


HR LF	HR HF	Fire Department Town of Belmont NH 03220	STANDARD OPERATING GUIDELINE Title: HIPAA Protected Health Information	SOG NO: ADM 12-004
LR LF	LR HF			EFFECTIVE DATE: 02/27/2012 Supersedes SOP M-001 REVISION NO: 00

I) PURPOSE/SCOPE/APPLICATION

- A) Under the HIPAA Privacy Rule, individuals have the right to access and to request amendment or restriction on the use of their protected health information, or PHI, and restrictions on its use that is maintained in “designated record sets,”.
- B) To ensure that Belmont Fire Department only releases the PHI that is covered under the Privacy Rule, this policy outlines procedures for requests for patient access, amendment, and restriction on the use of PHI.
- C) This policy also establishes the procedure by which patients or appropriate requestors may access PHI, request amendment to PHI, and request a restriction on the use of PHI.

II) REFERENCE DOCUMENTS

- A) SOG ADM 12-006 Designated Record Set
- B) SOG ADM 12-005 Amendment to PHI

III) DEFINITIONS

IV) SPECIALIZED ROLES AND RESPONSIBILITIES

- A) The Fire Chief shall serve as the privacy officer for Belmont Fire Department. He shall have the right to designate the duties to the administrative assistant.


V) SAFETY

VI) ENFORCEMENT


- A) Failure to understand this Standard Operating Guideline may result in disciplinary action.
- B) Any deviation from this Standard Operating Guideline may require a written report to the Officer in Charge and the Deputy Chief.
- C) This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.

VII) STANDARD OPERATING GUIDELINE


- A) **Patient Access:**

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- 1) Upon presentation to the business office, the patient or appropriate representative will complete a Request for Access Form.
- 2) The Privacy Officer must verify the patient's identity, and if the requestor is not the patient, the name of the individual and reason that the request is being made by this individual. The use of a driver's license, social security card, or other form of government-issued identification is acceptable for this purpose.
- 3) The completed form will be presented to the Privacy Officer for action.
- 4) The Privacy Officer will act upon the request within 30 days, preferably sooner. Generally, the Belmont Fire Department will respond to requests for access to PHI within 30 days of receipt of the access request, unless the designated record set is not maintained on site, in which case the response period may be extended to 60 days.
- 5) If the Belmont Fire Department is unable to respond to the request within these time frames, the requestor must be given a written notice no later than the initial due date for a response, explaining why the Belmont Fire Department could not respond within the time frame and in that case the Belmont Fire Department may extend the response time by an additional 30 days.
- 6) Upon approval of access, patient will have the right to access the PHI contained in the DRS outlined below and may make a copy of the PHI contained in the DRS upon verbal or written request.
- 7) The business office will establish a reasonable charge for copying PHI for the patient or appropriate representative.
- 8) Patient access may be denied for the reasons listed below, and in some cases the denial of access may be appealed to the Belmont Fire Department for review.
- 9) The following are reasons to deny access to PHI that are not subject to review and are final and may not be appealed by the patient:
 - a. If the information the patient requested was compiled in reasonable anticipation of, or use in, a civil, criminal or administrative action or proceeding;
 - b. If the information the patient requested was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

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- 10) The following reasons to deny access to PHI are subject to review and the patient may appeal the denial:
- a. If a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - b. If the protected health information makes reference to another person (other than a health care provider) and a licensed health professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to that person;
 - c. If the request for access is made by a requestor as a personal representative of the individual about whom the requestor is requesting the information, and a licensed health professional has determined, in the exercise of professional judgment, that access by you is reasonably likely to cause harm to the individual or another person.
 - d. If the denial of the request for access to PHI is for reasons a, b, or c, then the patient may request a review of the denial of access by sending a written request to the Privacy Officer.
 - e. The Belmont Fire Department will designate a licensed health professional, who was not directly involved in the denial, to review the decision to deny the patient access. The Belmont Fire Department will promptly refer the request to this designated review official. The review official will determine within a reasonable period of time whether the denial is appropriate. The Belmont Fire Department will provide the patient with written notice of the determination of the designated reviewing official.
 - f. The patient may also file a complaint in accordance with the Procedure for Filing Complaints about Privacy Practices if the patient is not satisfied with the Belmont Fire Department's determination.
 - g. Access to the actual files or computers that contain the DRS that may be accessed by the patient or requestor should not be permitted. Rather, copies of the records should be provided for the patient or requestor to view in a confidential area under the direct supervision of a designated Belmont Fire Department staff member. **UNDER NO CIRCUMSTANCES SHOULD ORIGINALS OF PHI LEAVE THE PREMISES.** If the patient or requestor would like to retain copies of the DRS provided, then the Belmont Fire Department may charge a reasonable fee for the costs of reproduction.
 - h. Whenever a patient or requestor accesses a DRS, a note should be maintained in a log book indicating the time and date of the request, the date access was provided, what specific records were provided for review, and what copies were left with the patient or requestor.

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- i. Following a request for access to PHI, a patient or requestor may request an amendment to his or her PHI, and request restriction on its use in some circumstances.


B) Requests for Amendment to PHI:

- 1) The patient or appropriate requestor may only request amendment to PHI contained in the DRS. The "Request for Amendment of PHI" Form must be accompanied with any request for amendment.
- 2) The Belmont Fire Department must act upon a Request for Amendment within 60 days of the request. If the Belmont Fire Department is unable to act upon the request within 60 days, it must provide the requestor with a written statement of the reasons for the delay, and in that case may extend the time period in which to comply by an additional 30 days.

C) Granting Requests for Amendment:

- 1) All requests for amendment must be forwarded immediately to the Privacy Officer for review.
- 2) If the Privacy Officer grants the request for amendment, then the requestor will receive a letter indicating that the appropriate amendment to the PHI or record that was the subject of the request has been made.
- 3) There must be written permission provided by the patient so that that the Belmont Fire Department may notify the persons with which the amendments need to be shared. The Belmont Fire Department must provide the amended information to those individuals identified by having received the PHI that has been amended as well as those persons or business associates that have such information and who may have relied on or could be reasonably expected to rely on the amended PHI.
- 4) The patient must identify individuals who may need the amended PHI and sign the statement in the Request for Amendment form giving the Belmont Fire Department permission to provide them with the updated PHI.
- 5) The Belmont Fire Department will add the request for amendment, the denial or granting of the request, as well as any statement of disagreement by the patient and any rebuttal statement by the Belmont Fire Department to the designated record set.


D) Denial of Requests for Amendment:

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- 1) The Belmont Fire Department may deny a request to amend PHI for the following reasons:
 - a. If the Belmont Fire Department did not create the PHI at issue;
 - b. If the information is not part of the DRS;
 - c. The information is accurate and complete.
- 2) The Belmont Fire Department must provide a written denial, and the denial must be written in plain language and state the reason for the denial; the individual's right to submit a statement disagreeing with the denial and how the individual may file such a statement; a statement that, if the individual does not submit a statement of disagreement, the individual may request that the provider provide the request for amendment and the denial with any future disclosures of the PHI; and a description of how the individual may file a complaint with the covered entity, including the name and tele603-267-8333 of an appropriate contact person, or to the Secretary of Health and Human Services.
- 3) If the individual submits a "statement of disagreement," the provider may prepare a written rebuttal statement to the patient's statement of disagreement. The statement of disagreement will be appended to the PHI, or at the Belmont Fire Department's option, a summary of the disagreement will be appended, along with the rebuttal statement of the Belmont Fire Department.
- 4) If the Belmont Fire Department receives a notice from another covered entity, such as a hospital, that it has amended its own PHI in relation to a particular patient, the ambulance service must amend its own PHI that may be affected by the amendments.


E) Requests for Restriction:

- 1) The patient may request a restriction on the use and disclosure of their PHI.
- 2) The Belmont Fire Department is not required to agree to any restriction, and given the emergent nature of our operation, we generally will not agree to a restriction.
- 3) ALL REQUESTS FOR RESTRICTION ON USE AND DISCLOSURE OF PHI MUST BE SUBMITTED IN WRITING ON THE APPROVED BELMONT FIRE DEPARTMENT FORM. ALL REQUESTS WILL BE REVIEWED AND DENIED OR APPROVED BY THE PRIVACY OFFICER.
- 4) If the Belmont Fire Department agrees to a restriction, we may not use or disclosed PHI in violation of the agreed upon restriction, except that if the individual who requested the restriction is in need of emergency service, and the restricted PHI is needed to provide the emergency service, the Belmont Fire Department may use the restricted PHI or may disclose such PHI to another health care provider to provide treatment to the individual.

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- 5) The agreement to restrict PHI will be documented to ensure that the restriction is followed.
- 6) A restriction may be terminated if the individual agrees to or requests the termination. Oral agreements to terminate restrictions must be documented. A current restriction may also be terminated by the Belmont Fire Department as long as the Belmont Fire Department notifies the patient that PHI created or received after the restriction is removed is no longer restriction. PHI that was restricted prior to the Belmont Fire Department voiding the restriction must continue to be treated as restricted PHI.

VIII) RECORDS, REPORTS, CHARTS, FORMS

<u>AUTHENTICATION</u>
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