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BOARD OF SELECTMEN

January 4, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

To: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY
FIRE CHIEF

Re: Amendments to HIPAA

The American Recovery and Reinvestment Act of 2009 ("ARRA") was signed into law in early 2009. Title XIII of ARRA, the Health Information Technology for Economic and Clinical Health Act ("the HITECH Act"), significantly expands the application of the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Certain provisions of the Act are currently effective and others will take effect on February 17, 2010 or thereafter. In summary, HIPAA's expanded requirements apply to entities, such as municipalities, that provide emergency medical services, and now also apply directly to business associates of covered entities.

Applicability of HIPAA

A municipality that electronically transmits health information while providing emergency medical services, or for related billing purposes, is considered a "Covered Entity" subject to HIPAA ("Covered Entity"). 45 CFR 160.103. Under HIPAA, a "Business Associate" is a person or organization, other than an employee of the Covered Entity, which provides certain services to a Covered Entity involving the use or disclosure of health information ("Business Associate"). 45 CFR 160.103. For example, a Business Associate includes a contractor assisting a fire or emergency medical services department with medical billing. Protected Health Information ("PHI") includes any information concerning an identifiable individual, whether living or deceased, created or received by a Covered Entity that relates to: either the past, present or future physical or mental health or condition of, or the provision of health care to, an individual; or the past, present or future payment for the provision of health care to an individual.

ARRA

While ARRA broadens HIPAA's Privacy and Security Rules, it does not represent a fundamental change to obligations under these Rules. Below is a summary of significant ARRA amendments to HIPAA.

- Direct Applicability to Business Associates - HIPAA's Privacy and Security Rules are now directly applicable to a Covered Entity's Business Associates. This means that a Business Associate will now have an independent duty under HIPAA to maintain the confidentiality and security of all electronically transmitted PHI used or disclosed in assisting a