

#5

Business Associate Agreement

This Agreement is effective on 2-2, 2004, between Wise Regional Health System ("Agency") and Wise County EMS ("Business Associate") dated. The effective date is 2-4, 2004.

Agency and Business Associate agree to modify the Agreement, in order to comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"). In the event of conflicting terms or conditions, this Addendum shall supersede the Agreement.

1. Definitions. Capitalized terms not otherwise defined in the Agreement shall have the meanings given to them in Title 45, Parts 160 and 164 of the CFR and are incorporated herein by reference.

2. Use and Disclosure of Protected Health Information. Business Associate shall use and/or disclose Protected Health Information ("PHI") only to the extent necessary to satisfy Business Associate's obligations under the Agreement.

3. Prohibition on Unauthorized Use or Disclosure of PHI. Business Associate shall not use or disclose any PHI received from or on behalf of Agency, except as permitted or required by the Agreement, as required by law or as otherwise authorized in writing by Agency. Business Associate shall comply with: (a) Title 45, Part 164 of the CFR; (b) State laws, rules and regulations applicable to PHI not preempted pursuant to Title 45, Part 160, Subpart B of the CFR; and (c) Agency's health information privacy and security policies and procedures.

4. Business Associate's Operations. Business Associate may use PHI it creates or receives for or from Agency only to the extent necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities. Business Associate may disclose such PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only if:

(a) the disclosure is required by law; or

(b) Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall:

(i) hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as required by law; and

(ii) notify Business Associate (who shall in turn promptly notify Agency) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.

5. PHI Safeguards. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI received from or on behalf of Agency.

6. Electronic Health Information Security and Integrity. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical security measures in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320d-2(d) of the United States Code and Title 45, Part 142 of the CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted Health Information received from or on behalf of Agency pertaining to an Individual. Business Associate shall document and keep these security measures current.

7. Protection of Exchanged Information in Electronic Transactions. If Business Associate conducts any Standard Transaction for or on behalf of Agency, Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the CFR. Business Associate shall not enter into or permit its subcontractors or agents to enter into any Trading Partner Agreement in connection with the conduct of Standard Transactions for or on behalf of Agency that: (a) changes the definition, Health Information condition or use of a Health Information element or segment in a Standard; (b) adds any Health Information elements or segments to the maximum defined Health Information set; (c) uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification or are not in the Standard's Implementation Specification(s); or (d) changes the meaning or intent of the Standard's Implementation Specification(s).

8. Subcontractors and Agents. Business Associate shall require each of its subcontractors or agents to whom Business Associate may provide PHI received from, or created or received by Business Associate on behalf of Agency to agree to written contractual provisions that impose at least the same obligations to protect such PHI as are imposed on Business Associate by the Agreement.

9. Access to PHI. Business Associate shall provide access, at the request of Agency, to PHI in a Designated Record Set, to Agency or, as directed by Agency, to an Individual in order to meet the requirements under Title 45, Part 164, Subpart E, Section 164.524 of the CFR and applicable State law. Business Associate shall provide access in the time and manner set forth in Agency's health information privacy and security policies and procedures.

10. Amending PHI. Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Agency directs or agrees to pursuant to Title 45, Part 164, Subpart E, Section 164.526 of the CFR at the request of Agency or an Individual, and in the time and manner set forth in Agency's health information privacy and security policies and procedures.

11. Accounting of Disclosures of PHI.

(a) Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Agency to respond to a

request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.

(b) Business Associate agrees to provide Agency or an Individual, in time and manner set forth in Agency's health information privacy and security policies and procedures, information collected in accordance with Section 11(a) above, to permit Agency to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.

12. Access to Books and Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of Agency available to Agency and to DHHS or its designee for the purpose of determining Agency's compliance with the Privacy Rule.

13. Reporting. Business Associate shall report to Agency any use or disclosure of PHI not authorized by the Agreement or in writing by Agency. Business Associate shall make the report to Agency's Privacy Official not less than 24 hours after Business Associate learns of such unauthorized use or disclosure. Business Associate's report shall at least: (a) identify the nature of the unauthorized use or disclosure; (b) identify the PHI used or disclosed; (c) identify who made the unauthorized use or received the unauthorized disclosure; (d) identify what Business Associate has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; (e) identify what corrective action Business Associate has taken or shall take to prevent future similar unauthorized use or disclosure; and (f) provide such other information, including a written report, as reasonably requested by Agency's Privacy Official.

14. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of the Agreement.

15. Termination for Cause. Upon Agency's knowledge of a material breach by Business Associate, Agency shall:

(a) provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Agreement if Business Associate does not cure the breach or end the violation within the time specified by Agency.

(b) terminate the Agreement immediately if Business Associate has breached a material term of the Agreement and cure is not possible.

(c) report the violation to the Secretary, if neither termination nor cure is feasible.

16. Return or Destruction of Health Information.

(a) Except as provided in Section 16(b) below, upon termination, cancellation, expiration or other conclusion of the Agreement, Business Associate shall return to Agency or destroy all PHI received from Agency, or created or received by Business Associate on behalf of Agency. This provision shall apply to PHI that is in the

possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(b) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Agency notification of the conditions that make return or destruction infeasible. Upon verification by Agency that the return or destruction of PHI is infeasible, Business Associate shall extend the protections of the Agreement to such PHI and limit further uses and disclosure of PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

17. Automatic Amendment. Upon the effective date of any amendment to the regulations promulgated by DHHS with respect to PHI, the Agreement shall automatically amend such that the obligations imposed on Business Associate as a Business Associate remain in compliance with such regulations.

IN WITNESS WHEREOF, each of the undersigned has caused this Addendum to be duly executed in its name and on its behalf effective as of 2-2, 2004.

Wise Regional Health System

BUSINESS ASSOCIATE

By: Stephen M. Summers
Print Name: Stephen M. Summers
Title: Chief Executive Officer
Date: _____

By: R.R. Chase
Print Name: Dick Chase
Print Title: Wise County Judge
Date: 2-2-04