

**AGENDA COVER MEMO**

**AGENDA DATE:** April 9, 2003

**TO:** Lane County Board of Commissioners

**DEPT:** County Counsel

**PRESENTED BY:** Trina Laidlaw, Assistant County Counsel

**AGENDA ITEM TITLE:** In the Matter of Modifying HIPAA Health Care Component Designations and Authorizing the County Administrator to Modify, Add and Delete Future Health Care Component Designations

**I. MOTION**

MOVE TO MODIFY HIPAA HEALTH CARE COMPONENT DESIGNATIONS AND TO AUTHORIZE THE COUNTY ADMINISTRATOR TO MODIFY, ADD AND DELETE HEALTH CARE COMPONENT DESIGNATIONS IN THE FUTURE

**II. ISSUE OR PROBLEM**

Should the Board of Commissioners modify HIPAA health care component designations originally adopted at the January 21, 2003 Board meeting and delegate authority to the County Administrator to modify, add or delete health care component designations in the future?

**III. DISCUSSION**

**A. Background**

The HIPAA Privacy Rule compliance deadline is April 14, 2003. On January 21, 2003, by Board Order 03-1-21-2, the Board of Commissioners adopted a policy indicating Lane County's intent to comply and implement requirements of the federal Health Insurance Portability and Accountability Act (HIPAA) and its corresponding regulations and appointed the County's Internal Auditor as the County Privacy Officer. The order also designated Lane County as a "hybrid" entity under HIPAA, identifying only the health care components covered by HIPAA. At the January Board meeting, this presenter indicated that there might need to be some adjustments in the health care component designations after additional analysis. The purpose of this agenda item is to make these adjustments. Exhibit 1 to the Board Order is a new Lane County Hybrid Covered Entity Chart reflecting the proposed changes.

**B. Analysis**

The following is a summary of the changes from the January 2003 designation chart:

1. One change is to delete the Sheriff's Office Corrections programs as a "primary" covered health care component. Originally, there were four departments listed as "primary" covered components due to the fact that they provide health care services, and/or perform health plan functions (HMO or employee health care benefits) or clearinghouse functions related to billings: Department of Management Services, Department of Youth Services, certain

components within Department of Health and Human Services, and the corrections programs within the Sheriff's Office.

The primary reason to now delete the Sheriff's Office Corrections programs is the absence of the requisite electronic transmission of inmates' (and those under corrections program jurisdiction, e.g., work crews) health information "in connection with a [HIPAA] transaction." The HIPAA "transactions" are specifically listed and relate to administrative and financial activities such as: coordination of benefits (refers to insurance benefits), health care claim status (refers to insurance claim), health care payment and remittance advice, and referral certification and authorization, and others. The original concern related to the process of referring inmates outside the in-house jail medical unit and the billing that occurs as a result. Additional investigation has revealed the current practice in connection with "referrals" and billing/paying does not involve electronic communications, including with any insurance companies (or third party payers such as Medicaid, for example, as Youth Services does). It is anticipated that HIPAA will be reconsidered as county programs, including the Corrections program, change practices, are created, develop, evolve, or expire. One of the goals of the County HIPAA Task Force is to attempt to monitor compliance with HIPAA throughout the County on some ongoing basis. With delegated authority to the County Administrator, the designations could more easily be revised as the need arises.

2. Under the Health and Human Services primary component, Parole and Probation functions have been deleted and Developmental Disability functions added. The original concern with Parole and Probation was with taking DNA samples (providing "health care") and arranging for urinalysis tests. However, those "health care provider" type functions are probably performed within a criminal justice, court administered/ordered, "required by law" arena. One of the underlying policies of HIPAA is likely to avoid interference with courts, and with health care functions which are required for courts and civil and criminal justice systems. On the other hand, services provided by the Developmental Disability program are likely "health care" under HIPAA and should have been included.

3. Under the secondary support components, under Legal Counsel, "(excluding Law Library)" was added to clarify that the Law Library is not part of the support functions provided by Legal Counsel staff to the primary health care programs as they, in turn, provide health care or perform health plan functions. Department of Management Services Archives and Finance staff were added. There are archives staff who assist primary health component departments place files (including hard copies of health information of clients) in boxes for transport to the warehouse, who maintain a data base of the location of files at the warehouse, who staff the warehouse and move boxes to a secure area. Finance staff sometimes performs check-writing functions for primary health care programs which require an individual's name, a dollar amount, and a program account code related to the provision of health care. RIS was added for the same reason that the IS Department was originally designated, and there is additional clarification about which functions in the two computer departments should be covered.

### **C. Status Report of County Preparation and Compliance with HIPAA**

1. The countywide HIPAA Task Force reviewed and discussed 14 proposed county HIPAA policies to be included in the Administrative Procedure Manual, Chapter 4. The policies are drafted, complete and ready for County Administrator approval.

2. Assistant County Counsel, Trina Laidlaw and the County Privacy Officer, Kay Blackburn, prepared and offered four training sessions to county workforce members in the

primary and secondary health care programs. (Workforce members were invited based on the revised health care component designations being requested in this agenda item, with others attending as requested by their supervisors or if interested). The trainings covered the county's new HIPAA policies and were held in Harris Hall on March 14, 17, and 21, 2003. Approximately 325 employees, or a majority of employees which the county was required to train on HIPAA policies, attended these trainings. For employees who were unable to attend, one of the live training sessions was videotaped, and a video stream has been made available on the County's intranet site for viewing from any county PC. The video stream, and all training handouts, will remain on the County Administration HIPAA website for any new county employee who is required to be trained on HIPAA. The affected departments are responsible for documenting that their employees have completed the training by April 14, 2003. The total time spent by Ms. Blackburn in her role as county Privacy Officer has not exceeded the projected time approved by the Board in January.

3. A number of the department programs designated as primary or secondary health care functions developed and adopted department-specific policies and forms to further implement the county APM policies and procedures. These departments have scheduled and developed department-specific trainings which are finishing up.

4. Business associate contract language was developed, sent to appropriate subcontractors for execution, and those signed contracts are being processed through our county contract review process.

5. It is expected that Lane County will be in compliance with the HIPAA Privacy Rule by the April 14, 2003 deadline thanks to the hard work of the county HIPAA Task Force, the diligence and support of department directors and program supervisors to mobilize their workforce, and to the affected employees for including HIPAA in an already busy workload.

6. The county HIPAA Task Force expects to meet after April 14. It has discussed utilizing the County Administration HIPAA website to post "Frequently Asked Questions" with answers as folks begin to implement the new Privacy Rule policies. Employees who were trained were asked to submit questions to their department Privacy Officer. It will likely discuss whether and how to do periodic monitoring of HIPAA Privacy Rule compliance, how to keep abreast of changes in the law, and begin to prepare for implementation of the new HIPAA Security Rule (final rule published in February 2003). The compliance deadline for the Security Rule (more detailed requirements for electronic security) is likely next year. The compliance deadline for the Code and Transactions Rule of HIPAA is October 2003. At this time, this compliance effort involves the IS Department, Health and Human Services and Youth Services. They are progressing towards their compliance.

#### **IV. OPTIONS**

1. Adopt the revised health care component designations and delegate further modification authority to the County Administrator.
2. Adopt the revised health care component designations, but do not delegate further modification authority to the County Administrator.
3. Do not adopt the revised health care component designations, but do delegate authority to make these and any further modifications to the County Administrator.

4. Do not adopt the revised health care component designations and do not delegate further modification authority to the County Administrator.

**V. RECOMMENDATION**

It is recommended that the Board approve option 1.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF MODIFYING HIPAA HEALTH CARE  
COMPONENT DESIGNATIONS AND AUTHORIZING THE  
COUNTY ADMINISTRATOR TO MODIFY, ADD AND DE-  
LETE FUTURE HEALTH CARE COMPONENT DESIGNA-  
TIONS

WHEREAS, on January 21, 2003, by Board Order 03-1-21-2, the Board of County Commissioners adopted a policy indicating Lane County's intent to comply and implement requirements of the federal Health Insurance Portability and Accountability Act (HIPAA) and its corresponding regulations; and

WHEREAS, the County health care component designations established by Order 03-1-21-2 require revision; and

WHEREAS, health care component designations could more efficiently be revised as county programs are created, develop, evolve, expire, or change practices, if the County Administrator were delegated authority to make necessary modifications in the future;

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

1. The health care component designations made in Board Order 03-1-21-2, and its attached Exhibit 1 shall be rescinded and replaced with the following designations and Exhibit 1 attached to this Board Order: Only the programs and functions of the Department of Management Services, Department of Youth Services, and Department of Health and Human Services, along with the support activities provided by the County's Internal Auditor, the Office of Legal Counsel, the Information Services Department, the Regional Information System and Management Services Archives and Finance Staff are designated as Lane County's "health care components" as set forth on attached Exhibit 1. All other programs or divisions of the departments listed on Exhibit 1 and any other county department and their programs not listed on Exhibit 1 are not designated as Lane County's "health care component."

2. The County Administrator is hereby delegated the authority to modify, add and delete any health care component designations deemed necessary in the future, in order for Lane County to continue to comply with HIPAA and its corresponding regulations.

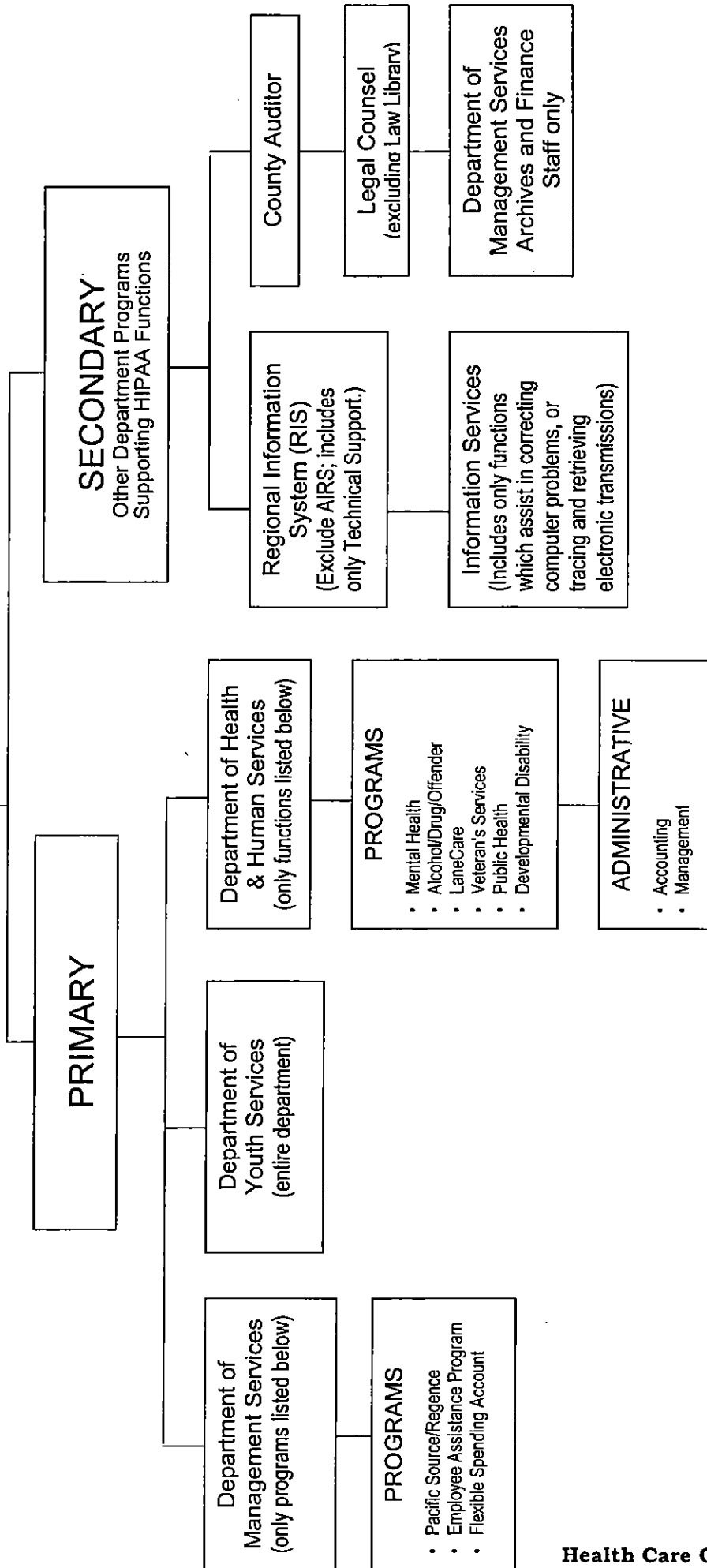
Adopted this \_\_\_\_\_ day of April 2003.

APPROVED AS TO FORM

Date 4/1/03 lane county  
J. Laidlaw  
OFFICE OF LEGAL COUNSEL

Peter Sorenson, Chair  
Lane County Board of Commissioners

# Lane County Hybrid Covered Entity



**Exhibit 1**  
**Health Care Component Designations**