

LEGISLATIVE DIGEST

[Administrative Code - Designation Under Health Insurance Portability and Accountability Act (HIPAA)]

Ordinance amending the Administrative Code to designate the City and County of San Francisco (“City”) as a hybrid entity under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”); to require the City Administrator to prepare a report identifying those City departments, and/or divisions thereof, that would qualify as covered entities or business associates under HIPAA, for approval by resolution of the Board of Supervisors; and to require the City Administrator to develop, maintain, and administer a citywide HIPAA compliance policy.

Existing Law

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 U.S.C. §§ 1320d et seq., requires entities that perform certain health care functions to comply with regulations related to the use, disclosure, and security of individually identifiable health information.

HIPAA permits a single legal entity that is engaged in both covered health care functions and non-covered functions to designate itself a “Hybrid Entity.” To become a Hybrid Entity, the single legal entity must identify and designate as health care components those departments or divisions of the entity that perform 1) covered health care functions or 2) activities that involve the use or disclosure of protected health information on behalf of another department or division thereof that performs covered health care functions. Once the single legal entity makes a Hybrid Entity designation, HIPAA and its implementing regulations apply only to those components of the entity that are designated as health care components, and do not apply to the remainder of the entity.

The City and County of San Francisco (“City”) has not yet made a hybrid entity designation. Therefore, HIPAA and its implementing regulations currently apply to the entire City.

Amendments to Current Law

The proposed ordinance would designate the City as a hybrid entity under HIPAA, and would delegate to the City Administrator, or the City Administrator’s designee, the duty to identify those departments, or divisions thereof, that perform activities that are covered by HIPAA. Within one month of the effective date of the ordinance, and not less than every three years thereafter, the City Administrator or her designee would be required to submit to the Board of Supervisors a list of departments that engage in activities that are covered by HIPAA, along with a proposed resolution to designate those departments as health care components.

Background

The City performs functions as a health care provider and health plan that make it subject to HIPAA. For example, the Department of Public Health operates hospitals and multiple health care clinics, and the Health Service System operates a health plan. The City also performs many functions that are unrelated to health care and are not subject to compliance with HIPAA.

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