permitted Use and Disclosure of Protected Health Information.

1.05 **PROCEDURES - DISCIPLINARY SANCTIONS:**

- The WFRD 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 WFRD policies and procedures, the WFRD 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.

1. **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 WFRD documentation containing PHI or other PHI left in public area or unsecured.

2. **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 WFRD 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.

3. **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.

1.06 **MITIGATION:**

Mitigating circumstances include conditions that would support reducing the sanctions in the interest of fairness and objectivity. The WFRD will mitigate any harmful effect that is known to be the result of the use or disclosure of PHI in violation of the HIPAA regulations.

1.07 **RETALIATION:**

WFRD members shall not intimidate, threaten, coerce, discriminate, or take other retaliatory actions against an individual as stated.

1.08 **DOCUMENTATION:**

- **Initial Reporting:** Personnel who observe or are aware of a privacy breach are responsible for immediately reporting the situation to his/her supervisor. Failure to report a breach of which a member has knowledge, or reporting of a breach in bad faith or for malicious reasons are actions that may result in appropriate disciplinary action.
- **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. The WFRD's Privacy Officer or Alternate Privacy Officer 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 WFRD 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 WFRD Privacy Officer or Alternate Privacy Officer 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.
- **Cooperating with Investigations and Audits:** Any investigation or audit will be conducted in accordance with procedures defined by the Fire & Rescue Chief.
- **Reporting and Filing Requirements:** For all levels of breach, after final resolution, the initial report and all supporting documentation will be filed in a confidential file with the Privacy Officer, and a copy of the report will be placed in the individual's personnel file.

1.09 **REVOCAATION:**

1.10 **REVISION:**