



Privacy Administration

Policy # 1.5

Breach Notification

Original
Effective
Date:
6/21/2016

Revised Date:
5/19/2017

Purpose: Provide a process for ensuring timely and appropriate notice to individuals whose PHI has been compromised by a breach.

Policy: Travis County notifies individuals whose unsecured PHI has been compromised by an impermissible access, use, or disclosure, and will notify the media, law enforcement, the state attorney general, and the United States Department of Health and Human Services, as appropriate, in accordance with HIPAA and state law standards. All notices are written in plain language.

Process:

1. The Privacy Officer and the County Executive or Department Head responsible for the Covered Component in which a breach has occurred determine the language to be included in the notice. The language must be comprehensible to the Individual whose PHI was breached.
2. The Privacy Officer and the County Executive or Department Head decide the most appropriate person to sign the notice.
3. The Privacy Officer sends notification to the individuals whose PHI has been breached as soon as sufficient investigative information has been obtained to allow the Privacy Officer to comply with the requirements at 45 C.F.R. § 164.404, entitled "Notification to Individuals." In accordance with the Texas Medical Privacy Records Act, the Privacy Officer endeavors to send notice "as soon as possible" and "without unreasonable delay," but in no event later than 60 days after the discovery of the breach.
4. The Privacy Officer reports the breach to the Secretary of the U.S. Department of Health and Human Services in the manner and time period described by either, Notification Requirements for a breach of PHI for less than 500 individuals or Notification Requirements for a breach of PHI for more than 500 individuals.

Notification to Individuals:

1. The Privacy Officer develops a notification, written in plain language, that contains required elements required by 45 C.F.R. § 164.404, to the extent they are possible to include. The

notification is developed in consultation with the Covered Component and legal counsel, as necessary.

2. Urgent notice is provided to Individuals when the circumstances surrounding the breach indicate that the PHI may be misused. The Privacy Officer, in conjunction with the appropriate department parties as necessary, ensures that the notice is provided by phone, or other means, as appropriate.
3. The Privacy Officer sends written notification by first-class mail to the Individual at the Individual's last known address. If the Individual has previously agreed to receive electronic notice, and that agreement is still in place, then the Privacy Officer may send notice by electronic mail. For breaches that involve the PHI of deceased persons, the Privacy Officer sends written notification to the decedents' next of kin or personal representative. If insufficient or out of date contact information exists for a decedent's next of kin or personal representative, then substitute notice is not provided.
4. The Privacy Officer provides substitute notice when Covered Components have insufficient or out of date contact information. The form of substitute notice must be determined to be a reasonable method to reach the Individual. Notice is provided according to the following:
 - i. Fewer than 10 Individuals: substitute notice is provided by an alternate form of written notice, telephone, or some other method reasonably designed to reach the Individual.
 - ii. Greater than 10 Individuals: substitute notice is posted on the Travis County website and the Covered Component's home page for 90 days, or is provided as a conspicuous notice in major print or broadcast media serving geographic areas where the affected Individuals likely reside. Additionally, the County will include a toll-free phone number that is active for at least 90 days so that an Individual may inquire as to whether or not their PHI was included in the breach.

Notification Requirements for a breach of PHI for less than 500 individuals:

1. The Privacy Officer submits the breach log, described in the Reporting & Investigating Breach Policy, to the Secretary of the U.S. Department of Health and Human Services within 60 days after the end of each calendar year. The submission shall include all breaches discovered during the preceding calendar year.

Notification Requirements for a breach of the records of more than 500 individuals:

1. The Privacy Officer notifies the U.S. Department of Health and Human Services at the same time notice is made to affected individuals, and in no event later than 60 days from the discovery of the breach, unless a law enforcement official requests a delay.

2. The Privacy Officer notifies prominent media outlets that serve the geographic area of the State in which the affected individuals reside without unreasonable delay. Before making such notification, the Privacy Officer and Legal Counsel work with the County Executive or Department Head responsible for the Covered Component in which the breach occurred on the contents of, and method for notifying the media. All three parties collectively determine the geographic areas appropriate for media notification as well as the appropriate media outlets for notification.