EXECUTIVE ORDER NO. 4-17

HIPAA Compliance Directive

WHEREAS, The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") requires entities that perform certain health care functions to comply with regulations related to the use, disclosure, and security of individually identifiable health information; and

WHEREAS, the City of Philadelphia (the "City") is committed to compliance with all applicable laws relating to data privacy and security, including but not limited to the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule"), the Security Standards for the Protection of Electronic Health Information (the "Security Rule"), and the Breach Notification Rule issued pursuant to HIPAA (collectively, the "HIPAA Rules"); and

WHEREAS, the City performs functions as a health care provider and health plan ("Covered Functions") that make it subject to the HIPAA Rules, as well as other functions that do not; and

WHEREAS, HIPAA permits entities that are engaged in both Covered Functions and non-covered functions to designate themselves as "Hybrid Entities," in which case the HIPAA Rules do not apply to the non-covered functions; and

WHEREAS, in 2002, the City convened a HIPAA Steering Committee to oversee the implementation of the City's HIPAA compliance program, and the Steering Committee determined that the City could operate more effectively and efficiently by declaring itself a Hybrid Entity and formally designating the City's health care components, in accordance with 45 C.F.R. §164.105 (a)(2)(iii)(D); and

WHEREAS, based on this assessment, the City identified those City departments, units, and workforce members that perform Covered Functions ("Health Care Components") or perform business, legal, financial, or administrative functions involving access to protected health information on behalf of the Health Care Components ("Support Units"), both of which must comply with the HIPAA Rules; and

WHEREAS, as a Hybrid Entity, the City has ongoing responsibilities to implement reasonable and appropriate policies and procedures to ensure that its Health Care Components and Support Units comply with the HIPAA Rules; and

WHEREAS, as a Hybrid Entity, the City is required to designate a privacy official who is responsible for the development and implementation of the policies and procedures required by the Privacy Rule, as well as a security official who is responsible for the development and implementation of the policies and procedures required by the Security Rule; and

WHEREAS, the City recognizes that its designation of Health Care Components and Support Units is a dynamic and ongoing process that requires periodic reassessment and amendment, and has determined that review and re-designation of such Components and Support Units is appropriate at this time; and

WHEREAS, oversight and direction at the executive level is a necessary component of any effective HIPAA compliance program,

NOW, THEREFORE, I, JAMES F. KENNEY, Mayor of the City of Philadelphia, by the powers vested in me by the Philadelphia Home Rule Charter, do hereby order as follows:

Section 1. Re-Designation of the Health Care Components of the City.

A. The following units or divisions of City departments and agencies are hereby officially designated as the Health Care Components of the City:

1. Ambulatory Health Services, a division of the Philadelphia Department of Public Health ("PDPH");
2. Office of Behavioral Health and Intellectual disAbility Services;
3. Emergency Medical Services, a division of the Philadelphia Fire Department;
4. Benefits Administration Unit of the Office of Human Resources;
5. Philadelphia Public Health Laboratory, a division of PDPH;
6. Sexually Transmitted Disease Control Program of the Division of Disease Control, a division of PDPH; and
7. Philadelphia Nursing Home, a division of PDPH.

B. The Departments, units, and workforce members listed below may at times perform business, legal, financial or administrative functions involving the use or disclosure of protected health information for or on behalf of one or more Health Care Components. To the extent that these Support Units perform Covered Functions, each shall be treated as part of the Health Care Component for which it performs such functions and at all such times shall comply with the HIPAA Rules:

1. Records Department;
2. Office of Innovation and Technology;
3. Law Department;
4. Risk Management, a division of the Finance Department;
5. Finance Department;
6. Fire Department;
7. Data Management Office, a unit of the Office of the Deputy Managing Director of Health and Human Services;
8. Riverview Home, a unit of the Office of Homeless Services; and
9. Streets Department.

Section 2. HIPAA Steering Committee

A. The HIPAA Steering Committee is hereby established within the Managing Director's Office to work with the City HIPAA Privacy Officer and the City HIPAA Security Officer to approve and oversee the continuing implementation, management, and enforcement of the City's HIPAA compliance program and any changes or adjustments thereto that may be required or appropriate. The Committee shall be authorized to:

1. Periodically review and update the designation of Departments, divisions, units, or programs as Health Care Components under Section 1.A. hereof;

2. Approve the identification of units or workforce members of the City as Support Units;
3. Approve City-level policies and procedures required to comply with the applicable requirements of the HIPAA Rules;
4. Oversee the City's compliance with the HIPAA Rules and delegate HIPAA compliance responsibilities to the Health Care Components;
5. Ensure that the City's designated Health Care Components and Support Units carry out their HIPAA compliance responsibilities and allocate sufficient resources and personnel to do so;
6. Ensure that the Covered Health Care Components and Support Units cooperate with all investigations, compliance reviews, and audits and provide timely access by federal or state officials, as needed, to City facilities, records, and other sources of information that are pertinent to the City's compliance with HIPAA;
7. Ensure that the applicable Department or Office head imposes appropriate discipline on City workforce members who violate the HIPAA Rules or fail to complete required HIPAA training;
8. Approve significant business and policy decisions that impact the City's HIPAA compliance;
9. Receive and evaluate reports by the City HIPAA Privacy Officer and Security Officer regarding the adequacy and effectiveness of the City's HIPAA compliance activities, recommendations to address identified deficiencies, enforcement events, and significant regulatory changes; and
10. Maintain the official written record of the designation of the Health Care Components, decisions of the Committee, and related HIPAA compliance activities, and retain the documentation for 6 years from the date of its creation or the date when it last was in effect, whichever is later.

B. The HIPAA Steering Committee shall be composed of:

1. The First Deputy Managing Director, who shall be the Chair of the Committee;
2. The Fire Commissioner or his or her designee ;
3. The Health Commissioner or his or her designee;
4. The Director of the Office of Human Resources;
5. The Director of the Office of Behavioral Health and Intellectual disAbility Services;
6. The Chief Information Officer; and
7. The City Risk Manager.

C. The City Solicitor shall serve as counsel to the Committee. The City HIPAA Privacy Officer and City HIPAA Security Officer shall serve as advisory members of the Committee.

Section 3. City HIPAA Privacy Officer and City HIPAA Security Officer

A. The position of City HIPAA Privacy Officer is hereby formally established within the Law Department, appointed by and reporting to the City Solicitor. The City HIPAA Privacy Officer shall be responsible for monitoring the City's HIPAA compliance and reporting periodically to the Steering Committee, approving Health Care Component HIPAA policies and procedures, coordinating the

investigation and reporting of HIPAA incidents, managing the City's response to governmental audits and investigations, and providing guidance to City Departments and Offices regarding the development, implementation, maintenance of, and adherence to policies, procedures, and workforce training regarding the privacy of, and access to, protected health information in compliance with the Privacy Rule.

B. The position of City HIPAA Security Officer is hereby formally established as a position within the Office of Innovation and Technology (OIT), appointed by and reporting to the Chief Innovation Officer. The City HIPAA Security Officer shall be responsible for overseeing all activities related to the development, implementation, management of, and adherence to the City's policies, procedures, and workforce training, to ensure the security, availability, and integrity of individually identifiable health information as required by the Security Rule.

Section 4. Effective Date

This Order shall be effective immediately upon its execution.

Date: 4/12/17

By: James F. Kenney

James F. Kenney, Mayor