RESOLUTION 16 - 38

A RESOLUTION ADOPTING A FIRST RESPONDER AGREEMENT WITH HUNT MEMORIAL HOSPITAL DISTRICT, GRANTING AUTHORITY TO THE MAYOR TO EXECUTE SAID RESOLUTION AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE MAYOR'S SIGNATURE TO SAID RESOLUTION, AND AUTHORIZING CITY MANAGER TO EXECUTE THE AGREEMENT WITH HUNT COUNTY AND ALL OTHER INSTRUMENTS REQUISITE IN IMPLEMENTING SAID RESOLUTION AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE CITY MANAGER'S SIGNATURE TO THE AGREEMENT AND ANY INSTRUMENTS REQUISITE IN IMPLEMENTING SAID RESOLUTION.

A regular meeting of the City Council of the City of Commerce, Texas, was held in Commerce, Texas, at City Hall, on the 15th day of November 2016, at 6:00 p.m.; a majority of council members being present and constituting a quorum, the following resolution was adopted:

WHEREAS, the Hunt Memorial Hospital District, desires to enter into a first responder service agreement with the City of Commerce, and in connection therewith has submitted an agreement to said City of Commerce for its consideration, a copy of which is attached hereto marked Exhibit "A" and made a part hereof as if copied herein verbatim;

AND WHEREAS, after careful deliberation by the City Council of the City of Commerce, it is deemed to be in the best interest and general welfare of the City of Commerce, that said agreement be approved;

AND WHEREAS, the agreement marked Exhibit "A" attached hereto and made a part hereof, between the Hunt Memorial Hospital District, and the City of Commerce for first responder service, be approved and accepted and is hereby approved and accepted in all respects.

THEREFORE BE IT RESOLVED, that the Mayor of the City of Commerce, Texas, be authorized and he is hereby authorized to execute said resolution;

BE IT FURTHER RESOLVED, that the City Secretary be authorized and she is hereby authorized to attest to the signature of the Mayor to said resolution;

BE IT FURTHER RESOLVED, that the City Manager of the City of Commerce, Texas be authorized and he is hereby authorized to execute the agreement and all instruments requisite in implementing said resolution;

BE IT FURTHER RESOLVED, that the City Secretary be authorized and she is hereby authorized to attest to the signature of the City Manager to any and all instruments requisite in implementing said resolution;

PASSED BY THE GOVERNING BODY of the City of Commerce, Texas, at a regular meeting of the City Council of the City of Commerce, Texas, on the 15th day of November 2016.

ATTEST:

Becky Pattillo, Acting City Secretary

(seal)

CITY OF COMMERCE, TEXAS

Wyman Williams, Mayor

APPROVED AS TO FORM:

Jay Garrett, City Attorney

I, Becky Pattillo, Acting City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a resolution, and that the same has not been repealed and is in full force and effect.

Acting City Secretary
City of Commerce, Texas

(seal)

Sworn to and subscribed before me, on this the 1st day of December, 2016, to certify which witness my hand and seal of office.

(seal)

GREG RICHARDSON
Notary Public
STATE OF TEXAS
My Comm. Exp. 10-06-2018

Notary Public
State of Texas

\resolut\FirstResponder.111516

STATE OF TEXAS

COUNTY OF HUNT

EMS FIRST RESPONDER

PERFORMANCE AGREEMENT

AGREEMENT

This Agreement is made and entered into effective the 1st day of October, 2016 between HUNT MEMORIAL HOSPITAL DISTRICT, a political subdivision of the State of Texas, Hunt County, Texas, hereinafter referred to as "HMHD" and COMMERCE FIRE DEPARTMENT, a rescue/EMS organization in the city of Commerce, Texas hereinafter referred to as "CFD".

WITNESSETH

WHEREAS, it is agreed by the aforementioned Parties to be of mutual interest and advantage that CFD will provide emergency medical pre-hospital patient care services in the HMHD service area when requested and,

WHEREAS, HMHD agrees to provide funding to assist CFD in providing emergency pre-hospital patient care when provided;

NOW THEREFORE, in consideration of the mutual promises hereinafter contained:

I.
RESPONSIBILITIES OF CFD

1.1 CFD shall have the responsibility to:

A. Respond to calls for medical assistance in their response area, 24/7 as available, as clarified by fire/ EMS dispatch protocols and mutual aid agreements.

(1) At least one person responding to medical assistance should be at least Texas Department of State Health Services Emergency Care Attendant certified, American Red Cross Emergency Responder certified, or National Safety Council First Responder certified. Temporary variances may be granted at the sole discretion of HMHD and on a case-by-case basis, until HMHD believes that sufficient training has been provided. Temporary variances may only be granted one time per member and shall last no longer than 60 days. EMT and Paramedic personnel will respond when or if available. The level of responders is relative to change.

(2) All personnel responding to medical calls must have identification indicating their name, the department name, and level of certification.

(3) The responder with the highest level of certification should direct patient care. In the event that more than one Department/Agency responds, the responder with the highest level of certification shall direct patient care and those responding with a lower level of certification shall follow direction even if the directing responder is from another Department/Agency.

(4) First Responder personnel may accompany patient in the ambulance as needed.

(5) When possible CFD should have a mechanism to determine the availability of personnel for first response and should notify the dispatch of days and times when no one will be available to take call so that mutual aid can be dispatched.

B. Provide HMHD with monthly patient documentation forms for all patient contacts and follow radio report guidelines in protocol.

C. Participate in the existing patient care quality improvement program.

D. Maintain required equipment as stated in the medical protocol.

E. Make best efforts to attend required continuing education offerings provided through HMHD. All continuing education required to maintain licensure shall be taken and proof of attendance shall be provided to HMHD. HMHD shall have the right to audit compliance with this provision.

F. Utilize established medical control, protocols, and medical chain of command established by the contracted EMS Medical Director who has approved the protocols.

G. Provide information regarding any complaint investigation or conflict resolution process. See Appendix A Social Media

H. Should maintain liability insurance for all response vehicles.

(1) All vehicles responding to a medical call should have proof of TDSHS First Responder registry.

(2) All vehicles responding to medical calls should abide by CFD emergency response procedures.

I. Should maintain medical malpractice insurance.

J. Maintain accounting of purchases from HMHD funding.

(1) Accounting documentation includes bank statements and official counter-signed ledgers.

(2) HMHD may audit the books to determine that HMHD funding was used for proper purchases, such as equipment. CFD shall comply with all requests for auditing within thirty (30) days of request or shall forfeit their status within the Emergency Service First Responder System and shall forfeit any further funds from HMHD for service as a first responder.

K. Maintain Texas Department of State Health Services First Responder Registry.

L. Provide the EMS Coordinator with a constantly updated roster of all first responder personnel, removing any deceased or non-licensed personnel within thirty (30) days of such death or non-licensure. Any additions to such list must be added prior to the personnel beginning to act as a first responder.

M. Provide a representative to act as liaison for the department to HMHD. This person shall attend or have a delegate attend the Hunt County Firefighters Associations meeting each month.

N. In order to protect the best interest of the residents of the County and patients of the District, each member of the Department shall be subject to a criminal background check and drug screening at the Department's expense upon joining the Department. All results shall be forwarded to HMHD EMS Coordinator within ten (10) days of such check or screen being performed. An additional drug screening shall occur after any collision or other accident involving a Department vehicle or a member's personal vehicle while responding to an accident or EMS call. The results of such criminal background information and/or drug screen obtained during these tests and/or background checks, shall be forwarded within five (5) business days to the attention of the HMHD EMS Coordinator If the criminal background check yields information that warrants removal of the involved member of the Department and/or there is a positive drug test result, the affected member of the Department is barred from providing services pursuant to this Agreement and it is the obligation of the Department not to schedule this person to provide the services contemplated herein. In addition, if it is discovered that the Department intentionally or knowingly failed to perform its duties under this paragraph, it shall repay all monies and/or reimburse the cost of any and all equipment and supplies obtained from HMHD pursuant to this Agreement within thirty (30) days of such finding by HMHD See also Appendix B Testing for Cause, B (1) Observation

O. Require all personnel responding and/or providing medical services to attend new member orientation and training, including but not limited to compliance and EMTALA training.

P. Follow the compliance policies of HMHD as set out in Exhibit "A" which is attached hereto and incorporated herein for all purposes.

II.

RESPONSIBILITIES OF HMHD

2.1 HMHD shall have the responsibility to:

A. Provide funding in accordance with the overall HMHD budget related to emergency services and as adopted by the Board of Directors to CEC for providing patient care services, until September 2016. Such funding shall be paid in 12 checks in equal amounts of $825.00 totaling $9,900.00 annually and distributed at the HCFA Chiefs Meeting. Updated rosters, background check authorizations and expense reports will be turned in for the previous quarter at that time. Failure to provide these documents and to comply shall result in forfeiture of the amount of one month's funding and no check will be given to CFD

B. Provide continuing education programs at no cost to CFD. HMHD may provide supplemental educational programs at a greatly reduced cost to the department. HMHD shall have the right to audit compliance by CFD of continuing education.

C. Provide a patient care quality improvement process feedback mechanism.

D. Provide medical control and protocols.

E. Provide first responder report forms.

F. Provide an infectious disease exposure control program and immunizations. Immunizations will be scheduled at the discretion of HMHD. Incomplete shot series will be charged to CFD if the first responder does not complete the shot series.

G. Sponsor and oversee budgeted EMS certification training provided for CFD.

H. Conduct new member orientation to each of CFD's personnel which includes but is not limited training on compliance and EMTALA issues.

III.

RESPONSIBILITIES OF HMHD AND CFD

3.1 HMHD and CFD shall:

A. Work together to maintain quality patient care.

B. Work together to make arrangements for special programs projects or special provisions not covered by the Agreement through the CFD Chief and EMS Coordinator.

IV.

FIRST RESPONDER INJURY

4.1 Hunt Memorial Hospital District does not assume liability for any injury or illness in any manner and to any extent that a first responder may receive in the line of duty. First Responders who receive an injury while in the line of duty shall be covered under their existing department's policies.

V.

TERM OF AGREEMENT

This agreement shall be effective upon its execution and shall be reviewed and renewed annually. This agreement may be terminated by either party by giving written notice to the other party sixty (60) days prior to termination. Such termination will effect the funding provided to the first responder organization. The first responder organization will refund the prorated balance of the contract to HMHD.

VI.

TEXAS LAW TO APPLY

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hunt County, Texas.

VII.

LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall be construed as if such invalid, illegal, or unenforceable provisions has never been contained herein.

IX.

HIPAA

CFD acknowledges that in the course of performing this Agreement, it may have access to and learn confidential, business, trade secret, proprietary, or other like information concerning Hospital or third parties to whom Hospital has an obligation of confidentiality, including protected health information as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations promulgated pursuant thereto (the latter, "Protected Health Information" and all such information collectively, "Confidential Information"). CFD agrees that it will use Confidential Information only as may be necessary in the course of performing duties under this Agreement, that it will treat Confidential Information as strictly confidential, that it will not disclose Confidential Information orally or in writing to any third party, except with the prior written consent of Hospital or as required by law, and that it will not otherwise appropriate Confidential Information to its own use or to the use of any other person or entity, or permit disclosure of such Confidential Information. The obligations of this Section extend to the employees, agents, and contractors of CFD and CFD shall inform such persons of their obligations hereunder and shall require such employees, agents and contractors to agree to the restrictions contained herein by execution of a written confidentiality agreement that meets the requirements of applicable law. The obligations of this Section shall survive the termination or expiration of this Agreement for any reason.

Without limiting the foregoing, CFD agrees to establish appropriate safeguards to prevent the unauthorized use or disclosure of Confidential Information, including, but not limited to, limiting access to perform their duties in connection with this Agreement, storing Confidential Information in a manner that unauthorized persons cannot retrieve or view the information, and advising all personnel who will have access to Confidential Information of the nature of the information and their obligations pertaining thereto.

Upon learning of any unauthorized disclosure or use of Confidential Information, CFD shall notify Hospital promptly and cooperate fully with Hospital to protect Confidential Information and/or to take such measures as may be necessary or desirable to prevent future disclosures or usage.

CFD shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information available for inspection by the Secretary of the Department of Health and Human Services or his/her designee as required under HIPAA and the regulations promulgated thereunder.

CFD shall make available to Hospital any Protected Health Information or other information required for Hospital to comply with its access, information amendment, and disclosure accounting requirements under HIPAA and the regulations promulgated thereunder.

If CFD believes it is required by law, by a subpoena or court order, or otherwise to disclose any of Hospital's Confidential Information, CFD shall notify Hospital prior to any disclosure and shall make all reasonable efforts to grant Hospital the opportunity to seek a protective order or other judicial relief. In the event any individual requests his or her Protected Health Information from CFD, CFD shall notify Hospital prior to any

disclosure and the parties shall work cooperatively to ensure the individual is provided such access as is required under applicable law.

CFD shall ensure that any subcontractor performing services pursuant to this Agreement agrees to the restrictions and conditions related to Confidential Information and/or Protected Health Information contained in this Paragraph IX.

In the event CFD violates the restrictions or fails to comply with the requirements of this Paragraph IX, Hospital may, upon notice to CFD, and in addition to any other rights and remedies available to Hospital in law or equity, immediately terminate this Agreement.

CFD agrees to comply with the terms and conditions regarding Personally Identifiable Information as set forth in any Hospital Bylaws, rules, regulations and state and federal laws which are incorporated herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple originals.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple originals.

HUNT MEMORIAL HOSPITAL DISTRICT

By_____
Rich Carter
Chief Executive Officer, HMHD

COMMERCE FIRE DEPARTMENT

By Chris Bassham
Dept Admin/
Chief

Following are required signatures in regards to 25 TAC 157.14 related to Texas Department of State Health Services First Responder Registry. The following have reviewed this contract and provide services as written within, but are not parties to the contract.

EMS MEDICAL CONTROL

By_____
Mauricio Trujillo, MD
Hunt County EMS Medical Director

HUNT REGIONAL EMS

By_____
Mike Shaw
Operations Manager AMR Hunt Regional EMS

HIPAA BUSINESS ASSOCIATE AMENDMENT

This HIPAA Business Associate Amendment (**"Amendment"**), is entered into, and shall be effective as of the 1st day of October, 2015 by and between Commerce Fire Department ("you" Business Associate) and Hunt Memorial Hospital District, a political entity of the State of Texas for it's hospitals known as Hunt Regional Medical Center & Hunt Regional Community Hospital and Hunt Regional Home Care ("we" or "us" Covered Entity).

RECITALS

A. You have previously entered into one or more agreements regarding your provision of services to us (collectively, the "Agreement").

B. Pursuant to the terms of such Agreement, you may in providing Services to us have access to our information which may constitute PHI.

C. You and we intend to provide for the privacy and security of the PHI disclosed to you by us or accessed by you pursuant to the underlieing Agreement, as required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended by the HITECH Act, & HIPAA Omnibus (modification to previous legisilation) and regulations promulgated thereunder by the U.S. Department of Health and Human Services, and any subsequent amendments or modifications thereto (collectively, "HIPAA"). In addition to Federal regulations the Texas Medical Records Privacy Act applies to individuals, businesses or organizations that obtain, store or process PHI as well as their agents, employees and contractors if they create, receive, obtain, use or transmit PHI.

D. HIPAA requires you and us to enter into a contract containing specific requirements to protect the confidentiality of a patient's PHI, as set forth in this Amendment.

Therefore, the parties agree as follows:

1. Definitions

(a) **"Business Associate"** shall mean a person or entity, other than a member of the workforce of a covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to protected health information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate.

(b) **"Breach"** shall mean the acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule which compromises the security or privacy of the PHI as defined in 45 C.F.R. §164.402 *Definintions.*

(c) **"Covered Entity"** shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement.

(d) **"Designated Record Set"** shall mean a group of Records maintained by or for us that: (a) consists of medical records and billing records about individuals maintained by or for us; (b) consists of the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for us; or (c) consists of Records used, in

whole or part, by or for us to make decisions about individuals. As used herein, the term "Record" shall mean any item, collection or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for us. The term "designated record set", however, shall not include any information in our possession that is the same as information in your possession (information shall be considered the same information even if the information is held in a different format, medium or presentation or it has been standardized).

(e) **"Electronic PHI"** shall mean any PHI maintained in or transmitted by electronic media as defined in 45 C.F.R. § 160.103.

(f) **"HITECH Act"** shall mean the Health Information Technology for Economic and Clinical Health Act included in the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(g) **"HIPAA Rules"** shall mean collectively the Privacy Rule, the Security Rule and the Breach notification rules set forth in 45 CFR Parts 160-164, HITECH & HIPAA Omnibus.

(h) **"HIPAA Omnibus"** shall mean the rules set forth at 78 Fed Reg. 5566

(i) **"Patient"** shall have the same meaning as the term "individual" under HIPAA and shall include a person who qualifies as a personal representative in accordance with HIPAA.

(j) **"PHI"** shall mean any information, in any form or medium, limited to the information received by you from us and/or any of our Affiliates in connection with your provision of the Services: (i) that relates to the past, present or future physical or mental condition of the Patient; the past, present or future payment for the provision of health care to Patient; or the provision of health care to the Patient and (ii) that identifies the Patient or with respect to which there is a reasonable basis to believe the information can be used to identify the Patient.

(k) **"Privacy Rule"** shall mean that portion of HIPAA set forth in 45 CFR 160 and in subparts A and E of 45 CFR 164.

(l) **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his designee.

(m) **"Security Incident"** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or interference with system operations in an information system containing PHI.

(n) **"Security Rule"** shall mean that portion of HIPAA set forth in subpart C of 45 CFR 164 which sets standards for the protection of electronic PHI.

(o) **"Services"** shall mean the billing, claims management, collection activities, obtaining payment and related data processing provided by you under the Agreement, but not including credit card, debit card, check, or other payment processing, or other activity that is exempt under Section 1179 of HIPAA, 42 U.S.C. §1320d-8.

2. Permitted Uses and Disclosures by Business Associate

(a) Except as otherwise limited in this Amendment, you may use or disclose PHI to perform the Services, provided that such use or disclosure would not violate the Privacy Rule or Security Rule if done by us, as a Covered Entity.

(b) Except as otherwise limited in this Amendment, you may use or disclose PHI for our

proper management and administration or to carry out our legal responsibilities, provided that (i) the disclosure in our opinion is required by law, or (ii) you can obtain reasonable assurances from the person to whom the information is disclosed that the PHI will be held confidentially and used or disclosed only for the purposes for which it was disclosed or as required by law, the person will notify us of any instances of which it is aware in which the confidentiality of the PHI is breached, and that such person will use safeguards to prevent its further use or disclosure.

3. Your Obligations

(a) You agree that all the PHI provided or made available to you by us shall not be used or disclosed except as permitted or required by the base contract or as required by law. You agree to use or disclose the minimum necessary amount of PHI for each use or disclosure you make of our PHI in accordance with the applicable HIPAA Rules and any implementing regulations. You will only make changes to protected health information in a designated record set as directed or agreed to by the us pursuant to 45 CFR 164.526..

(b) You are directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by contract or required by law. You are also directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule.

(c) You agree to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI. You will require all subcontractors who receive PHI from you to follow the same safeguards.

(d) You agree to report to us any use or disclosure of the PHI not provided for by this Amendment or of any Security Incident of which you become aware. Since Security Incident includes attempted unauthorized access, use, disclosure, modification or destruction of information, we need to have notice of attempts to bypass electronic security mechanisms. We represent that the significant number of meaningless attempts to, without authorization, access, use, disclose, modify or destroy electronic Protected Health Information will make a real-time reporting requirement formidable for you. Therefore, we and you agree to the following reporting procedures for Security Incidents that result in unauthorized access, use, disclosure, modification or destruction of information or interference with system operations ("**Successful Security Incidents**") and for Security Incidents that do not so result ("**Unsuccessful Security Incidents**"):

(1) For Unsuccessful Security Incidents, we and you agree that this paragraph constitutes notice of such Unsuccessful Security Incidents. By way of example, the parties consider the following to be illustrative of Unsuccessful Security Incidents when they do not result in actual unauthorized access, use, disclosure, modification or destruction of electronic PHI or interference with an information system that contains or processes electronic PHI: (i) pings on our firewall, (ii) port scans, (iii) attempts to log on to a system or enter a database with an invalid password or username, (iv) denial-of-service attacks that do not result in a server being taken off-line, and (v) Malware (worms, viruses, etc.).

(2) For Successful Security Incidents, you will give prompt notice to us after you learn of the Successful Security Incident.

(e) You agree to notify us promptly, but in no event more than twenty-five (25) days after your

discovery of a Breach involving PHI and to comply with the applicable provisions of 45 CFR 164.410 with respect to that Breach.

(f) You agree that if a Breech caused by you results in any fines or penalties, those fines or penalties will be paid by you.

(g) You agree that in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to you with respect to such information.

(h) You agree to provide us, upon our written request, prompt access to PHI in a Designated Record Set in accordance with 45 CFR 164.524.

(i) With respect to your disclosures, you agree to maintain and make available the information required to provide an accounting of disclosures to either "covered entity" or "individual" as necessary to satisfy covered entity's obligations under 45 CFR 164.528.

(j) You agree to make your internal practices, books, and records relating to the use and disclosure of PHI available to us, at our request, or to the Secretary at the Secretary's request, solely for the purpose of the Secretary determining our compliance with HIPAA.

(k) You agree promptly to take steps to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by you in violation of this Amendment.

4. Our Obligations

(a) We shall provide you with any changes in, or revocation of, permission by Patient to use or disclose PHI, if such changes affect our permitted or required uses or disclosures under this Amendment. We will obtain all authorizations necessary (if any) for any use or disclosure of any PHI as contemplated under the Amendment.

(b) We shall notify you of any restriction to the use or disclosure of PHI that we have agreed to and which restriction affects your permitted or required uses or disclosures under this Amendment.

(c) We shall not request you to use or disclose PHI in any manner that would not be permissible under HIPAA if done by us.

(d) If we have listed any of our Affiliates on Schedule A attached hereto and made a part hereof, we represent and warrant to you that we and those Affiliates have elected "affiliated covered entity" status under 45 CFR 164.105(b), and we agree that this Amendment shall be binding upon and shall govern the use and disclosure of PHI received by us from any of those Affiliates. We acknowledge that you are relying on the list of Affiliates on Schedule A in complying with your obligations as a business associate under HIPAA, and we agree to notify you promptly in the event that there are any changes in the entities listed on Schedule that are Affiliates of ours under HIPAA.

5. Termination

(a) The obligations under this Amendment shall terminate when the Agreement is terminated and all of PHI created or received by you pursuant to the Agreement is destroyed or returned to us.

(b) Upon determining that the other party has committed a material breach of any obligations herein, either of us shall have the option to either:

(i) Provide the other party with an opportunity to cure the breach or end the violation within the time specified which shall be at least thirty (30) days from receipt of notice, by the non-defaulting party; and, if that party does not cure the breach or end the violation within the time specified, the non-defaulting party may terminate the Agreement and this Amendment; or

(ii) If the non-defaulting party reasonably determines that cure is not possible, that party may immediately terminate the Agreement and this Amendment.

6. Effect of Termination

(a) Except as provided in (b) below, upon termination of the Agreement or upon termination as provided in this Amendment, you shall promptly return or destroy all PHI created or received by you in connection with the Agreement. This provision shall also apply to PHI that is in the possession of your subcontractors or agents. If you elect to destroy the PHI, you shall certify in writing to us that such PHI has been destroyed.

(b) In the event that you determine that returning or destroying the PHI is infeasible, conflicts with any law, regulation or rule applicable to you, or will in your reasonable opinion hamper us in the investigation or defense or any claim or dispute, you shall be entitled to retain such PHI and shall extend the protections of this Amendment to such PHI for so long as you maintain such PHI.

7. Amendment

The parties acknowledge that federal laws regarding health information privacy and data security are undergoing rapid change and hereby agree to amend, upon the mutual agreement of the parties, this Amendment from time to time as is necessary for us to comply with these statutory requirements. Should the parties fail to promptly agree to reasonable terms and conditions to amend this Amendment, in order to comply with a new or revised law, rule or regulation, either party may promptly terminate the Agreement by giving written notice to the other party.

8. Survival

The respective obligations and rights of you and us relating to protecting the confidentiality of a patient's PHI shall survive the termination of the Agreement or this Amendment.

9. Conflicting Provisions

This Amendment is intended to supersede and replace any business associate agreement or amendment previously entered into between us in accordance with HIPAA requirements. The Agreement and this Amendment are intended to be read and construed in harmony with each other, but in the event that any provision in this Amendment conflicts with the provisions of the Agreement, the provisions in this Amendment shall be deemed to control, and such conflicting provision or part thereof shall be deemed removed and replaced with the governing provisions herein. Except as expressly set forth herein, the Agreement remains in full force and effect.

10. Limitation of Liability

In no event shall either party be liable to the other party or its affiliates or their respective officers, directors, employees and agents for loss or damage of lost profits or revenues or similar economic loss or for any consequential, special, incidental, indirect or punitive damages, whether in contract, tort or otherwise, arising out of or in connection with this amendment. Even if such party has been advised of such claim. Neither party's aggregate liability to the other and /or any affiliates or their respective officers, directors, employees, and agents for any claims arising under this Amendment, regardless of the form of action (including but not limited to, actions for breach of contract, negligence, strict liability, rescission and breach of warranty), shall exceed the total fees paid and/or payable under the agreement during the twelve (12) months immediately preceding the cause of action.

11. Entire Agreement

This Amendment constitutes the entire agreement between the parties relating to the use and disclosure of PHI. There are no understandings or agreements relating to the use and protection of PHI which are not fully expressed in this Amendment and no change, waiver or discharge of obligations arising under this Amendment shall be valid unless executed in writing by the party to whom such change, waiver or discharge is sought to be enforced. All references to the HIPAA privacy regulations codified in 45 C.F.R. shall mean the referenced sections as amended by the HITECH Act as may be further amended by Federal law or regulation and includes any State laws or regulations.

Commerce Fire Department	**Hunt Memorial Hospital District dba Hunt Regiona Medical Center & Hunt Regional Emergency Medi Center(s) @ Commerce & Quinlan**
Commerce Fire Department **(ORGANIZATION'S LEGAL NAME)**	
Chris Bassham (Signature)	(Signature)
Chris Bassham (Print Name)	**Richard Carter** (Print Name)
Chief/Administrator (Print Title)	**CEO Hunt Memorial Hospital District** (Print Title)

Exhibit A
Compliance Policies

Parties agree to be bound by and to comply with the following policies regarding Compliance issues:

CFD represents and warrants HMHD that CFD, its officers, directors and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 USC 1320a-78b(f) (the "Federal Healthcare Programs"); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs, and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in CFD being excluded from participation in the Federal Healthcare Programs. This shall be an ongoing representation and warranty during the term of this Agreement and CFD shall immediately notify HMHD of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give HMHD the right to terminate this Agreement immediately for cause.

Vendor: COMMERCE FIRE DEPARTMENT

Facility: Hunt Memorial Hospital District

Contract Date*: October 1, 2015

Product/Services:

"Hunt Memorial Hospital District seeks to comply with all Federal and State laws and regulations including the requirements contained in the Deficit Reduction Act of 2005 to establish and disseminate written policies to any contractor or agent of HMHD, that includes detailed information about the False Claims Act and HMHD policies and procedures for detecting and preventing waste, fraud, and abuse. These policies must be adopted by any contractor or agent when performing their duties under the Agreement with HMHD.

HMHD may revise the Federal and/or State False Claims Act Policies. HMHD reserves the right to have the revised policies applicable to all contractors who previously received a copy of the policies without the obligation to redistribute the revised policies. Current Federal and State False Claims Act Policies will be posted on the HMHD website which can be accessed by all contractors and agents."

Please sign and return the attached addendum to our Agreement acknowledging receipt of the policies and agreeing to adopt such policies when performing your contractual duties and responsibilities with HMHD."

Accepted and agreed to by:

Commerce FD:	Hunt Memorial Hospital District:
By: Chris Bassham	By: _____
Name: Chris Bassham	Name: Richard Carter
Title: Administrator/Chief	Title: CEO HMHD
Date: 11-18-2016	Date: _____

* If more than one contract exists, then state "all, including those on attached list" and attach a list with all contracts listed thereon to this Addendum.

SUBJECT: Federal False Claims Act	PAGE 1 OF 6	REVISED/REVIEWED
	EFFECTIVE DATE 1/25/2007	REVIEWED:
DEPARTMENT: All Departments	PREPARED BY John Heatherly	REVISED:
DIVISION: Hunt Memorial Hospital District	APPROVED BY/TITLE Executive Compliance Committee	

PURPOSE: To establish a written policy for all Hunt Memorial Hospital District (HMHD) employees, including management, contractors, and agents, that:

1. Provides information about the Federal False Claims Acts, the Federal Administrative Remedies pertaining to false claims and statements, and the civil and criminal penalties for false claims and statements.

2. Provides information about the legal protections under Federal law available to personnel who report incidents of false claims to regulatory agencies ("whistleblower protection")

3. Addresses HMHD policies and procedures for detecting fraud, waste and abuse.

POLICY: HMHD will establish written policies and procedures and inform all employees, including management, contractors, and agents regarding Federal False Claims Acts, Administrative Remedies pertaining to false claims and statements, and procedures for detecting fraud, waste, and abuse.

HMHD may revise the Federal False Claims Act Policy. HMHD reserves the right to have the revised policy applicable to all contractors who previously received a copy of the policy without the obligation to redistribute the revised policy. A current Federal False Claims Act Policy will be posted on the HMHD website which can be accessed by all contractors and agents.

SCOPE: HMHD team members (employees, including management, contractors, and agents).

FEDERAL FALSE CLAIMS ACT: There are two primary statutes available to the DOJ or the OIG in seeking civil damages or exclusion from federal health care programs for false or fraudulent claims: The False Claims Act and the Administrative Remedies for False Claims and Statements.

A. ***The False Claims Act (FCA), 31 U.S.C. §§ 3729-3731:***

1. The FCA creates civil liability to any person who:
   a. Knowingly presents, or causes to be presented, to an officer or employee of the United States Government or member of the Armed Forces of the United States, a false or fraudulent claim for payment or approval;
   b. Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
   c. Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

d. Has possession, custody or control of property or money used, or to be used by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
e. Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell the property; or
g. Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.

2. To establish liability under the FCA, the government must prove by preponderance of the evidence:

   a. That there was a "claim," statement, or conspiracy to defraud;
   b. That the claim was submitted to the government or would be paid, in whole or in part, from funds from the government;
   c. That the claim was submitted by defendant, or that defendant caused it to be submitted;
   d. That the service represented in the claim was not provided as claimed or that the claim was false or fraudulent; and
   e. That the defendant knew or should have known that the claim or statement was false.

3. The FCA defines a claim to include:

   a. Any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient, if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

4. In the OIG Draft Compliance Plan Guidelines for Individuals and Small Group Practices the following definitions are given relating to the FCA.

   a. *False Claim* - A false claim is a claim for payment for services or supplies that were not provided specifically as presented or for which the provider is otherwise not entitled to payment. Examples of false claims for services or supplies that were not provided specifically as resented include, but are not limited to:
      i. A claim for a service or supply that was never provided.
      ii. A claim indicating the service was provided for some diagnosis code other than the true diagnosis code in order to obtain reimbursement for the service (which would not be covered if the true diagnosis code were submitted).
      iii. A claim indicating a higher level of service than was actually provided.

iv. A claim for a service that the provider knows is not reasonable and necessary.
v. A claim for services provided by an unlicensed individual.

b. *Knowingly* - To "knowingly" present a false or fraudulent claim means that the provider: (1) has actual knowledge that the information on the claim is false; (2) acts in deliberate ignorance of the truth or falsity of the information on the claim; or (3) acts in reckless disregard of the truth or falsity of the information on the claim. It is important to note the provider does not have to deliberately intend to defraud the Federal Government in order to be found liable under this Act. The provider need only "knowingly" present a false or fraudulent claim in the manner described above.

c. *Deliberate Ignorance* - To act in "deliberate ignorance" means that the provider has deliberately chosen to ignore the truth or falsity of the information on a claim submitted for payment, even though the provider knows, or has notice, that information may be false. An example of a provider who submits a false claim with deliberate ignorance would be a physician who ignores provider update bulletins and thus does not inform his/her staff of changes in the Medicare billing guidelines or update his/her billing system in accordance with changes to Medicare billing practices. When claims for non-reimbursable services are submitted as a result, the False Claims Act has been violated.

d. *Reckless Disregard* - To act in "reckless disregard" means that the provider pays no regard to whether the information on a claim submitted for payment is true or false. An example of a provider who submits a false claim with reckless disregard would be a physician who assigns the billing function to an untrained office person without inquiring whether the Team Member has the requisite knowledge and training to accurately file such claims.

5. *Penalty for Unlawful Conduct* - The civil penalty for violating the False Claims Act is a minimum of $5,500 up to a maximum of $11,000 for each false claim submitted. In addition to the penalty, a provider could be found liable for up to three times the amount unlawfully claimed except in situation where it is found that:

a. The person committing the violation furnished officials of the United States responsible for investigating false claims violations with all information known to such persons about the violation within 30 days after the date on which the defendant first obtained the information;
b. Such persons fully cooperated with any Government investigation of such violation; and;
c. At the time such person furnished by the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.
d. Then the penalty would be not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person shall also be liable to the Untied States Government for the costs of a civil action brought to recover any such penalty or damage.

6. *Qui Tam (Whistleblower) Protection* – Under certain circumstances, private individuals are protected and can bring "qui tam" (whistleblower) suits in the name of the United States against health care providers, and the individual shares in any recovery against the provider.

   a. The purpose of bringing the qui tam suit is to recover the funds paid by the Government as a result of the false claims. The government may choose to intervene and proceed with the lawsuit itself. In some instances the person who initiated the lawsuit (the "relator") will get a portion of the money the government collects from the wrongdoer if the lawsuit is ultimately successful.
   b. Because the Government assumes responsibility for all of the expenses associated with a suit when it joins a false claims action, the percentage is lower when the Government joins a qui tam claim. However, regardless of whether the Government participates in the lawsuit, the court may reduce the whistleblower's share of the proceeds if the court finds that the whistleblower planned and initiated the false claims violation. Further, if the whistleblower is convicted of criminal conduct related to his role in the preparation or submission of the false claims, the whistleblower will be dismissed from the civil action without receiving any portion of the proceeds.
   c. The act protects employees who are "discharged, demoted, suspended, threatened, harassed or in any manner discriminated against in the terms and conditions of employment" because of lawful acts they take for participation in a lawsuit filed or to be filed under this act. Employees who are treated inappropriately under this law are entitled to all relief necessary to make the employee whole. This could include reinstatement, back pay, interest on the back pay and compensation for damages. HMHD prohibits any retaliation against employees who report wrongdoing, including suspected violations of the FCA. [Please note that HMHD has a reporting and non-retaliation policy].
   d. Section 3731 of the FCA sets forth the procedures that must be followed under the act. Civil actions may not be filed more than six (6) years after the date on which the violation occurred or more that three (3) years after the date when material facts are known or should have been known by the US Government, and in no event more than ten (10) years after the date on which the violation occurred.
   e. The US Attorney General has the authority to require individuals with information relevant to false claims to produce the evidence or answer questions about the evidence during the course of an investigation. This must be done in the manner set forth in section 3733 of the Act.

7. *Exemption From Disclosure* – Any information furnished pursuant to "Penalty for Unlawful Conduct" above shall be exempt from disclosure under §552 of title 5.

8. *Exclusion* – This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986. [Title 26 U.S.C.]

B. *Federal Administrative Remedies: Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812.*

1. Pursuant to 31 U.S.C. § 3802 any person who presents a claim that the person knows or has reason to know is false, fictitious or fraudulent or is supported by any written statement that asserts a material fact that is false or omits a material fact is subject to a civil penalty of not more than $5,000 for each claim and the recovery of damages of not more than twice the amount of the claim.

HMHD POLICIES AND PROCEDURES FOR DETECTING FRAUD, WASTE, AND ABUSE: As part of the HMHD Compliance Program, HMHD has enacted a policy entitled, *"Reporting and Investigation of Criminal, Illegal or Unethical Conduct"* that provides a detailed procedure for identifying and reporting potential fraud and abuse. Under this policy, HMHD personnel are obligated to report suspected fraud and abuse, including false or misleading claims or statements, through either the chain-of-command, directly to the Compliance Officer, Mr. John Heatherly at 903-408-1675, or to the HMHD Compliance Hotline at 800-673-0098. The confidentiality of all calls to the Compliance Office and the Compliance Hotline is maintained to the fullest extent permitted by law.

HMHD NON-RETALIATION POLICY: HMHD has adopted a "Non-retaliation" Policy that provides protection for personnel who make a good faith report of issues or concerns—including reports of suspected fraud, waste, and abuse. (See *"Mandatory Compliance Reporting System Policy"*, *"Reporting and Investigation of Criminal, Illegal or Unethical Conduct Policy"*, *"Compliance Remediation Process Policy" and "HMHD Code of Conduct Policy"*.)

PROCEDURE: HMHD is to:

1. Ensure that all employees, medical staff, including management, and any contractors or agents of HMHD are provided with this policy.

2. Make revisions to this policy as necessary to comply with changes in the law. Changes must be documented and implemented.

3. Include this policy in the department compliance policy and procedure manual, HMHD MEDITECH library and HMHD web site.

4. Post this policy, and any revisions, on the HMHD website. Posting the policy on the website makes the policy accessible for all contractors and agents.

REFERENCES:

31 U.S.C. §§3729-3733 (False Claims Act)
31 U.S.C. §§3801-3812 (Administrative Remedies for False Claims and Statements)
The Deficit Reduction Act of 2005 (§6031,6032); or §§1902(a) of the
Social Security Act 42 U.S.C. 1396a(a).
Reporting and Investigation of Criminal, Illegal or Unethical Conduct Policy
HMHD Code of Conduct
Compliance Remediation Process Policy
Billing and Claims Reimbursement Policy
Mandatory Compliance Reporting System Policy
Confirming and Processing Overpayments
Other HMHD Compliance Polices

SUBJECT: State of Texas False Claims Act	PAGE 1 OF 7	REVISED/REVIEWED
	EFFECTIVE DATE 1/25/2007	REVIEWED:
DEPARTMENT: All Departments	PREPARED BY John Heatherly	REVISED:
DIVISION: Hunt Memorial Hospital District	APPROVED BY/TITLE Executive Compliance Committee	

PURPOSE: This policy establishes a written policy for all Hunt Memorial Hospital District (HMHD) employees, including management, contractors, and agents, that:

1. Provides information about the Texas False Claims Acts pertaining to false claims and statements and the civil and criminal penalties for false claims and statements.

2. Provides information about the legal protections under State of Texas law available to personnel who report incidents of false claims to regulatory agencies ("whistleblower protection").

3. Addresses HMHD policies and procedures for detecting fraud, waste and abuse.

POLICY: HMHD will establish written policies and procedures and inform all employees, including management, contractors, and agents regarding the Texas False Claims Acts, Texas civil and criminal penalties, and HMHD procedures for detecting fraud, waste, and abuse.

HMHD may revise the State False Claims Act Policy. HMHD reserves the right to have the revised policy applicable to all contractors who previously received a copy of the policy without the obligation to redistribute the revised policy. A current State False Claims Act Policy will be posted on the HMHD website which can be accessed by all contractors and agents.

SCOPE: HMHD Team Members (employees, including management, contractors, and agents).

STATE LAWS ADDRESSING FALSE CLAIMS:

A. TEXAS FALSE CLAIMS ACT: Texas Human Resources Code Chapter 32

1. A person commits a violation if the person presents or causes to be presented to the department a claim that contains a statement or representation the person knows or should know to be false.

2. A person "should know" or "should have known" information to be false if the person acts in deliberate ignorance of the truth or falsity of the information or in reckless disregard of the truth or falsity of the information, and proof of the person's specific intent to defraud is not required.

3. A person who commits a violation under is liable to the Department of Human Services for the amount paid, if any, as a result of the violation and interest on that amount determined

at the rate provided by law for legal judgments and accruing from the date on which the payment was made; and payment of an administrative penalty of an amount not to exceed twice the amount paid, if any, as a result of the violation, plus an amount:

a). Not less than $5,000 or more than $15,000 for each violation that results in injury to an elderly person, a disabled person, or a person younger than 18 years of age; or,
b). Not more than $10,000 for each violation that does not result in injury to a person described in the previous.

4. In determining the amount of the penalty to be assessed, the department shall consider:

a). The seriousness of the violation;
b). Whether the person had previously committed a violation; and
c). The amount necessary to deter the person from committing future violations.

5. If after an examination of the facts the department concludes that the person committed a violation, the department may issue a preliminary report stating the facts on which it based its conclusion, recommending that an administrative penalty under this section be imposed and recommending the amount of the proposed penalty.

6. A person commits an offense if they intentionally or knowingly commit a violation under this section, such an offense is a state jail felony. If conduct constituting an offense under this section also constitutes an offense under another provision of law, including the Penal Code, the person may be prosecuted under either this section or the other provision.

B. TEXAS MEDICAID FRAUD PREVENTION: Texas Human Resources Code Chapter 36

1. Unlawful Acts – A person commits an unlawful under this act if the person:

a). Knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

b). Knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

c). Knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;

d). Knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification.

e). Except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a

gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;

f). Knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who is not licensed to provide the product or render the service, if a license is required; or is not licensed in the manner claimed;

g). Knowingly makes a claim under the Medicaid program for a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner; a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;

h). Makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;

i). Knowingly enters into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another person in obtaining an unauthorized payment or benefit from the Medicaid program or a fiscal agent;

j). Knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section; or

k). Knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to this state under the Medicaid program.

l). Under this chapter, a person acts "knowingly" with respect to information if the person has knowledge of the information; acts with conscious indifference to the truth or falsity of the information; or acts in reckless disregard of the truth or falsity of the information.

m). Proof of the person's specific intent to commit an unlawful act under this section is not required in a civil or administrative proceeding to show that a person acted "knowingly" with respect to information.

2. Liability – A person who commits an unlawful act under this chapter is liable to the state for:
   a). The amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party;
   b). Interest on the amount of the payment or the value of the benefit for the period from the date the benefit was received or paid to the date that the state recovers the amount of the payment or value of the benefit;
   c). A civil penalty of not less than $5,000 or more than $15,000 for each unlawful act committed by the person that results in injury to an elderly person, a disabled person,

or a person younger than 18 years of age; or not less than $1,000 or more than $10,000 for each unlawful act committed by the person that does not result in injury to a such person.

d). Two times the amount of the payment or the value of the benefit.

e). Not more than two times the amount of a payment or the value of a benefit may be assessed if it is found that the person furnished the attorney general with all information known to the person about the unlawful act not later than the 30th day after the date on which the person first obtained the information; and that time the attorney general had not yet begun an investigation.

3. Action by Private Persons – A private person may bring a civil action for a violation of this section for the person and for the state. The action shall be brought in the name of the person and of the state. The state is to proceed with the action or declines to take over the action. If the state declines to take over the action, the court will dismiss the action.

   a). If the state proceeds with the action, the state has the primary responsibility for prosecuting the action and is not bound by an act of the person bringing the action. The person bringing the action has the right to continue as a party to the action, subject to limitations.

4. Award to Private Plaintiff – If the State proceeds with an action the person bringing the action is entitled to receive at least 10 percent but not more than 25 percent of the proceeds of the action, depending on the extent to which the person substantially contributed to the prosecution.

   a). If the court finds that the action is based primarily on disclosures of specific information, other than information provided by the person bringing the action there may be an award not more than seven percent of the proceeds of the action. If it is found that the action was brought by a person who planned or initiated the violation there may be further reduction the awarding of proceeds.

5. Revocation of Occupational Licenses and Provider Agreements – Medical licensing authorities are to revoke a licensed issued to a person convicted of a felony under Chapter 35 of the Penal Code. Health and Human Services will suspend or revoke provider agreements, permits, licenses, or certification of those who commit unlawful acts under this chapter.

C. TEXAS GOVERNMENT CODE: Health and Human Services Commission Chapter 531

1. The commission may grant an award to an individual who reports activity that constitutes fraud or abuse of funds in the state Medicaid program or reports overcharges in the program if the commission determines that the disclosure results in the recovery of an administrative penalty imposed under the Texas Human Resources Code Section 32.039. The commission may not grant an award to an individual in connection with a report if the commission or attorney general had independent knowledge of the activity reported by the individual.

2. The commission shall determine the amount of an award. The award may not exceed five percent of the amount of the administrative penalty imposed that resulted from the individual's disclosure. In determining the amount of the award, the commission shall consider how important the disclosure is in ensuring the fiscal integrity of the program. The

commission may also consider whether the individual participated in the fraud, abuse, or overcharge. If the individual brings an action under Chapter 36 of the Human Resources Code, they are not eligible to receive an award under this section.

D. TEXAS PENAL CODE: Medicaid Fraud Chapter 35A

1. A person commits an offense if the person commits the same Unlawful Acts outlined under the **Texas Human Resources Code Chapter 36** outlined above. An offense under this section is:

   a). A "Class C" misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is less than $50;
   b). A "Class B" misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is $50 or more but less than $500;
   c). A "Class A" misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is $500 or more but less than $1,500;
   d). A state jail felony if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is $1,500 or more but less than $20,000;
   e). A felony of the third degree if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is $20,000 or more but less than $100,000;
   f). A felony of the second degree if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is $100,000 or more but less than $200,000; or
   g). A felony of the first degree if the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the conduct is $200,000 or more.

2. If conduct constituting an offense under this section also constitutes an offense under another section of this code or another provision of law, the actor may be prosecuted under either this section or the other section or provision.

3. When multiple payments or monetary or in-kind benefits are provided under the Medicaid program as a result of one scheme or continuing course of conduct, the conduct may be considered as one offense and the amounts of the payments or monetary or in-kind benefits aggregated in determining the grade of the offense.

HMHD POLICIES AND PROCEDURES FOR DETECTING FRAUD, WASTE, AND ABUSE: As part of the HMHD Compliance Program, HMHD has enacted a policy entitled, "*Reporting and Investigation of Criminal, Illegal or Unethical Conduct*" that provides a detailed procedure for identifying and reporting potential fraud and abuse. Under this policy, HMHD personnel are obligated to report suspected fraud and abuse, including false or misleading claims or statements, through either the chain-of-command, directly to the Compliance Officer, Mr. John Heatherly at 903-408-1675, or to the HMHD Compliance Hotline at 800-673-0098. The confidentiality of all calls to the Compliance Office and the Compliance Hotline is maintained to the fullest extent permitted by law.

HMHD NON-RETALIATION POLICY: HMHD has adopted a "Non-retaliation" Policy that provides protection for personnel who make a good faith report of issues or concerns—including reports of suspected fraud, waste, and abuse. (See *"Mandatory Compliance Reporting System Policy"*, *"Reporting and Investigation of Criminal, Illegal or Unethical Conduct Policy"*, *"Compliance Remediation Process Policy" and "HMHD Code of Conduct Policy"*.)

PROCEDURE: HMHD is to:

1. Ensure that all employees, medical staff, including management, and any contractors or agents of HMHD are provided with this policy.

2. Make revisions to this policy as necessary to comply with changes in the law. Changes must be documented and implemented.

3. Include this policy in the department compliance policy and procedure manual, HMHD MEDITECH library and HMHD website.

4. Post this policy, and any revisions, on the HMHD website. Posting the policy on the website makes the policy accessible for all contractors and agents.

REFERENCES:

The Deficit Reduction Act of 2005 (§6031,6032); or §§1902(a) of the Social Security Act 42 U.S.C. 1396a(a).
Reporting and Investigation of Criminal, Illegal or Unethical Conduct Policy
HMHD Code of Conduct
Compliance Remediation Process Policy
Billing and Claims Reimbursement Policy
Mandatory Compliance Reporting System Policy
Confirming and Processing Overpayments
Other HMHD Compliance Polices
Texas Human Resources Code Chapter 32
Texas Human Resources Code Chapter 36
Health and Human Services Commission Chapter 531
Texas Penal Code: Medicaid Fraud Chapter 35A

APPENDIX A

MEDIA RELEASES / REQUESTS FOR INFORMATION / SOCIAL MEDIA

A At no time will any Department personnel release any information regarding any incident to any person, unless under subpoena, or specifically authorized by the Chief or Assistant Chief to do so.

1 During the course of a Departmental Response or event, Department personnel shall direct media representatives Incident Command, IC appointed representative, or PIO for distribution of related PSA or other information release

2 Any request for information from the media, or any other entity, shall be forwarded to the Incident Command, or IC appointed representative, or PIO. The release of this information shall be reviewed and approved prior to distribution to media outlet.

3 The exception to this rule is the department Secretary, who is authorized, as the Custodian of Records, to release necessary information to insurance companies, and to respond to subpoenas and other legal summons on behalf of the Department. The Chief and Assistant Chief shall be notified of all such releases of information. Similar requests for EMS operations shall be approved through the office of HMHD EMS Coordinator.

B Electronic Media/Social Networking sites (Facebook, YouTube, Twitter, etc.): Personnel shall not post on social media sites any information or photographs regarding calls/patients to which the department responds,

1 that violate the above listed rules, HIPAA or any other privacy laws, or

2 which may bring the department into disrepute.

**Remember-* *whatever you say in such a forum is visible to the public – thousands, or perhaps millions, of people – be cautious. Be aware of what their opinion will be of you and of the department when they look at it.*

C Information and photographs posted on the department's official website or Facebook page shall be reviewed to ensure that it does not violate these rules.

APPENDIX B

Testing For Cause/Suspicion:
A member of the department may be required to submit to alcohol/drug testing where reasonable suspicion exists in the opinion of FRO peers or other qualified responding agency personnel that the member of suspicion may be under the influence of alcohol or drugs (legal or illegal) when reporting to act within the scope and course of membership. Said Departments Administrator in conjunction with EMS Coordinator shall:
Facilitate all investigations and testing of said member. Review and approval by the EMS Coordinator is required, when possible, prior to all alcohol-drug testing. Administrative approval is required if the EMS Coordinator is unavailable. A member which is being tested for reasonable cause/suspicion shall be suspended pending results.

When requiring a member to submit to testing during customary office hours, the member shall be escorted by their supervisor/ranking member to Quick Care. The Reasonable Suspicion Observation Checklist (provided at point of testing) must be completed by the supervisor/ranking member and returned to Quick Care Agent.

When requiring a member to submit to testing outside of customary office hours, the member shall be escorted to the on-duty HMHD Administrative House Supervisor by their supervisor/ranking member. Subsequently the member under investigation shall be escorted to the ED by the AHS. Laboratory procedure for alcohol/drug testing should be followed for sample collection. The Reasonable Suspicion Observation Checklist must be completed by the supervisor/ranking member in accordance with HMHD chain of custody as defined by HMHD Human Resources policy.

Under no circumstances should a member who appears to be under the influence of alcohol or drugs be told simply to go home. Arrangements for transportation should be made by the members department for the member who appears to be under the influence of alcohol or drugs.

Reasonable suspicion: as used in this section, shall include, but not be limited to, the following:

1. Observation by a supervisor or peer of an on-duty member behaving in a manner which gives that supervisor or peer reason to suspect the member is under the influence of alcohol or drugs.
2. Members involved in or contributing to an accident (collision or personal) possibly caused by human error; and
3. Violations of safety rules or procedures which potentially jeopardize the well-being of member and/or others.

Prior to all alcohol/drug testing, members will be asked to sign a consent form (provided by HMHD testing site) authorizing testing and release of information. Consent forms are available in HMHD receiving facility or from the HMHD Administrative Supervisor. Refusal to sign a consent form, submit to testing, tamper or attempt to tamper with a specimen or otherwise fail to cooperate will subject a member to discipline, up to and including dismissal. The member shall be advised of this fact if they refuse to cooperate and be suspended pending review of their membership status, and test results.

All test results will be forwarded to the EMS Coordinator. Negative test results will involve no membership action. Positive results will require the member suspended pending investigation and confirmation of results by an outside laboratory and may subject the member to the disciplinary process up to and including dismissal. Each case will be reviewed individually by the FRO Department Director HMHD Administrative representative and the EMS Coordinator. Test results shall be retained in the members confidential medical file.

APPENDIX B (1)

REASONABLE SUSPICION OBSERVATION CHECKLIST

(STRICTLY CONFIDENTIAL)

EMPLOYEE NAME: _____

DATE/TIME OF INCIDENT: _____

SUPERVISOR #1 NAME: _____

SUPERVISOR #2 NAME: _____

This checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of a prohibited drug substance or alcohol. The supervisor(s) note all pertinent behavior and physical signs or symptoms, which lead you to reasonably believe that the employee has recently used or is under the influence of a prohibited substance. Circle each applicable item on this form and any additional facts or circumstances which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

1. Observed/reported possession or use of a prohibited substance.
2. Apparent drug or alcohol intoxication.
3. Observed abnormal or erratic behavior.
4. Conviction for drug-related offense.
5. Evidence of tampering on a previous drug test
6. Other (i.e. violation of safety regulations, misconduct, fighting or argumentative, abusive language, refusal of supervisory instruction, unauthorized absence on the job) Please specify:

_____

_____

B. UNUSUAL BEHAVIOR

1. Verbal abuse.
2. Physical abuse.
3. Extreme aggression or agitation.
4. Withdrawal, depression, mood changes, or unresponsiveness.
5. Inappropriate verbal response to questioning or instruction.
6. Other erratic or inappropriate behavior (i.e. hallucinations, disorientation, excessive euphoria, confusion). Please specify:

C. PHYSICAL SIGNS OR SYMPTOMS

1. Possessing, dispensing, or using controlled substance.
2. Slurred or incoherent speech.
3. Unsteady gait or other loss of physical control; poor coordination. B-III-21.6
4. Dilated or constricted pupils or unusual eye movement.
5. Bloodshot or watery eyes.
6. Extreme fatigue, drowsiness, sleeping on the job.
7. Excessive sweating or clamminess to the skin.
8. Flushed or very pale face.
9. Highly excited or nervous.
10. Nausea or vomiting.
11. Odor of alcohol on breath, body or clothing.
12. Odor of marijuana.
13. Dry mouth (frequent swallowing/lip wetting).
14. Dizziness or fainting.
15. Shaking of hands or body tremors/twitching.
16. Irregular or difficult breathing.
17. Runny sores or sores around nostrils.
18. Inappropriate wearing of sunglasses.
19. Puncture marks or "tracks."
21. Other - please specify:

_____

_____

D. WRITTEN SUMMARY

Please summarize the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. Please note the date and location of reasonable cause testing or note if the employee refused testing. Attach additional sheets if needed.

_____

_____

_____

_____

_____

_____

_____ _____

Signature of Supervisor #1 and Date/Time Signature of Supervisor #2 and Date/Time

Received Human Resources_____ Date _____