

Administration Privacy of Information

1. Introduction

Recent federal legislation has brought the issue of privacy to bear in various areas, particularly as it is applied to medical services. The Health Insurance Portability and Accountability Act of 1996 (commonly referred to as HIPAA) has placed significant constraints and penalties on the disclosure of medical information. The law is generally considered to apply only to healthcare personnel, but has guidelines that should be considered during disasters in which Amateur Radio Emergency Services® (ARES®) personnel may be called upon to support. In addition, there are security concerns that must be taken into account during certain types of disasters. This document provides general operating guidelines for communications privacy that should be employed during ARES® activations.

2. Responsibilities

The Emergency Coordinator (EC) is responsible for maintaining this document.

The Assistant Emergency Coordinator (AEC) for Training is responsible for incorporating these guidelines into training materials and briefings to be used for those responding to emergency conditions.

3. Related Publications

Volunteer Protection Act of 1997 (<http://www.brigham.net/~ayso138/vol.htm>)

4. Definition of Terms

AEC Assistant Emergency Coordinator

ARES® Amateur Radio Emergency Service® (ARES® and Amateur Radio Emergency Service® are registered service marks of the American Radio Relay League.)

EC Emergency Coordinator

5. Guideline

The following precautions should be exercised when providing communications to served agencies during emergencies in which ARES® resources are employed: **As a practical matter, no one should ever be identified by name over the radio unless they have granted permission.**

5.1. General

On June 18, 1997, the "Volunteer Protection Act of 1997" was enacted into law by the United States Congress (111 Stat. 218). The purpose of the Act is to limit lawsuits against volunteers serving nonprofit public and private organizations and governmental agencies. The Act was in response to the withdrawal of volunteers from service to nonprofit organizations, including voluntary associations, because of concerns about possible liability. The Volunteer Protection Act preempts the laws of any State to the extent that such laws are inconsistent with the Act.

The act exempts a volunteer of a nonprofit organization or governmental entity from liability for harm caused by an act or omission of the volunteer on behalf of such organization or entity if: (1) the volunteer was acting within the scope of his or her responsibilities at the time; (2) the volunteer was properly licensed or otherwise authorized for the activities or practice in the State in which the harm occurred; (3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed; and (4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or owner to possess an operator's license or maintain insurance.

That stated, in relation to matters of privacy, as a practical matter, no one should ever be identified by name over the radio unless they have granted permission. Such permission is implied if they have requested a formal radio message be transmitted and they understand that the message will be transmitted via an unencrypted means. It is imperative that served agencies be briefed on the unsecured nature of Amateur Radio communications in advance of emergency situations so they may prepare with appropriate codes words, etc., that may be used for sensitive information.

5.2. Medical Information

Medical information may be transmitted via Amateur Radio provided that an individual's identify and the medical data are NOT associated. These are the same rules employed by emergency medical personnel. In most cases, medical personnel use unsecured communications and are familiar with the limitations of what can be transmitted. Under certain conditions, code words are used to identify specific conditions. Under Part 97 of the Federal Communications Commission's Rules and Regulations, in the protection of life, whatever means of communications necessary can be employed. If provided with information from the served agency, the information may be transmitted as provided to you, without change, including the use of code words. In those situations, you should use appropriate message forms to record and obtain authorization for the message.

5.3. Very Important Person Identification

Depending on circumstances, it may not be appropriate to identify the location of individuals by name. Security issues may dictate that the location of a specific individual should not be revealed. In such circumstances, should it be imperative to locate the individual or place the individual at a specific location, a secure means of identifying the individual should be used. This type information would fall under the "protection of life" clause of the FCC Rules and Regulations.

The same may apply to shelter occupants. Situations may dictate that disclosure of names would not be in the best interest of the individual. The Red Cross has indicated that open communications of individuals located in shelters is not to be transmitted in clear text. However, digital modes have been indicated as acceptable. Red Cross shelter managers should be the final judge as to what information can be transmitted and what means are acceptable.

6. Release Information

Stan Edwards, WA4DYD, Emergency Coordinator, is the author of this document.

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