# HIPAA TRAINING

FREDERICK COUNTY FIRE AND RESCUE DEPARTMENT

# WHAT IS HIPAA??

- HIPAA = Health Insurance Portability and Accountability Act. Federal Law that was passed in 1996.

- Created by – United States Department of Health and Human Services (DHHS).

# STILL NOT CLEAR??

- HIPAA is a common set of standards that protects certain Protected Health Information (PHI).
- There are several components – but, we are most concerned with the "Privacy Rule."

# THE PRIVACY RULE

- The intent of the Privacy Rule is to provide basic rights regarding the use of "Protected Health Information" (PHI).
- It protects all "individually identifiable health information."
- Electronic, paper, or oral.
- Applies to "covered entities."

# WHO IS A COVERED ENTITY?

Three Categories:

- Health Plans.
- Health Care Clearing Houses.
- Health Care Providers who transmit any health information electronically.

FCFRD falls under the
Health Care Provider category!

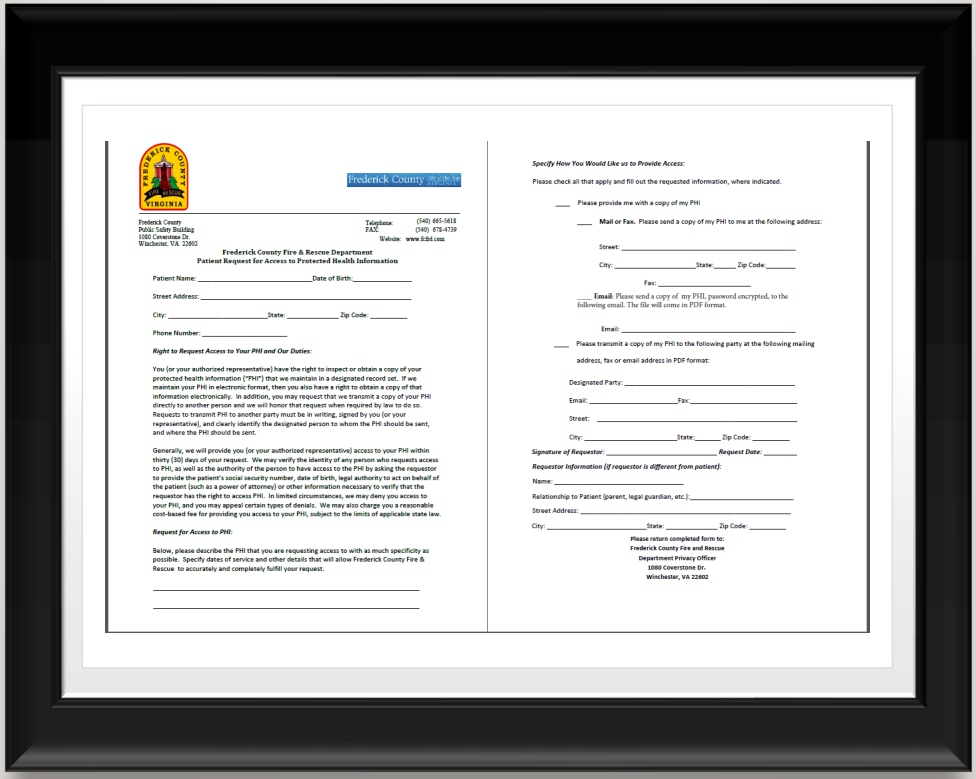
Law Enforcement is NOT a covered entity, and therefore is not entitled to PHI.

# WHO IS A COVERED ENTITY?

| A Healthcare Provider | A Health Plan | A Healthcare Clearinghouse |
|---|---|---|
| • Doctors<br>• Clinics<br>• Nursing Homes<br>• Urgent Care Facilities<br>• Jail Medical Staff<br><br>Someone of equal or higher medical certification / license involved with the treatment from the origin of transport and continuity of care at the destination hospital. | • Health Insurance Companies<br>• HMOs<br>• Company Health Plans<br>• Government Programs for Healthcare | • A billing service<br>• A repricing company (which takes the bills, matches them up with the insured's contract with the hospital, and adjusts them to the pre-negotiated price).<br>• A community health management information system or community health information system. |

# WHAT'S REQUIRED?

- The Privacy Rule requires Covered Entities to:
  - Protect PHI.
  - Designate a Privacy Officer.
  - Look for "leaks" in the policy.
  - Conduct / document training for the **ENTIRE** Fire and Rescue Department / System.
  - Develop an Authorization Form for release of PHI.



Frederick County

Frederick County
Public Safety Building
1080 Coverstone Dr.
Winchester, VA 22602

Telephone: (540) 665-5618
FAX: (540) 678-4739
Website: www.fcfrd.com

**Frederick County Fire & Rescue Department**
**Patient Request for Access to Protected Health Information**

Patient Name: _____ Date of Birth: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____

***Right to Request Access to Your PHI and Our Duties:***

You (or your authorized representative) have the right to inspect or obtain a copy of your protected health information ("PHI") that we maintain in a designated record set. If we maintain your PHI in electronic format, then you also have a right to obtain a copy of that information electronically. In addition, you may request that we transmit a copy of your PHI directly to another person and we will honor that request when required by law to do so. Requests to transmit PHI to another party must be in writing, signed by you (or your representative), and clearly identify the designated person to whom the PHI should be sent, and where the PHI should be sent.

Generally, we will provide you (or your authorized representative) access to your PHI within thirty (30) days of your request. We may verify the identity of any person who requests access to PHI, as well as the authority of the person to have access to the PHI by asking the requestor to provide the patient's social security number, date of birth, legal authority to act on behalf of the patient (such as a power of attorney) or other information necessary to verify that the requestor has the right to access PHI. In limited circumstances, we may deny you access to your PHI, and you may appeal certain types of denials. We may also charge you a reasonable cost-based fee for providing you access to your PHI, subject to the limits of applicable state law.

***Request for Access to PHI:***

Below, please describe the PHI that you are requesting access to with as much specificity as possible. Specify dates of service and other details that will allow Frederick County Fire & Rescue to accurately and completely fulfill your request.

_____

_____

***Specify How You Would Like us to Provide Access:***

Please check all that apply and fill out the requested information, where indicated.

____ Please provide me with a copy of my PHI

____ **Mail or Fax.** Please send a copy of my PHI to me at the following address:

Street: _____

City: _____ State: _____ Zip Code: _____

Fax: _____

____ **Email**: Please send a copy of my PHI, password encrypted, to the following email. The file will come in PDF format.

Email: _____

____ Please transmit a copy of my PHI to the following party at the following mailing address, fax or email address in PDF format:

Designated Party: _____

Email: _____ Fax: _____

Street: _____

City: _____ State: _____ Zip Code: _____

***Signature of Requestor:*** _____ ***Request Date:*** _____

***Requestor Information (if requestor is different from patient):***

Name: _____

Relationship to Patient (parent, legal guardian, etc.): _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

**Please return completed form to:**
**Frederick County Fire and Rescue**
**Department Privacy Officer**
**1080 Coverstone Dr.**
**Winchester, VA 22602**

FCFRD PHI REQUEST FORM FOUND ON OUR WEBSITE AT WWW.FCFRD.COM

# MORE REQUIREMENTS

DEVELOP A NOTICE OF PRIVACY PRACTICES

WHEN PERMITTED, ALWAYS DISCLOSE ONLY THE MINIMUM NECESSARY PROTECTED HEALTH INFORMATION (PHI)

UPDATE POLICIES AND PROCEDURES

IDENTIFY BUSINESS ASSOCIATES AND CREATE CONTRACTS

APPLY REASONABLE ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS

# PRIVACY OFFICER

- An individual within the organization that is responsible for developing and implementing policies and procedures required by HIPAA.
- Frederick County Fire and Rescue Department's Designated Privacy Officer is EMS Billing Manager Christine M. Bauserman.
- Other Certified Ambulance Privacy Officers in the department available to assist with HIPAA questions are Justin M. Caldwell.

# PROTECTED HEALTH INFORMATION

- PHI is any information created or received by a health care provider which relates to:
  - Past, present, or future physical or mental conditions.
  - Provision of health care.
  - Past, present, or future payment for care.

# EXAMPLES OF PHI

- Name
- Address
- Date of Birth / Age
- Social Security Number
- **Scene pictures** that include license plates
- Medical condition / past medical history
- Full face photos

- HIPAA should NEVER negatively impact the quality of patient care or impede the ability to provide care!!!
- The appropriate communication of PHI with other health care providers directly involved in providing patient care does not constitute a violation of HIPAA.
- Keep in mind "Minimum Necessary"! Broadcasting a patient's communicable disease could be a violation. Instead of stating patient's disease remind others to use universal precautions.

# SAFEGUARDING PHI

- PCR's should be kept in a secure location.
- Always log out of your reporting software before walking away from your tablet or computer.
- Networks containing PCR's should be password-protected with user specific logins.
- Generic logins allow for anonymous access to PHI and set up the Department for liability.
- Include confidentiality statements on e-mails and faxes that contain PHI.
- ***Never*** allow someone else to use your login information.

# USE CAUTION…

Beware of discussion of PHI, such as:

- Talking about current or prior incident(s) while re-stocking ambulance or typing your report at the hospital.
- Discussing a call anywhere other than an official audit or review.
- Discussing "interesting" calls, famous patients, or neighbors.
- Sharing a co-worker or fellow responder's PHI.
- Posting of scene photos on social media. Remember even off duty, the public sees you as a representative of the Fire and Rescue Department / System.

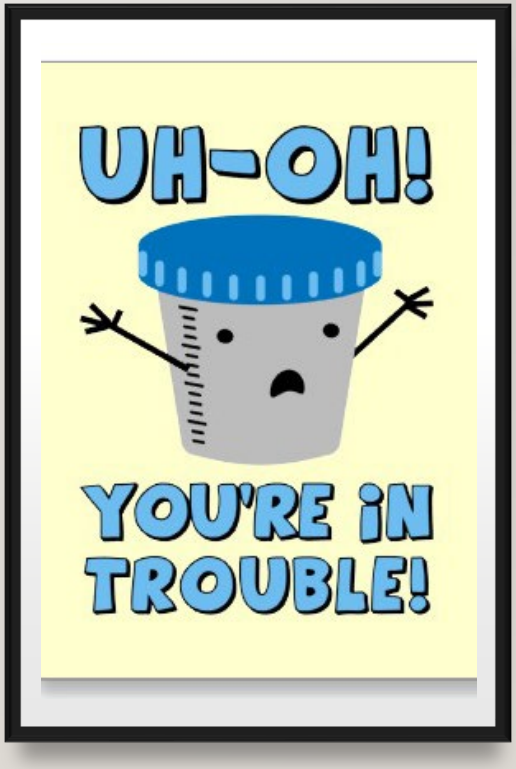
# PATIENT CARE REPORT (PCR) COPIES

- Who should get a copy of my patient's PPCR?
  - **Only personnel directly involved in patient care, Quality Assurance (QA), or billing are permitted access to the patient's Patient Care Report (PCR).**
- For example:
  - If I transport in an ambulance from a different agency but no representatives from that agency ride on the call, they are not covered and can not obtain that patient's PCR.

# UNSURE ABOUT DISCUSSING AN INCIDENT??

Ask yourself…

- Would a Judge agree that the disclosure benefited patient care AND was performed with the utmost discretion???
- If you were the patient, would you want an "embarrassing" injury or illness to be discussed?



# NOTICE OF PRIVACY PRACTICES (NPP)

- The Department must make a Good Faith attempt to provide an NPP to each patient.
- You are required by law to offer the NPP to each patient. You may also tell them it is available on our website.
- They don't have to take it, but you have to offer it.
- The Department must also make an effort to get a signed "Acknowledgement of Receipt."

# NOTICE OF PRIVACY PRACTICES

Any department that charges for service needs to give a NPP to every patient that is transported, including a signature form which acknowledges receipt and permission to bill insurance on the patient's behalf.

Every career and volunteer member of the Fire and Rescue Department / System *must review and be familiar* with this material.

An example can be viewed on the next two slides.

The NPP is also available on the internet at www.fcfrd.com.

**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**

**We are required by law: to maintain the privacy of protected health information; to provide you with a notice of our legal duties and privacy practices with respect to protected health information; to notify affected individuals of any breach of unsecured protected health information; and to abide by the terms of the notice currently in effect. If you have any questions, please call the Frederick County Fire and Rescue Department Privacy Officer at (540) 665-5618 or write to: Frederick County Fire and Rescue Department, C/O Privacy Officer, 1080 Coverstone Drive, Winchester VA, 22602.**

**Effective Date: September 1, 2013**

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**HOW WE MAY USE AND DISCLOSE MEDICAL INFORMATION ABOUT YOU**

**For Treatment**. We may use medical information about you to provide you with medical treatment or services. We may disclose medical information about you to doctors, nurses, technicians, students, or other personnel who are involved in taking care of you. For example, a doctor may need to consult with us concerning items or services we have provided to you in order to select the most appropriate care for your needs. We also may disclose medical information about you to people outside Frederick County Fire and Rescue Department who may be involved in your medical care after you have received care with Frederick County Fire and Rescue Department, such as family members, clergy, or others who provide services that are part of your care such as doctors, nurses, therapists, home health agencies, nursing homes, and medical equipment providers.

**For Payment**. We may use and disclose medical information about you so that the treatment and services you receive from Frederick County Fire and Rescue Department may be billed to and payment collected from an insurance company or a third party. For example, we may need to give your health plan information about treatment you received from our providers so your health plan will pay us or reimburse you for the treatment. We may also tell your health plan about a treatment you are going to receive to obtain prior approval or to determine whether your plan will cover the treatment. We also may disclose information about you to another health care provider, such as a hospital or nursing home, for their payment activities concerning you.

**For Healthcare Operations**. We may use and disclose medical information about you for Frederick County Fire and Rescue Department operations. These uses and disclosures are necessary to run the organization and make sure that all of our patients receive quality care. For example, we may use medical information to review our treatment and services and to evaluate the performance of our staff in caring for you. We may also disclose information to doctors, nurses, technicians, students, and others for review and learning purposes. We also may disclose information about you for the health care operations of another provider or organization if you have also received care from them.

**To Business Associates**. We are permitted by law to utilize Business Associates to carry out treatment, payment or health care operations functions that may involve the use and disclosure of some of your health information. For example, we may use a billing service or accounting service to handle some billing and payments functions. We may also use health care consultants to assist us in improving or upgrading services we offer to patients. However, in any such instance, unless the disclosure of health information is to another health care provider for the purpose of providing treatment to you, we will have entered into a formal Agreement with the Business Associate that requires the Business Associate to maintain the confidentiality of any patient information received and generally requires the Business Associate to limit its use of such information to only the purpose for which it was disclosed by us.

**Treatment Alternatives**. We may use and disclose medical information to tell you about, or recommend, possible treatment options or alternatives that may be of interest to you.

**Health-Related Benefits and Services**. We may use and disclose medical information to tell you about health-related benefits or services that may be of interest to you.

**Individuals Involved in Your Care or Payment for Your Care**. Unless you tell us otherwise, we may release medical information about you to a friend or family member who is involved in your medical care. We may also give information to someone who helps pay for your care. In addition, we may disclose medical information about you to an entity assisting in a disaster relief effort so that your family can be notified about your condition, status, and location.

**Research**. Under certain circumstances, we may use and disclose medical information about you for research purposes. For example, a research project may involve comparing the health and recovery of all patients who received one medication to those who received another for the same condition. Where consistent with the research goals and purposes, we will use or disclose only de-identified information, so that your identity cannot be ascertained from the information disclosed. When research cannot be conducted with such de-identified information, we will usually ask for your specific authorization for such use or disclosure.

**As Required By Law**. We will disclose medical information about you when required to do so by federal, state, or local law.

**To Avert a Serious Threat to Health or Safety**. We may use and disclose medical information about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person, consistent with applicable law. Any disclosure, however, would only be to someone able to help prevent or lessen the threat..

**Organ and Tissue Donation**. If you are an organ donor, we may release medical information to organizations that handle organ procurement or organ, eye, or tissue transplantation, or to an organ donation bank as necessary to facilitate organ or tissue donation and transplantation.

**Military and Veterans**. If you are a member of the armed forces, we may release medical information about you as required by military command authorities. We may use and disclose to components of the Department of Veterans Affairs medical information about you to determine whether you are eligible for certain benefits.

**Workers' Compensation**. We may release medical information about you as authorized by Workers' Compensation laws or similar regulations.

**Public Health Activities**. We may disclose medical information about you for public health activities. These activities generally include the following: to prevent or control disease, injury, or disability; to report births and deaths; to report reactions to medications or problems with products; to notify people of recalls of products they may be using or, to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect, or domestic violence.

**Health Oversight Activities**. We may disclose medical information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the healthcare system, government programs, and compliance with civil rights laws.

**Legal Proceedings**. We may disclose medical information about you in response to a valid court or administrative order. We may also disclose medical information about you in response to a subpoena, discovery request, or other lawful process.

**Law Enforcement**. We may release medical information if asked to do so by a law enforcement official: in response to a valid court order, subpoena, warrant, summons, similar process or with your authorization; to identify or locate a suspect, fugitive, material witness or missing person; about the victim of a crime if, under certain limited circumstances, we are unable to obtain the person's agreement; about a death we believe may be the result of criminal conduct; about criminal conduct within Frederick County Fire and Rescue Department; or, 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.

**Coroners, Medical Examiners, and Funeral Directors**. We may release medical information to a coroner or medical examiner. We may also release medical information about deceased patients to funeral directors as necessary to carry out their duties.

**National Security and Intelligence Activities**. We may release medical information about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

**Protective Services for the President and Others**. We may disclose medical information about you to authorized federal officials so they may provide protection to the President, other

authorized persons, or foreign heads of state, or conduct special investigations.

**Inmates.** If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release medical information about you to the correctional institution or law enforcement official.

## YOUR RIGHTS REGARDING MEDICAL INFORMATION ABOUT YOU

**Right to Inspect and Copy.** You have the right to inspect and to obtain a copy of medical information that may be used to make decisions about your care. Usually, this includes medical and billing records, but does not include psychotherapy notes. To inspect or obtain a copy of medical information that may be used to make decisions about you, you must submit your request in writing to the appropriate medical records or billing office. If you request a copy of the information, we may charge a fee for the labor, supplies and postage associated with your request. If you agree, we may provide you with a summary of the information instead of providing you with access to it, or provide you with an explanation of the information instead of a copy. Before providing you with a summary or explanation, we first will obtain your agreement to pay the fees, if any, for preparing the summary or explanation. We may deny your request to inspect and copy medical information in certain circumstances. If you are denied access to medical information, you may request that the denial be reviewed.

**Right to Amend.** If you feel that medical information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for Frederick County Fire and Rescue Department. To request an amendment, your request must be made in writing and submitted to the appropriate medical records or billing department and you must provide a reason that supports your request. We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that: was not created by us, unless the person or entity that created the information is no longer available to make the amendment; is not part of the medical information kept by or for Frederick County Fire and Rescue Department; is not part of the information which you would be permitted to inspect and copy; or is accurate and complete. You will be informed of the decision regarding any request for amendment of your medical information and, if we deny your request for amendment, we will provide you with information regarding your right to respond to that decision.

**Right to an Accounting of Disclosures.** You have the right to request an accounting of disclosures. This is a list of the disclosures we made of medical information about you other than disclosures made to you, disclosures which you authorized, disclosures for treatment, payment or operations, or certain disclosures required by law. To request this list or accounting of disclosures, you must submit your request in writing to the appropriate medical records department. Your request must state a time period that may not be longer than six years and may not include dates before April 14, 2003. Your request should indicate in what form you want the list (for example: on paper, electronically). The first list you request within a 12-month period will be free. For additional lists, we may charge you for providing the list. We will notify you of the charge involved, and you may choose to withdraw or modify your request at that time before any charges are incurred.

**Right to Request Restrictions.** You have the right to request a restriction or limitation on the medical information we use or disclose about you for treatment, payment, or healthcare operations. You also have the right to request a limit on the medical information we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend. We are not required by law to agree to a requested restriction except where you request that we not disclose information to a health plan for payment or health care operations and the information relates only to a health care item or service for which we have been paid in full. If we do agree, we will comply with your request unless the information is needed to provide you emergency treatment. To request restrictions, you must make your request in writing to the appropriate medical records or billing office. 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, disclosures to your spouse.

**Right to Confidential Communications.** You have the right to request to receive communications from us on a confidential basis by using alternative means for receipt of information or by receiving the information at alternative locations. For example, you can ask that we only contact you at work or by mail, or at another mailing address, besides your home address. We must accommodate your request, if it is reasonable. You are not required to provide us with an explanation as to the basis of your request, but you must specify how or where you wish to be contacted. Contact our Privacy Officer or the appropriate medical records or billing office if you require such confidential communications.

**Right to a Paper Copy of This Notice.** You have the right to a paper copy of this Notice and may ask us to give you a copy of this Notice at any time. Even if you have agreed to receive this Notice electronically, you are still entitled to a paper copy of this Notice. To obtain a paper copy of this Notice, request a copy from the person who is registering you as a patient, or submit a request in writing to our Privacy Officer.

## CHANGES TO THIS NOTICE

We reserve the right to change this Notice. We reserve the right to make the revised Notice effective for medical information we already have about you as well as any information we receive in the future. We will post a copy of the current Notice at our locations. The Notice will contain on the first page, in the top third center, the effective date. A paper or electronic copy of the revised Notice will be available upon request on or after the effective date of the revision.

## OTHER USES AND DISCLOSURES OF MEDICAL INFORMATION

Other uses and disclosures not covered by this Notice or the laws that apply to us may only be made with your written authorization. Your written authorization will typically be required for most uses and disclosures of psychotherapy notes, most uses and disclosures for marketing, and most arrangements involving the sale of protected health information. If you provide us authorization to use or disclose medical information about you, you may revoke that authorization, in writing, at any time. If you revoke your authorization, we will no longer use or disclose medical information about you for the reasons covered by the authorization. You understand that we cannot recall any disclosures we have already made with your authorization and that we are required to retain our records of the care that we provided to you.

## COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with the Secretary of the Department of Health and Human Services or our Privacy Officer. All complaints must be submitted in writing. You will not be retaliated against for filing a complaint.

## APPLICABILITY

This Notice applies to the records of your care owned by the entities and departments of Frederick County Fire and Rescue Department listed in the Contact Information below, whether made by Frederick County Fire and Rescue Department personnel, contractors, or your personal doctor. Your personal doctor may have different policies or notices regarding the doctor's use and disclosure of medical information owned by your doctor.

## CONTACT INFORMATION

For copies of your medical record or billing inquires, contact:

| Service Provider | Medical Records Department | Billing Office |
|---|---|---|
| Frederick County Fire and Rescue Department<br>1080 Coverstone Drive<br>Winchester, VA 22602<br>(540) 665-5618 | Frederick County Fire and Rescue Department<br>1080 Coverstone Drive<br>Winchester, VA 22602<br>(540) 665-5618 | Intermedix<br>1105 Schrock Rd.<br>Ste 610<br>Columbus, OH 43229<br>(888) 987-2057 |

## PRIVACY OFFICER

You may contact the following office with any concerns:
Telephone: (540) 665-5618
Address: Frederick County Fire and Rescue Department, C/O Privacy Officer, 1080 Coverstone Drive, Winchester, VA, 22602.

# NPP IN EMERGENCY SETTINGS

- During the emergency treatment of a patient, the NPP must be given as soon as practical as detailed in 45 CFR 164.520 of the privacy rule.
- Providers may provide this information after the transfer of patient care at the receiving facility.
- This ensures that the provision of this information does not interfere with patient care or become lost during the emergent phase of treatment. If after transfer of care it is still not feasible to present the patient with the NPP, then the EMS Provider may leave it with the assigned nurse to present when it is feasible.

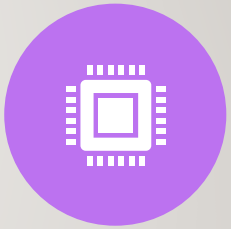
# PERMITTED DISCLOSURES

Disclosure of PHI is acceptable in the following circumstances:

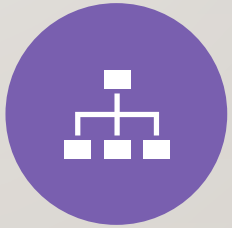
- Treatment
- Payment
- Operations
- Public Health Regulations
- Victims of Abuse
- Judicial Proceedings
- Law Enforcement
- Births and Deaths
- Research
- Protection of Public Safety

# TREATMENT, PAYMENT, AND OPERATIONS

TREATMENT – GIVING PHI TO OTHER PROVIDERS INVOLVED IN PATIENT CARE, SUCH AS THE HOSPITAL.



PAYMENT – RECEIVING PHI FROM OTHER PROVIDERS, AS NECESSARY FOR BILLING.



OPERATIONS – AUDITS, QUALITY ASSURANCE ASSESSMENTS.

# PUBLIC HEALTH ACTIVITIES

Disclosures to public health authorities, as authorized by State Law.

Also, allows for notification of communicable diseases to EMS providers involved in an exposure.

# VICTIMS OF ABUSE, NEGLECT, AND DOMESTIC VIOLENCE

The law requires (and HIPAA allows):

- Reporting an "endangered adult" believed to be a victim of battery, neglect, or exploitation to Adult Protective Services or law enforcement.

- Reporting a child that is believed to be a victim of abuse or neglect to the immediate supervisor, Child Protective Services, or law enforcement.
  - HIPAA should NEVER get in the way of reporting abuse!

# JUDICIAL PROCEEDINGS

Disclosure must only be made when a Judge or Grand Jury orders disclosure through a subpoena or warrant.

**A private attorney does not have the authority to order a provider to discuss a case. If contacted by an attorney, always contact your supervisor, the County's Law Office, and Privacy Officer for advice before proceeding.**

# LAW ENFORCEMENT

Disclosure of PHI to Law Enforcement is permitted when:

- Required by law.
- Ordered by a court.
- Ordered by Administrative Subpoena.

*You may still ask the Privacy Officer or your supervisor for guidance!*

# LAW ENFORCEMENT

- When assisting the police to identify or locate a suspect, missing person, or witness, the provider may release:

- Name / Address
- Date / Place of Birth
- Social Security #
- Blood Type
- Date / Time of Treatment
- Distinguishing characteristics – height, weight, tattoos, scars, etc…

# LAW ENFORCEMENT DECEDENTS

In the Commonwealth of Virginia local law enforcement is required to respond to any unattended death and will conduct an investigation.

You may request Law Enforcement anytime you feel an attended death is "suspicious" in nature.

You may release PHI to alert law enforcement of a patient's death, IF the death may have resulted from criminal activity.

You are not required to make a "legal conclusion" that the death resulted from a crime.

Only a "suspicion" is required.

Note: there is a general exception for releasing PHI to coroners and funeral directors for non crime-related deaths.

# LAW ENFORCEMENT

As patient care advocates, EMS Providers should encourage law enforcement to gain information directly from the source, when possible.

Any requests for information regarding the incident should be directed to the Fire and Rescue Department's Privacy Officer.

# LAW ENFORCEMENT

- Law Enforcement is not a covered entity; therefore, the patient still maintains their right to PHI even when in custody. PHI must remain protected unless consent is given.
- The patient still has the right to consent to transport as long as they are mentally and physically capable to consent, and sign as such even while in custody.
- When releasing a patient to Law Enforcement custody (patient refusing transport to the hospital by ambulance), they are not providing medical care; therefore, we do not share PHI without consent from the patient.

# LAW ENFORCEMENT

For a guide from HHS regarding Law Enforcement:

https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/emergency/final_hipaa_guide_law_enforcement.pdf

# CIVIL PENALTIES

| Penalty Tier | Level of Culpability | | Minimum Penalty per Violation (2019) | Maximum Penalty per Violation (2019) | New Maximum Annual Penalty (2019)* |
|---|---|---|---|---|---|
| 1 | **Penalty Tier** | **Level of Culpability** | **Minimum Penalty per Violation** | **Maximum Penalty per Violation** | **Annual Penalty Limit** |
| 1 | Tier 1 | Lack of Knowledge | $127 | $63,973 | $1,919,173 |
| 2 | Tier 2 | Reasonable Cause | $1,280 | $63,973 | $1,919,173 |
| 3 | Tier 3 | Willful Neglect – Corrected | $12,794 | $63,973 | $1,919,173 |
| 4 | Tier 4 | Willful Neglect – Not Corrected within 30 days | $63,973 | $1,919,173 | $1,919,173 |

The U. S. Department of Health and Human Services may impose civil penalties on a covered entity for failure to comply with a Privacy Rule requirement.

# CRIMINAL PENALTIES

- A person who knowingly obtains or discloses individually identifiable health information in violation of HIPAA faces a fine of $50,000 and up to one (1) year imprisonment.
- The criminal penalties increase to $100,000 and up to five (5) years imprisonment if the wrongful conduct involves false pretenses, and to $250,000 and up to ten (10) years imprisonment if the wrongful conduct involves the intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm.
- Criminal sanctions are enforced by the U. S. Department of Justice.
  - Pub. L. 104-191; 42 U.S.C. §1320d-6.

# HIPAA SCENARIO ONE

- You and your partner respond for a neighbor who suffers from depression. You discover during your assessment that the patient has had suicidal thoughts. After the call, you are concerned that other First Responders in your community need to know the extent of the patient's illness so they can watch for warning signs should the depression deepen.
- Can you share what you have learned with you fellow First Responders?

# ANSWER

- No, this is a breach of confidentiality.

# HIPAA SCENARIO TWO

- There is a call in your town. It involves the treatment of an entrapped farmer who subsequently dies from his injuries. You are concerned that a Critical Incident Stress Debriefing might lead to a violation of HIPAA.
- Should you be concerned?

# ANSWER

- No, a Critical Incident Stress Debriefing is held with only those providers involved in the call. The rules of CISM is that everything said at the debriefing is confidential.

# HIPAA SCENARIO THREE

- You are in charge of presenting a CE session for the monthly meeting of First Responders. You want to share some of the details of a recent call, but you are concerned you will be in violation of HIPAA because the patient is a resident in your town.
- Can you do case review as education? If so, what precautions should you take to protect the patient?

# ANSWER

- You can use the details of the call as education as long as you do not give out identifying information such as name, address, etc.

# HIPAA SCENARIO FOUR

- The First Responders in your fire department routinely use a break room in the station to fill out their paperwork. The room is not secure. How can you ensure that confidentiality is not compromised?
- Can you work on paperwork while non-First Responders are in the room?

# ANSWER

- If you are working on EMS First Responder paperwork, you need to be sure to put everything away when you are done. Do not leave call reports with confidential information on the table where anyone can pick it up. You can work on paperwork with non-EMS personnel in the room, but do not share the information with them. Remember to use reasonable safeguards to protect the patient's privacy.

# HIPAA SCENARIO 5

- You have just assisted with your first field delivery of a newborn. You are so excited you post it on Facebook with pictures from your cell phone. Can you do this and still comply with HIPAA?

# ANSWER

- No. Putting information about EMS calls on Facebook is a breach of confidentiality. Even if you use no names, it would be very easy in a small community for people to figure out who the mother and child are. Taking pictures of patients with your personal device for personal use is a breach of HIPAA. Pictures should only be taken for use in reporting on a Department owned device and not saved on the device.

# HIPAA SCENARIO 6

- You have transported a suspect (now patient) that is in law enforcement custody. The patient consented to the transport. The officer would like you to provide a copy of your patient care report to him after you finish it so he can review what happened during the transport. Should you give it to him?

# ANSWER

- No. The patient still has their rights to their PHI. If the officer requests a copy of the report, he / she will have to direct it to the Fire and Rescue Department's Privacy Officer. This is not your responsibility or duty to provide this information as he / she is not covered under HIPAA.

# RESOURCES

- http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html
- http://www.hhs.gov/ocr/privacy/hipaa/understanding/training/index.html
- http://www.provena.org/usmc/body_ems.cfm?id=291
- https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/emergency/final_hipaa_guide_law_enforcement.pdf

# DOCUMENTATION UPDATE

- With the constantly changing environment surrounding healthcare, our documentation has come to the forefront.
- Globally, we are going to a more patient centered system where all records from pre-hospital, hospital, specialty, and rehabilitation facilities are sharing their information in one patient file.
- Our records need to be accurate and complete to provide our patients with the best overall care.
- The following slides will review some common errors.

# DOCUMENTATION UPDATE

- Remember all calls start at dispatch…why were you called?
- Paint a picture from start to finish. From dispatch to on scene, to transferring care at the hospital. Include all details.
- Like your mom says "Use your words"
  - You are trained to use descriptive words like lateral, medial, superior, and inferior, so use those. You also know the difference between a femur and a humerus. Use the proper terminology. When no one term fits, use the best words to describe what you have seen.
- All patients get an assessment so make sure you detail that assessment in your narrative.
- The chief complaint is the main thing the patient is complaining of, not what the nursing home staff say the lab values said.
- The primary impression is your differential diagnosis not what you were dispatched for.
- Mental Status: What is their mental status and is this normal for them.
- Signature: Make sure you get the patient's signature with ALL calls. Only get the staff to sign if the patient is medically or physically incapable.

# DOCUMENTATION UPDATE

- Back to basics:
  - Remember your tools like OPQRST and SAMPLE.
- Treatment
  - How did you treat your patient's complaint? How did they respond to the treatment? Why did you place the patient on $O_2$ or start an IV, what was the clinical reason?
- Transport and Transfer of Care
  - How did the patient get on the cot? Walk, assisted, full lift? Why couldn't they walk by themselves?
  - Who did you transfer your patient to and where?
- Your role ***is*** to document all relevant clinical information – accurately, completely, and honestly.

Garbage In,
Garbage Out
$x_i$
YOUR ANALYSIS IS ONLY
AS GOOD AS YOUR DATA
$f(\text{garbage}) = \text{garbage}$

# DOCUMENTATION UPDATE

- The supplemental questions and fields in your report are just as important as your narrative. These questions are used for a wide variety of reasons from Quality Assurance (QA) to identifying information for the continuation of care. Common errors:
  - Unit Call Sign / Vehicle Number need to match.
  - Transport mode from scene (Emergent is Priority 1 or 2 with lights and sirens, Non-Emergent is Priority 3).
  - Destination hospital (if you're not going to Winchester Medical Center, this needs to be changed).
  - Patient disposition.
  - Incident address when dispatched to another jurisdiction.

# DOCUMENTATION UPDATE

- Your ImageTrend Report
  - So, you did an awesome narrative that has everything you did but…. you didn't put anything under procedures and medications. When we run numbers for the statistics or grants, we need that information to show how we are doing as providers. This information must be entered for proper reporting not only for FCFRD, but the Virginia Office of EMS requires it as well.
  - Attachments
    - EKG: If you place the patient on the monitor you are required to include a copy of the ECG Strip. This is considered a part of the patient's medical record.
    - Facesheet: You are also required to attach a facesheet whenever possible for each transport. This must be for the correct patient. Attaching a facesheet for the wrong patient is considered a potential HIPAA violation.

# DOCUMENTATION UPDATE – COVID-19

- During the COVID-19 Public Health Emergency (PHE), it is acceptable to allow the crew or a patient representative (family member or hospital employee) to sign on the patient's behalf ***if*** the patient is an actual or suspected COVID patient (even if the patient is otherwise mentally or physically capable of signing).
  - This is primarily to allow crews to avoid the risk of cross contamination of ePCR devices.
  - Note that this is a limited exception ***only*** for COVID-19 patients and ***only*** during the PHE.
  - This needs to be **documented in your narrative**.

# DOCUMENTATION UPDATE – COVID-19

- PPE usage should be documented in your narrative to assure all proper PPE is being used on suspected patients.
- With an actual or possible COVID-19 patient, crew should document:
  - Patient's known or suspected COVID-19 status (positive test, symptoms, etc.).
  - Fact that patient (or authorized signer if patient is incapable of signing) directed the crew or representative to sign for the patient.

# DOCUMENTATION UPDATE

- If you receive a notice that your report needs attention, you are required to respond to that request in a timely manner. Your officers will be following up on outstanding reports and get a list on a monthly basis.

- Remember that PCRs are **LEGAL** documents and should be treated as such. Sometimes the hospital is not the only agency reading this report.

- Remember that PCRs are only to be reviewed by staff and crew that are directly responsible for QA Operations, involved in patient care, or have an approved reason to obtain that report. PCRs are ***not*** reading material for "interesting" incidents. Patient privacy is of the utmost importance.

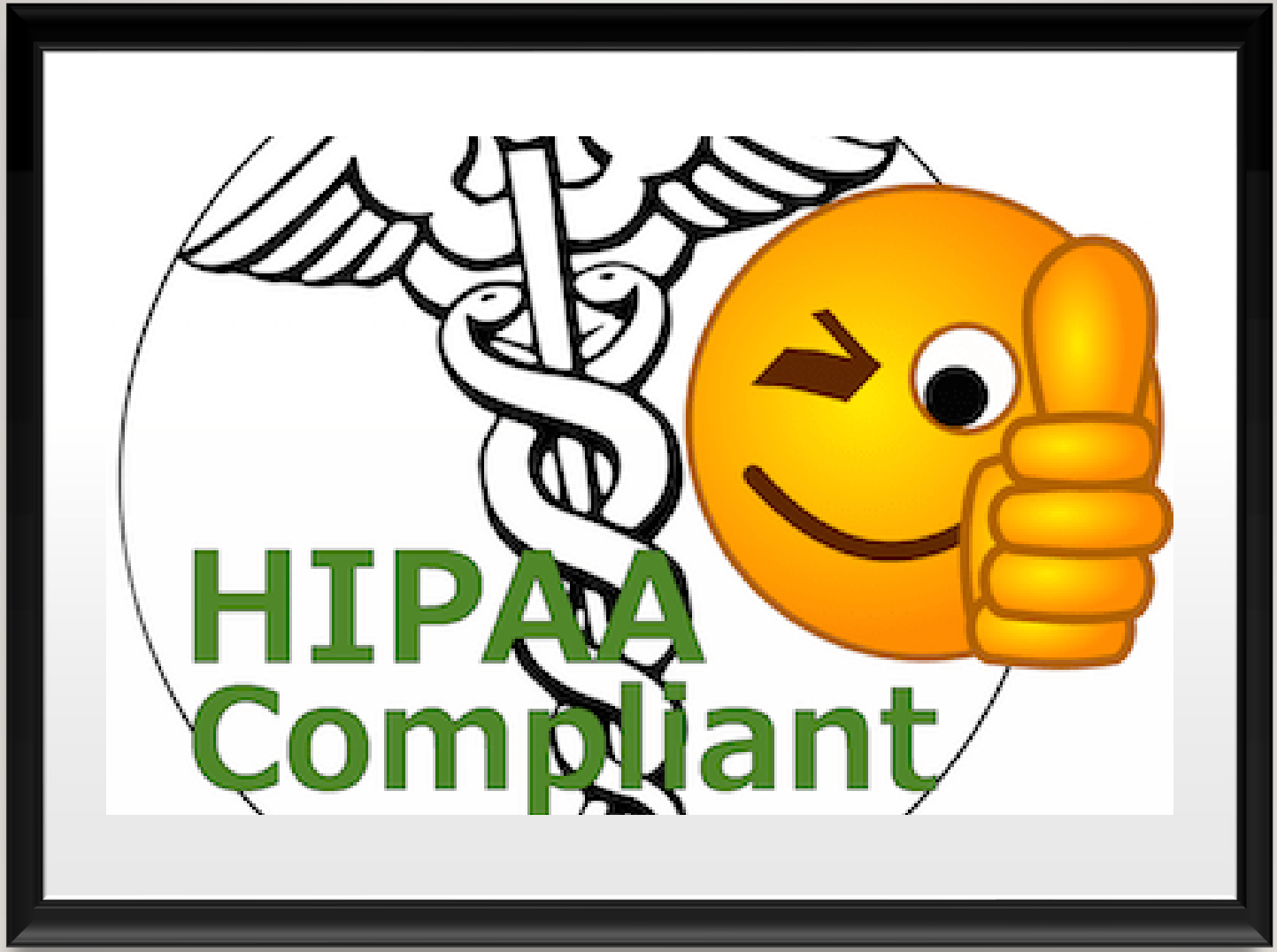
- As always, if you have a question or need help, we are here to help!

# NEXT STEP

COMPLETE THE QUIZ ON THE FCFRD WEBSITE AND CLICK SUBMIT.

YOU MUST SCORE 70% TO PASS THE TRAINING.

IF YOU DO NOT PASS YOU WILL BE ALLOWED ONE RETEST.


HIPAA
Compliant