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**AGENDA COVER MEMO**

**AGENDA DATE:** May 25, 2011  
**TO:** Lane County Board of Commissioners  
**DEPARTMENT:** County Counsel  
**PRESENTED BY:** Trina Laidlaw, Assistant County Counsel  
**AGENDA ITEM TITLE:** In the Matter of Amending Chapter 2 of Lane Manual to Delegate Additional Authority to the County Administrator to Adopt HIPAA Procedures and Guidelines and Take Personnel Related Action (LM. 2.182) and Approving Selection of Privacy Officer

**I. MOTION**

MOVE TO AMEND CHAPTER 2 OF LANE MANUAL TO DELEGATE ADDITIONAL AUTHORITY TO THE COUNTY ADMINISTRATOR TO ADOPT HIPAA PROCEDURES AND GUIDELINES AND TAKE PERSONNEL RELATED ACTION (LM 2.182) AND APPROVING SELECTION OF HIPAA PRIVACY OFFICER.

**II. ISSUE OR PROBLEM**

Should the Board of Commissioners expand the delegated authority of the County Administrator to select a replacement county HIPAA Privacy Officer when necessary (e.g., a vacancy) subject to the approval of the Board, and; to either select, or adopt additional procedures and guidelines for department directors to select, HIPAA privacy/contact persons within departments, and; as a "housekeeping" item, incorporate its prior decision to allow the County Administrator to make changes to health care component designations for departments into LM 2.182?

**III. DISCUSSION**

**A. Background**

In January 2003 the Board of Commissioners adopted LM 2.182 related to the County's policy for compliance with HIPAA. At that time, the Board also designated Lane County government as a "hybrid covered entity" for HIPAA compliance. As a "hybrid" the County is able to identify only the departments and programs which it believes should be covered under HIPAA and by doing so, exclude others which should not be covered. The Board initially adopted the covered "health care component designations". In April 2003, the Board modified those designations and also delegated authority to the County Administrator to modify those designations in the future.

Also, in its January 2003 decision, the Board made 2 different personnel designations and approved a list of duties for each:

1. The County's Internal Auditor was designated as the county HIPAA Privacy Officer, and
2. Four additional County employees were designated as department privacy officer/contact persons.

#### **B. Analysis**

The County Administrator adopted procedures and guidelines to implement HIPAA into County government, and those are located in Chapters 4 and 5 of the County's APM. This includes a "Lane County Hybrid Covered Entity" chart with health care component designations. APM, Chapter 4, Section 1, Appendix A. With the delegation of authority given by the Board to the County Administrator in a separate Board Order (Board Order #03-4-9-9), this chart has been modified by the County Administrator as the departments' programs and roles were clarified and as the county organization has changed. The Board's approval of this agenda item to modify LM 2.182 would simply incorporate the delegation of authority into a more central location in Lane Manual rather than leaving it in a separate Board Order.

It was appropriate for the Board be the entity to designate the Internal Auditor as the county Privacy Officer because the Auditor reported directly to the Board. Given the need for a change, Liane Richardson (Acting County Administrator) asked Karen Gaffney, Assistant Director of Health and Human Services to serve as the county HIPAA Privacy Officer. Key departments have provided a representative for the HIPAA Task Force/Committee. Ms. Gaffney is willing to serve in this role and meet with the Task Force/Committee to work on HIPAA matters. Because this Privacy Officer is a countywide position, it is advisable for the Board to maintain authority to approve or disapprove of the County Administrator's selection. The Board's approval of this agenda item would delegate the authority of the County Administrator to select a county HIPAA Privacy Officer when needed, and specifically give more formal approval for Ms. Gaffney to serve in that role.

The County is required to designate HIPAA contact persons, and those should be in departments who have "primary" responsibilities under HIPAA, such as Human Resources with the employee health plan, as well as Youth Services, and Health and Human Services for health care provider services, in addition to any others the County may wish to designate. The Board initially designated the HIPAA privacy/contact officers in departments and delegated authority to certain department directors to make changes in the designations as personnel changed. It would be advisable for the County Administrator to now have the authority to determine the departments with HIPAA contact persons including as changes occur, make contact designation changes or adopt procedures and guidelines covering changes of contact persons, their specific duties and meeting other HIPAA requirements.

#### **IV. ALTERNATIVES/OPTIONS**

1. Approving this agenda item would assist with HIPAA compliance efforts.
2. Not approving some or all of this agenda item would leave some HIPAA issues unresolved and delay compliance related efforts.

**V. RECOMMENDATION**

Option 1 is recommended

**VI. TIMING/IMPLEMENTATION**

If this agenda item is approved, it would be effective immediately. Ms. Gaffney and the HIPAA Task Force/Committee will continue with the meetings that are scheduled, and the Acting County Administrator will update procedures as necessary.

**VII. FOLLOW-UP**

None.

**VIII. ATTACHMENTS**

Board Order

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 11-5-25-\_\_\_\_\_

IN THE MATTER OF AMENDING CHAPTER 2  
OF LANE MANUAL TO DELEGATE ADDITIONAL  
AUTHORITY TO THE COUNTY  
ADMINISTRATOR TO ADOPT HIPAA  
PROCEDURES AND GUIDELINES AND TAKE  
PERSONNEL RELATED ACTION (LM 2.182)  
AND APPROVING SELECTION OF HIPAA  
PRIVACY OFFICER

**WHEREAS**, in January 2003, by Board Order 03-1-21-2, the Board of County Commissioners adopted a HIPAA policy in LM 2.182 delegating authority to the County Administrator to adopt certain procedures and guidelines, and also made certain health care component and personnel designations; and

**WHEREAS**, in April 2003 by Board Order 03-4-9-9, the Board of County Commissioners modified health care component designations and delegated additional authority to the County Administrator to modify those as necessary in the future; and

**WHEREAS**, modifying LM 2.182 to reflect its delegation in April 2003, specifying the procedure for changing the HIPAA Privacy Officer and delegating additional authority to the County Administrator to address changes in HIPAA contact personnel and their duties within the departments will assist with the County's compliance with HIPAA; and

**WHEREAS**, the County Administrator's selection of Ms. Gaffney and Ms. Gaffney's willingness to serve as the county HIPAA Privacy Officer will be a significant benefit to the County.

**NOW, THEREFORE**, the Board of County Commissioners of Lane County orders as follows:

1. Lane Manual Chapter 2 is hereby amended by changing the following section:

**DELETE THIS SECTION**

2.182  
as located on page 2-13  
(a total of 1 page)

**INSERT THIS SECTION**

2.182  
as located on page 2-13  
(a total of 1 page)

Said section is attached hereto and incorporated herein by this reference. The purpose of this revision is to add to the delegated authority of the County Administrator to adopt HIPPA procedures and guidelines and take personnel related action (LM 2.182).

2. The County Administrator's selection of Ms. Karen Gaffney, Assistant Director of Health and Human Services as the County's HIPPA Privacy Officer is approved.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Faye Stewart, Chair  
Lane County Board of Commissioners

APPROVED AS TO FORM  
Date 5/11/11 Lane County  
[Signature]  
OFFICE OF LEGAL COUNSEL

**2.182 Policy Regarding HIPAA**

It is Lane County's policy to support implementation of the federal Health Insurance Portability and Accountability Act ("HIPAA") as applicable to health care functions and activities of certain Lane County departments. This federal law and its implementing regulations promote patients' trust in the health care system by providing national standards protecting the privacy and security of their private health information and providing them rights to control access to such information. The uniform standards, code sets, and identifiers for carrying out administrative financial health transactions on line were designed to promote efficiency and flexibility in patient's receiving health care services and in billing and receiving payment from health plans and other payors. Members of the public and employees of Lane County are entitled to the same benefits and protections when their protected health care information is created or received by a Lane County department program or activity providing health care or serving as a health plan, or health care clearinghouse covered by HIPAA.

The County Administrator is delegated authority to adopt procedures and guidelines to implement HIPAA to the extent it applies to work performed by Lane County departments which is covered by that law. While the Board made initial HIPAA decisions regarding health care components and personnel designations, the County Administrator is delegated authority to adopt additional procedures and guidelines addressing changes to health care component designations, and when necessary to select a replacement county HIPAA Privacy Officer subject to the approval of the Board, and to address other changes in department HIPAA personnel designations and duties. *(Revised by Order No. 03-1-21-2, Effective 01.21.03)*

At left margin indicates changes  
Bold indicates material being added  
Strikethrough indicates material being deleted  
2.182

LEGISLATIVE  
FORMAT

Lane Manual

2.182

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The County Administrator is delegated authority to adopt procedures and guidelines to implement HIPAA to the extent it applies to work performed by Lane County departments which is covered by that law. **While the Board made initial HIPAA decisions regarding health care components and personnel designations, the County Administrator is delegated authority to adopt additional procedures and guidelines addressing changes to health care component designations, and when necessary to select a replacement county HIPAA Privacy Officer subject to the approval of the Board, and to address other changes in department HIPAA personnel designations and duties.** *(Revised by Order No. 03-1-21-2, Effective 01.21.03)*