

# Chapter 20. HIPAA Compliance Program<sup>1</sup>

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## **Subchapter A. General Provisions**

### **20.001 Authority**

The Commissioners Court adopts this chapter under the authority of the laws of the State of Texas and pursuant to the mandates of the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated under that act (together, “HIPAA”), the Health Insurance Technology for Economic and Clinical Health Act and regulations and guidance promulgated under that act (together, “HITECH”), and Texas law including the Texas Health and Safety Code, Chapters 181 and 182 (“State Law”).

### **20.002 Intent of Chapter**

This chapter:

- (1) Establishes a HIPAA Compliance Program (“Compliance Program”) to reduce the likelihood of adverse events related to possible violations of state and federal laws, rules, or regulations regarding Protected Health Information.
- (2) Describes the Compliance Program.
- (3) Creates the Compliance Governing Committee (“Committee”), which functions as an independent and objective group that reviews

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<sup>1</sup> Chapter 20 was adopted by Travis County Commissioners Court 6/21/2016, Item #6.

organizational compliance policies, procedures, issues and concerns and ensures that County policies and procedures are followed.

**20.003 Coordination with Other Policies and Benefits**

- (a) In accordance with Travis County Code Chapter 35, Information Technology and Systems, this chapter recognizes the appointment of the Chief Information Officer as the Security Officer for Travis County.
- (b) This chapter also recognizes the authorities and duties of the Risk Manager in accordance with Chapter 31.

**20.004 Application of Chapter**

- (a) This chapter applies to those departments, divisions or programs identified by the Commissioners Court as a Covered Component or Business Associate Department and that operate under the direction of the Commissioners Court. This chapter does not apply to departments, divisions, or programs that are managed by an Elected or Appointed Official, unless the Elected or Appointed Official of the department, division, or program has opted into this chapter. To opt in to this Chapter, the Elected or Appointed Official must notify the Compliance Officer in writing
- (b) Elected Officials and Appointed Officials may opt out of this chapter for their offices through official notification to Commissioners Court and the Privacy Officer.
  - (1) Any Elected Official or Appointed Official who opts out of this chapter is responsible for maintaining policies and procedures in compliance with HIPAA, HITECH and State Law for his or her Department and is encouraged to keep accurate, up to date records related to compliance with HIPAA, HITECH and State Law within his or her Department.
  - (2) If an Elected Official or Appointed Official opts out of this Chapter, the Privacy Officer may provide assistance if requested.
- (c) Elected Officials and Appointed Officials that have previously opted out of this Chapter may request reinstatement in this Chapter through official written notification to Commissioners Court and the Privacy Officer. If an Elected Official or Appointed Official chooses to return to this Chapter, the Elected Official or Appointed Official must work with the Privacy Officer to determine whether its policies and procedures should be amended to allow for more consistent application of HIPAA, HITECH and State Law among the Covered Components of Travis County.

**20.005 Effective Date**

This chapter is effective upon adoption by the Commissioners Court.

**20.006 Interpretation**

- (a) Any aspect of this Chapter that is governed by HIPAA, HITECH and State law shall be interpreted in full compliance with HIPAA, HITECH and State law, respectively.
- (b) Commissioners Court shall resolve any questions about any aspect of this Chapter not governed by HIPAA, HITECH and State law.

**20.007 Definitions**

- (a) Unless otherwise indicated below or elsewhere in this Chapter, all capitalized terms have the meanings provided in 45 Code of Federal Regulations sections 160.103, 164.103 and 164.501.
- (b) The following words and phrases have the meaning adjacent to them below:
  - (1) "Privacy Rule" means 45 Code of Federal Regulations Part 160 and 45 Code of Federal Regulation Part 164, Subparts A and E, Standards for Privacy of individually identifiable Health Information.
  - (2) "Protected Health Information" or "PHI" means individually identifiable health information as defined in 45 Code of Federal Regulation section 160.103.
  - (3) "Security Rule" means 45 Code of Federal Regulation Part 164, Subpart C, Security Standards for the Protection of Electronic Protected Health Information.
  - (4) "Commissioners Court" means Travis County Commissioners Court.
  - (5) "Compliance Program" means the program developed in accordance with this Chapter whose purpose is to maintain compliance with statutes described by this subchapter through means within Travis County.
  - (6) "Covered Component" means a program, department or division that performs the functions of a health plan or a health care provider and that Travis County has designated as a covered component in the Order of the Travis County Commissioners Court declaring Travis County a Hybrid Entity, Designating Covered Entity and Business Component Units, Designating Privacy Official and Identifying Security Official (Hybrid Designation Order).
  - (7) "Business Associate" means a department within Travis County that has been designated as a business associate department in the County's Hybrid Designation Order.
  - (8) "Compliance Officer" means an employee whose job title and description requires the implementation of the Compliance Program in Travis County.

- (9) "Privacy Officer" means an employee who has been appointed by the Commissioners Court as the Privacy Official as required by HIPAA.
- (10) "Security Officer" means an employee who has been appointed by the Commissioners Court as the Security Official as required by HIPAA.

**[20.008 - 20.020 Reserved for expansion]**

***Subchapter B. Governance Committee***

**20.021 Voting Members**

- (a) Each County Executive who oversees a department, division, or program(s) that is described as a Covered Component or Business Associate in the County's Hybrid Designation Order maintains one voting membership seat on the Committee.
  - (1) County Executives may appoint staff to serve as their proxy if a County Executive is not available for a meeting. Proxies must be identified by position and submitted to the Compliance Officer by the County Executive at the end of each fiscal year unless a change in personnel requires a new proxy to be identified prior to the end of the fiscal year.
  - (2) Each Appointed or Elected Official who oversees a department, division, or program(s) that is subject to HIPAA, HITECH, or State Law and adopts this chapter also maintains one voting membership seat on the Committee. Proxies must be identified by position and submitted to the Compliance Officer by the Elected or Appointed Official or his or her designee at the end of each fiscal year unless a change in personnel status requires the proxy to be identified prior to the end of the fiscal year.
- (b) The following additional positions also maintain one voting membership seat on the Governance Committee:
  - (1) Travis County Risk Manager
  - (2) Travis County Physical Security Manager

**20.022 Non-voting Members**

- (a) Each Appointed or Elected Official who oversees a department, division, or program(s) that is subject to HIPAA, HITECH, or State Law and adopts this Chapter may appoint a Privacy and/or Security Liaison to serve as a non-voting member of the Governance Committee.
- (b) Privacy and Security Liaisons hold speaking positions only.
- (c) The following additional positions also maintain one non-voting membership seat on the Governance Committee:

- (1) Privacy Officer
- (2) Security Officer

**20.023 Oversight Activities**

- (a) The Committee receives reports and program updates from the Compliance Officer and Privacy and Security Officers (Officers) and makes recommendations to the Commissioners Court relating to:
  - (1) Policies and procedures
  - (2) Budget requests
  - (3) Identified risk gaps
  - (4) Organizational compliance issues
- (b) The Committee reviews, at least annually, the policies, procedures and activities of the Compliance Program to evaluate its effectiveness within the County and make recommendations to the Privacy and Security Officers.
- (c) The Committee reviews the management of compliance risks within the County.
- (d) The Committee may recommend corrective actions to the Commissioners Court or any elected or appointed official who has adopted this chapter.

**[20.024 - 20.030 Reserved for expansion]**

***Subchapter C. Personnel***

**20.031 Compliance Officer**

- (a) The Compliance Officer works with impacted stakeholders to create processes, policies and procedures to establish an effective Compliance Program for the Covered Components and Business Associates to whom this chapter applies.
- (b) The Compliance Officer establishes program metrics, in collaboration with stakeholders, to report to the Governing Committee.
- (c) The Compliance Officer ensures Travis County's compliance with HIPAA, HITECH, State Law, and the Compliance Program.
- (d) The Compliance Officer may serve in a dual capacity as the Privacy Officer.

**20.032 Privacy Officer**

- (a) Commissioners Court appoints a Privacy Officer to oversee the privacy of Protected Health Information consistent with federal and state privacy laws, rules, and regulations.

- (b) The Privacy Officer reports findings, privacy risk gaps, and other HIPAA related issues to the Governance Committee, as appropriate.
- (c) The Privacy Officer is responsible for:
  - (1) Developing, adopting, and implementing privacy policies and procedures as prescribed by HIPAA, HITECH, and State Law (“HIPAA Privacy Policies.”).
  - (2) Monitoring compliance activities and timelines as prescribed by HIPAA, HITECH, or State Law, or as established by the Compliance Program.
  - (3) Receiving reports of potential violations of HIPAA, HITECH, State Law, and the Compliance Program.
  - (4) Investigating potential violations of HIPAA, HITECH, State Law, or the Compliance Program.
  - (5) Receiving complaints related to Travis County’s HIPAA Privacy Policies.
  - (6) Recommending or implementing corrective actions plans.
  - (7) Mitigating breaches or violations of HIPAA, or recommending mitigation steps to management and the Commissioners Court.
  - (8) Serving as the point of contact for questions or requests for additional information about the Notice of Privacy Practices.
  - (9) Creating and implementing training programs on Travis County’s HIPAA Policies.

**20.032 Security Officer**

- (a) Commissioners Court appoints a Security Officer to oversee the security of electronic Protected Health Information consistent with federal and state laws, rules, and regulations.
- (b) The Security Officer reports findings, security risk gaps, and other HIPAA related issues to the Governance Committee, as appropriate.
- (c) The Security Officer is responsible for:
  - (1) Developing, adopting, and implementing security policies and procedures as prescribed by HIPAA, HITECH, and State Law (“Information Technology Security Policies”).
  - (2) Monitoring compliance with Information Technology Security Policies.

**20.033 Joint Responsibility**

The Officers bring forward the recommendations of the Governance Committee as well as their own recommendations when apprising the Commissioners Court of issues or requests relating to Protected Health Information regulated by statutes described herein in Travis County.