



DEPARTMENT OF ADMINISTRATION

Enterprise Policy

HR-HIPPA HYBRID ENTITY DESIGNATION-2014

DIVISION OF HUMAN RESOURCES

DOA Designation as a Hybrid Entity Under HIPPA Policy

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1. Hybrid Entity Designation

- a. The Department of Administration ("DOA") has determined that it meets the criteria of a hybrid entity under the Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated thereunder ("HIPAA"). This determination was made after an analysis of the law and regulations in relationship¹ to various divisions and offices within DOA. As a hybrid entity, DOA is a single legal entity whose business activities include both covered and non-covered functions under HIPAA.² While the primary purpose of DOA is not to be a health care provider, health care plan, or health care clearinghouse, some of DOA's components perform covered functions. Components that perform covered functions are "health care components" and are subject to HIP AA, while the remainder of DOA is not.³ By designating certain divisions and offices as HIPAA-covered health care components, DOA limits its HIPAA compliance obligations to those units.⁴
- b. DOA's HIPAA-covered health care components are:
 - (i) **Office of Employee Benefits ("OEB")**
 1. OEB administers the State's employee health care plan (medical, vision and dental), medical flexible spending plan, and wellness program.
 2. If it were a separate legal entity, OEB would be a covered entity under HIPAA.⁵
 - (ii) **Division of Legal Services ("Legal Services") and Bureau of Audits ("Audits"):**
 1. Legal Services and Audits access Protected Health Information (including electronic Protected Health Information, together "PHI").⁶ acquired and maintained by OEB, and are designated as health care components only to the extent they receive, maintain, or transmit PHI on behalf of OEB:⁷

¹ Pursuant to R.I. Gen. Laws §§ 42-6-1 and 42-11-1, DOA is established as a department within the executive branch of the state government.

² 45 C.F.R. § 164.103. "Covered functions" are "those functions of a covered entity the performance of which makes the entity a health plan, health care provider, or health care clearinghouse"

³ 45 C.F.R. § 164.105.

⁴ 45 C.F.R. § 164.105(a)(1).

⁵ 45 C.F.R. § 160.103.

⁶ *Id.*

⁷ 45 C.F.R. § 164.105 (a)(2)(i)(C) & (D).

2. Legal Services is designated as a DOA health care component only to the extent that any PHI is disclosed in the course of providing legal advice and legal services to OEB.
 3. Audits is designated as a DOA health care component only to the extent that any PHI is disclosed in the course of providing audit services to OEB.
- c. This list could change in the future if certain business practices change. Until that time, only the above-listed DOA health care components are required to comply with HIPAA.

2. Safeguard Requirements

- a. As a hybrid entity, DOA must ensure that a health care covered component complies with applicable HIP AA requirements⁸ including, but not limited to, the following:
 - (i.) The release of PHI from a DOA health care component to a DOA non-health care component is considered a disclosure under HIPAA and is not permitted unless there is an individual authorization or a specific exemption allowing the disclosure.
 - (ii.) HIPAA's Privacy Rule⁹ requires DOA to implement protections between the health care and non-health care components to assure that PHI is not improperly disclosed.
 - (iii.) If a person performs duties for both the health care component in the capacity of a member of the workforce of such component and for another component of the entity in the same capacity with respect to that component, such workforce member must not use or disclose PHI created or received in the course of, or incident to, the member's work for the health care component.

3. Retention

- a. Designation of health care components shall be maintained for at least six-years following termination of any division or department as a health care component and indefinitely for existing health care components.¹⁰

4. Policy

- a. This policy is effective upon approval and shall supersede all previously issued policies. This policy may be amended or revoked at any time without notice.

5. Noncompliance

- a. Any entity or person who violates this policy may be subject to disciplinary action up to and including termination.

6. Questions

- a. Please refer to the DOA HIPAA Privacy and Security Policy and Procedures document, DOA-HIPAA-2. Contact the DOA HJPAA Privacy Officer Mike Sligar at (401) 574-8535. Contact the DOA HJPAA Security Officer Colleen Newell at (401) 222-2770.

⁸ 8 45 C.F.R. § 164. I 05(a)(ii) & (iii).

⁹ 45 C.F.R. §164.500 et seq.

¹⁰ 45 C.F.R. §164.105(c)(2).

7. Signatures



Director, Department of Administration