1	[Administrative Code - Catastrophic Illness Programs]
2	
3	Ordinance amending the Administrative Code to authorize the Department of Human
4	Resources to carry out various functions in the administration of the T.J. Anthony
5	Employee Catastrophic Illness Program for City employees and the Catastrophic
6	Illness Program for Family Members of City employees.
7 8 9	NOTE: Unchanged Code text and uncodified text are in plain Arial font.  Additions to Codes are in <u>single-underline italics Times New Roman font</u> .  Deletions to Codes are in <u>strikethrough italics Times New Roman font</u> .  Board amendment additions are in <u>double-underlined Arial font</u> .
10	Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.
<ul><li>11</li><li>12</li><li>13</li></ul>	Be it ordained by the People of the City and County of San Francisco:
14	Section 1. Article I of Chapter 16 of the Administrative Code is hereby amended by
15	revising Sections 16.9-29A and 16.9-29B, to read as follows:
16	SEC. 16.9-29A. T. J. ANTHONY EMPLOYEE CATASTROPHIC ILLNESS
17	PROGRAM – TRANSFER OF SICK LEAVE AND VACATION CREDITS TO INDIVIDUAL
18	CATASTROPHICALLY ILL EMPLOYEES OR TO A POOL FOR THE BENEFIT OF
19	CATASTROPHICALLY ILL <u>CITY</u> EMPLOYEES.
20	(a) Purpose. To enable catastrophically-ill City employees of the City and County of San
21	Francisco ("City") to continue to be paid through donations of sick leave and vacation hours
22	from other <i>City</i> employees, as authorized by Charter Sections A8.364 and A8.441. This
23	program shall be known as the <u>T. J. Anthony</u> Catastrophic Illness Program, or "CIP." This
24	Section <u>16.9-29A</u> only provides for receipt of such credits as are donated and does not provide
25	for an absolute right of continued paid leave.

1	(b) Establishment of <u>Catastrophic Illness Leave</u> Pool; Administration and Rule-
2	Making Authority. There is hereby established a pool into which <u>City</u> employees may donate
3	sick leave and/or vacation credits to benefit catastrophically ill City employees. The $\underline{\textit{Human}}$
4	Resources Director, in consultation with the Controller, shall have authority to administer the CIP
5	program, including the authority to make and enforce rules not inconsistent with this Section
6	16.9-29A, with consultation from the Director of Health or his or her designee.
7	(c) <b>Definitions</b> .
8	$\underline{(I)}$ A "e $\underline{C}$ atastrophic illness" shall-mean $\underline{s}$ a life-threatening illness or injury, as
9	determined by the Department of Public Health or its Human Resources Director or the Director's
10	designee.
11	(2) An "active participant" in the "CIP employee" is defined as means an City
12	employee who has applied for Catastrophic Illness Status and $\underline{\textit{has}}$ been notified of $\underline{\textit{his or}}$
13	hertheir acceptance in the CIP by the Department of Public Health Human Resources Director or
14	its the Director's designee and whose participation in the CIP has not terminated, regardless of
15	whether or not the employee has actually received or used any donated sick leave and/or
16	vacation credits Catastrophic Illness Leave.
17	"CIP Pool" means the bank of sick leave credits and vacation hours from all employees
18	who have donated to the Catastrophic Illness Program.
19	(d) Eligibility of Employees #to Participate in CIP. Any City employee of the City and
20	County of San Francisco may participate in the CIP if the employee meets all of the following
21	conditions:
22	(1) The employee is eligible to accumulate and use sick leave and vacation
23	credits;
24	(2) The employee is catastrophically ill;
25	(3) The employee has exhausted all of his/her their available paid leave; and

(4) The employee does not participate in a short or long-term disability program for which the City pays in whole, directly or indirectly, or if the employee participates in such a program, the employee agrees to, and does, apply for disability benefits immediately upon becoming eligible for such benefits. Any employee who participates in a short or long-term disability program for which the City pays in whole, directly or indirectly, may participate in the CIP program until the employee receives or is qualified to receive benefits under the terms of a short or long-term disability program for which the City pays in whole, directly or indirectly. Any employee who is receiving or is qualified to receive short or long term disability benefits from a short or long term disability program for which the City pays in whole, directly or indirectly, may not participate in the CIP program until and unless the employee's disability benefits terminate. Any employee who, while or after participating in the CIP program, retroactively receives or is qualified to receive short or long-term disability benefits from a short or long-term disability program for which the City pays in whole, directly or indirectly, must reimburse the City for the CIP payments received during the period which the short or long-term disability program applies. Failure to do so will result in the City's placing a lien for the unreimbursed amount on the employee's future wages and benefits (not including workers' compensation or retirement). This Subsection (d)(4)This paragraph does not apply to employees who are active participants in the CIP as of April 29, 2002 and have been active participants since March 29, 2002.

## (e) Procedure for Applying for Catastrophic Illness Status.

(1) An employee must complete a prescribed application form and return it to the *Department of Public Health <u>Human Resources Director</u>* or *its the Director's* designee together with supporting medical documentation. The *Department of Public Health <u>Human Resources</u>*<u>Director</u> or *its the Director's* designee shall produce and maintain *sufficient quantities of* the

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Mayor Breed; Supervisors Chan, Mandelman

1	prescribed application for employee access and distribution on the Department of Human
2	Resources' website.

- The Department of Public Health Human Resources Director Or its the Director's designee shall examine the documentation supporting the application. The *Department of* Public Health Human Resources Director or it's the Director's designee may ask the applicant to submit further documentation and/or to submit to examination by a physician that # the Director or the Director's designee designates to determine in fact that the applicant does suffer from a catastrophic illness within the meaning of this Section 16.9-29A. An applicant's failure to comply with these requirements may be grounds for rejection of the application.
- (3) In order to continue to qualify as catastrophically ill, a CIP employee may from time to time be required to submit to specified examination, or to supply further documentation of current medical status, as is necessary in the opinion of the Department of Public Health or its designee a physician or other healthcare provider designated by the Human Resources Director or its the Director's designee.; provided, however, that sSuch requests shall not be made for the sole purpose of harassing determining the continued qualification of said employee to participate in the CIP. In addition, an employee may be required to submit documentation of application for and/or status of disability benefits. The Department of Human Resources may reevaluate employee program eligibility annually or as necessary.
- (4) If the *Department of Public Health Human Resources Director* or its the <u>Director's</u> designee determines that an employee is not catastrophically ill, the <u>Human</u> Resources Director or the Director's designee employee shall have a right to a review by the Director of Health and, finally, a hearing before the Health Commission. The Department of Public Health or its designee shall provide the employee with a written letter setting forth the reasons for denial and the procedure for filing an administrative appeal. The *Health Commission shall promulgate* and post the administrative appeal rules. employee may appeal the rejection to the Human Resources

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1	Director within 10 days of the date of the notice of rejection. The Human Resources Director shall
2	appoint a medical specialist not employed by the City to conduct an evaluation and to report the
3	findings. The decision of the medical specialist shall be final and no further appeal shall be allowed.
4	The administrative appeal process in its entirety shall not exceed 60 days. An employee
5	whose application has been disapproved is not obligated to exhaust the administrative
6	appeals process before reapplying. Instead, the employee may reapply after observing a 30-
7	day waiting period from the date of the initial denial.

## (f) Posting of Eligible Recipients. Records of Catastrophic Illness Program Applicants.

- (1) The *Department of Public Health Human Resources Director* or *its the Director's* designee shall *assign an exclusive number to each catastrophically ill employee deemed eligible maintain confidential files for all applicants who have applied to* participate in the CIP.
- (2) The Department of Public Health Human Resources Director Or its the Director's designee shall maintain, reproduce and post a running list of CIP employees, to be identified only by their exclusive numbers, in order to let transferring employees designate a recipient send confidential quarterly notifications to the eligible employee's Human Resources Representative(s) of any employee participating in CIP.
- (3) The *quarterly notifications information list* may include the amounts of sick leave *and vacation credits already* transferred *or on reserve* to each CIP employee.
- (4) In all cases, the *Department of Public Health Human Resources Director* and *its the Director's* designees shall shield and protect the true identities of CIP employees *except as required for the administration of the program*.
- (g) **Eligibility to Transfer Sick Leave and/or Vacation Credits.** Any <u>City</u> employee <u>of</u> <u>the City</u> who is eligible to accumulate and use vacation credits and <u>/or</u> sick leave may transfer sick leave and/or vacation credits to the CIP pool <u>or to an individual CIP employee</u>, subject to the following conditions:

1	(1) The transferring employee must retain a minimum sick leave balance of 64
2	hours except upon retirement when employees may transfer all unused balances.
3	(2) Transfers must be in units of eight hours.
4	(3) All transfers are irrevocable.
5	(4) The transferring employee may transfer hours to the CIP pool only once per
6	pay period.
7	(5) The transferring employee may transfer a maximum of 160 hours per pay of which
8	no more than 80 hours may be to individual CIP employees.
9	(6) The transferring employee may transfer a maximum of 480 hours per fiscal year to
10	the pool and to individual CIP employees combined.
11	(7) Neither a transferring employee nor a CIP employee may be in violation of
12	Subsection (k).
13	(h) Use of Transferred Sick Leave and Vacation Credits.
14	(1) All hours transferred to the eligible CIP employee shall be credited as sick
15	leave for the CIP employee. As they are used, they shall be treated as the employee's own
16	sick leave for all purposes, including for continued accrual of vacation credits, sick leave, and
17	retirement service; service for pay increments; and eligibility for holiday pay.
18	(2) At the beginning of each pay period, a CIP employee must use all sick
19	leave and vacation credits accrued during the previous pay period before using any
20	transferred hours.
21	(3) A CIP employee may use transferred hours retroactively from the date of
22	certification of eligibility back to the date of application.
23	(4) A CIP employee may use transferred credits in a pay period to the extent
24	that when combined with other compensation from the City and County and all other benefits
25	from public sources, the total does not exceed the pay for 100% percent of the employee's

1	regularly scheduled hours for such pay period (excluding regularly scheduled overtime and
2	premium pay). A CIP employee may be required to provide financial records to prove
3	compliance with this $\underline{Ss}$ ubsection $\underline{(h)(4)}$ . Failure to provide such records is grounds for
4	exclusion from the CIP.
5	(i) Redistribution of Transferred Hours Upon Termination of Participation In CIP.
6	If a CIP employee dies, retires, resigns or begins receiving disability benefits before
7	having used all hours transferred pursuant to this <u>Subsection (h)</u> Section, the unused hours shall
8	be transferred to the CIP pool. <i>If a CIP employee's participation in the CIP expires or is terminated</i>
9	before the employee has used all hours transferred pursuant to this Section, all unused hours in excess
10	of 64 hours shall be transferred to the CIP pool.
11	If a CIP employee is able to return to work for the City following a catastrophic illness, the
12	employee may continue to draw up to 64 hours of CIP credits in lieu of accrued sick leave as necessary
13	for 90 days after the date the employee returns to work.
14	(j) Confidentiality.
15	(1) All medical records submitted by an employee pursuant to this statute shall
16	be kept confidential by the <i>Department of Public Health <u>Human Resources Director</u></i> or <i>its-the</i>
17	<u>Director's</u> designee.
18	(2) Until the <i>Department of Public Health Human Resource Director</i> or <i>its the</i>
19	<u>Director's</u> designee has rendered <u>its</u> <u>an</u> opinion pursuant to Subsection (d) that the employee
20	is catastrophically ill, the fact of an employee's application shall be kept confidential by the
21	parties processing the application and not shared with the employee's department head.
22	(3) The names of employees donating hours pursuant to this provision shall
23	remain confidential.
24	(4) Violation of the provisions of this subsection (j) or any other provision

relating to confidentiality protections shall be grounds for disciplinary action.

1	(k) No Selling or Coercion.
2	(1) No individual shall directly or indirectly solicit the receipt of, or accept, any
3	compensation in full or partial exchange, directly or indirectly, for sick leave or vacation credits to be
4	transferred pursuant to this Section.
5	(2) No individual shall solicit the receipt of, or accept, the transfer of any sick leave or
6	vacation credits pursuant to this Section in full or partial exchange, directly or indirectly, for any
7	compensation.
8	(3) No individual shall threaten or in any way attempt to coerce an employee with
9	respect to transfer of sick leave or vacation credits pursuant to this Section.
10	(4) Violation of the provisions of this subsection (k) shall be grounds for termination of
11	participation in the CIP and for disciplinary action.
12	( <u>lk</u> ) <b>Notices.</b> The <i>Civil Service Commission <u>Human Resources Director or the Director's</u></i>
13	<u>designee</u> shall develop notices with relevant information about the CIP. These notices shall be
14	distributed to all appointing officers, who shall then post them in public places where other
15	notices advising employees of rights and benefits are posted.
16	$(\underline{ml})$ <b>Termination of this Provision.</b> Unless otherwise specified by ordinance or
17	Charter provision, the provisions of this Section shall expire upon the effective date of an
18	ordinance or Charter section instituting, or upon the effective date of the last MOU through
19	which all City employees are covered by, a long-term disability program.
20	$(\underline{nm})$ <b>Limitation.</b> In undertaking the adoption and enforcement of this ordinance, the
21	City and County of San Francisco is assuming an undertaking only to promote the general
22	welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
23	breach of which it is liable in money damages to any person who claims that such breach

proximately caused injury.

24

1	SEC. 16.9-29B. PROGRAM FOR EMPLOYEES WITH CATASTROPHICALLY ILL FAMILY
2	MEMBERS -TRANSFER OF VACATION CREDITS TO INDIVIDUAL EMPLOYEES WITH A
3	CATASTROPHICALLY ILL FAMILY MEMBER.
4	(a) Purpose. To create a program, as authorized by Charter Section A8.441, to allow
5	employees of the City and County of San Francisco ("City") with catastrophically ill family
6	members to receive donations of vacation credits to take time off to care for their ill family
7	member. This program shall be known as the Catastrophic Illness Program for Family
8	Members, or "CIP-FM." This Section $\underline{16.9-29B}$ only provides for receipt of such credits as are
9	donated and does not provide for an absolute right of continued paid leave.
10	(b) Administration and Rule-Making Authority. The Human Resources Director, in
11	consultation with the Controller, shall have authority to administer the CIP-FM program,
12	including the authority to make and enforce rules not inconsistent with this Section $\underline{16.9-29B_7}$
13	with consultation from the Director of Health or his or her designee.
14	(c) <b>Definitions.</b>
15	$\underline{(1)}$ $\underline{A}$ $\underline{eC}$ atastrophic illness $\underline{shall}$ mean $\underline{s}$ a life-threatening illness or injury, as
16	determined by the <i>Department of Public Health <u>Human Resources Director</u></i> or <i>its the Director's</i>
17	designee.
18	(2) "Family member" means a <u>n employee's</u> spouse, registered domestic partner,
19	or another dependent as dependent is defined in the Internal Revenue Code (26 U.S.C. sec.
20	152, as amended from time to time).
21	(d) Eligibility of Employee $\underline{\mathit{Tt}}$ o Participate in CIP-FM Program. In order to participate
22	in the CIP-FM, an employee must meet all of the following conditions:
23	(1) The employee must be eligible to accumulate and use sick leave credits;
24	(2) The employee must have exhausted all of his/her their available paid leave;
25	(3) The employee must have a catastrophically-ill family member; and

1 (4) The employee must need to take time off from work to care for the 2 catastrophically ill family member. 3 (e) Procedure for Applying to Participate in CIP-FM. (1) An employee must complete a prescribed application form and return it to the 4 5 Department of Public Health Human Resources Director or its the Director's designee, together 6 with supporting medical documentation. The *Department of Public Health Human Resources* 7 Director or its the Director's designee shall produce and maintain sufficient quantities of the 8 prescribed applications for employee access and distribution on the Department of Human 9 Resources' website. (2) The Department of Public Health Human Resources Director or its the Director's 10 designee shall examine the application and supporting documentation. The *Department of* 11 12 Public Health Human Resources Director or its the Director's designee may ask the employee to 13 submit further documentation or the family member to submit to examination by a physician. 14 Failure to comply with these requirements may be grounds for rejection of the application. 15 (3) In order for the employee to continue to participate in the program, anthe employee may from time to time be required to supply further documentation, or the family 16 17 member may be required to submit to specified examination, as is necessary in the opinion of 18 the *Department of Public Health Human Resources Director* or *its* the Director's designee; 19 provided, however, that such requests shall not be made for the sole purpose of determining the 20 continued qualifications of said employee to participate in the CIP-FM. harassment. 21 (4) If the *Department of Public Health Human Resources Director* or *its* the Director's

designee determines that an employee's family member is not catastrophically ill, the *Human* 

Resources Director or the Director's designee employee shall have a right to appeal the decision

through an administrative appeal process to be established by the Health Commission, which shall

include the right to a review by the Director of Health and, finally, a hearing before the Health

22

23

24

Commission. The Department of Public Health or its designee shall provide the employee with
written notice setting forth the reasons for denial and the procedure for filing an administrative
appeal. The <i>Health Commission shall promulgate and post the administrative appeal rules</i> . <u>employee</u>
may appeal the rejection to the Human Resources Director within 10 days of the date of the notice of
rejection. The Human Resources Director shall appoint a medical specialist not employed by the City
to conduct an evaluation and to report the findings. The decision of the medical specialist shall be final
and no further appeal shall be allowed. The administrative appeal process in its entirety shall not
exceed 60 days. An employee whose application has been disapproved is not obligated to
exhaust the administrative appeals process before reapplying. Instead, the employee may
reapply after observing a 30-day waiting period form the date of the initial denial.

## (f) Posting of Eligible Recipients.

- (1) The *Department of Public Health Human Resources Director* or *its the Director's* designee shall assign an exclusive number to each employee deemed eligible to participate in the CIP-FM.
- (2) The *Department of Public Health Human Resources Director* or *its the Director's* designee shall maintain, reproduce and post a running list of CIP-FM employees, to be identified only by their special numbers, in order to let transferring employees designate a recipient.
- (3) The list may include the amount of vacation credits already transferred or on reserve to each employee.
- (4) In all cases, the Department of Public Health The Human Resources Director and its or the Director's designees shall keep confidential the true identities of CIP-FM employees and their catastrophically ill family member.
- (g) Eligibility to Transfer Vacation Credits to Individual CIP-FM Employees. Any

  <u>City</u> employee <u>of the City and County of San Francisco</u> who is eligible to accumulate and use

1	vacation credits may transfer vacation credits to an individual CIP-FM employee, subject to
2	the following conditions:
3	(1) Transfers must be in units of eight hours;
4	(2) All transfers are irrevocable; and
5	(3) The transferring employee may transfer hours to the CIP-FM only once per
6	pay period;
7	(4) The transferring employee may transfer a maximum of 80 hours per pay
8	period;
9	(5) The transferring employee may transfer a maximum of 480 hours per fiscal
10	year to the GIP-FM program; and
11	(63) Neither a transferring employee nor a recipient may be in violation of
12	Subsection (k).
13	(h) Use of Transferred Vacation Credits By a CIP-FM Employee.
14	(1) All hours transferred shall be credited as sick leave for the CIP-FM
15	employee. As they are used, they shall be treated as use of the employee's own sick leave for
16	all purposes, including for continued accrual of vacation credits, sick leave, and retirement
17	service; service for pay increments; and eligibility for holiday pay.
18	(2) At the beginning of each pay period, a CIP-FM employee must use all sick
19	leave and vacation credits accrued during the previous pay period before using any
20	transferred hours.
21	(3) A CIP-FM employee may use transferred credits in a pay period to the exten
22	that when combined with other compensation from the City and County and all other benefits
23	from public sources, the total does not exceed the pay for 100% percent of the employee's
24	regularly scheduled hours for such pay period (excluding regularly scheduled overtime and
25	premium pay). A CIP-FM employee may be required to provide financial records to prove

1	compliance with this subsection $(h)(3)$ . Failure to provide such records is grounds for
2	exclusion from the CIP-FM and disciplinary action.
3	(i) Redistribution of Transferred Hours Upon Termination of Participation in CIP-
4	FM. If a CIP-FM employee dies, retires, resigns, or otherwise ends participation in the CIP-FM
5	before having used all hours transferred pursuant to this provision, all unused hours in excess
6	of 64 shall be redistributed to other CIP-FM employees by the Human Resources Director or the
7	Director's designee.
8	(j) Confidentiality.
9	(1) All medical records submitted pursuant to this statute shall be kept
10	confidential by the <i>Department of Public Health <u>Human Resources Director</u> or <i>its the Director's</i></i>
11	designee;
12	(2) Until the Department of Public Health Human Resources Director or its the
13	<u>Director's</u> designee has rendered its opinion pursuant to Subsection (d) that an employee's
14	family member is catastrophically ill, the fact of an employee's application shall be kept
15	confidential by the parties processing the application and not shared with the employee's
16	department head.
17	(3) The names of employees donating hours pursuant to this provision shall
18	remain confidential.
19	(4) Violation of the provisions of this subsection (j) or any other provision relating
20	to confidentiality protections shall be grounds for disciplinary action.
21	(k) No Selling or Coercion.
22	(1) No individual shall directly or indirectly solicit the receipt of, or accept, any
23	compensation in full or partial exchange, directly or indirectly, for vacation credits to be
24	transferred pursuant to this Section.

1	(2) No individual shall solicit the receipt of, or accept, the transfer of any
2	vacation credits pursuant to this Section in full or partial exchange, directly or indirectly, for
3	any compensation.
4	(3) No individual shall threaten or in any way attempt to coerce an employee
5	with respect to transfer of vacation credits pursuant to this Section.
6	(4) Violation of the provisions of this subsection (k) shall be grounds for
7	termination of participation in the CIP-FM and for disciplinary action.
8	(I) Notices. The Civil Service Commission Human Resources Director shall develop
9	notices with relevant information about the CIP-FM. These notices shall be distributed to all
10	appointing officers who shall then post them in public places where other notices advising
11	employees of rights and benefits are posted and shall be available on the Department of Human
12	<u>Resources' website</u> .
13	(m) Limitation. In undertaking the adoption and enforcement of this ordinance, the
14	City and County of San Francisco is assuming an undertaking only to promote the general
15	welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
16	breach of which it is liable in money damages to any person who claims that such breach
17	proximately caused injury.
18	
19	Section 2. Effective Date. This ordinance shall become effective 30 days after
20	enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21	ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22	of Supervisors overrides the Mayor's veto of the ordinance.
23	
24	Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors

intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1	numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2	Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3	additions, and Board amendment deletions in accordance with the "Note" that appears under
4	the official title of the ordinance.
5	
6	APPROVED AS TO FORM:
7	DAVID CHIU, City Attorney
8	
9	By: <u>/s/ Bradley A. Russi</u> BRADLEY A. RUSSI
10	Deputy City Attorney
11	n:\legana\as2023\2300333\01786187.docx
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	