



## Privacy Administration

### Policy # 1.5

## Breach Notification

Original Effective  
Date: 6/21/2016

Revised Date:  
3/28/2022

**Purpose:** To 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, Federal and State law standards. **All notices are to be written in plain language.**

**Process:**

1. The HIPAA Compliance and Privacy Officer and the County Executive or Department Head responsible for the Covered Component in which a breach has occurred will determine the verbiage to be included in the notice. The verbiage must be comprehensible to the Individual whose PHI was breached.
2. The HIPAA Compliance and Privacy Officer and the County Executive or Department Head decide the most appropriate person to sign the notice.
3. The HIPAA Compliance and Privacy Officer sends notification to the individual(s) whose PHI has been breached as soon as sufficient investigative information has been obtained to allow the HIPAA Compliance and Privacy Officer to comply with the requirements of [45 C.F.R. § 164.404](#), entitled **"Notification to Individuals."** In accordance with the Texas Medical Privacy Records Act, the HIPAA Compliance and Privacy Officer endeavors to send notice **"as soon as possible"** and **"without unreasonable delay,"** but in no event later than sixty **(60) days** after the discovery of the breach.
4. The HIPAA Compliance and 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 the below sections labeled, **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.** [45 CFR §§ 164.400-414.](#)

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

1. The HIPAA Compliance and 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 **sixty (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 HIPAA Compliance and 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 **sixty (60)** days from the discovery of the breach, unless a law enforcement official requests a delay
2. The HIPAA Compliance and 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 HIPAA Compliance and 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.

### **Notification to Individuals:**

1. The HIPAA Compliance and Privacy Officer develops a notification, **written in plain language**, that contains 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 HIPAA Compliance and Privacy Officer, in conjunction with the appropriate department parties **as necessary**, ensures that the notice is always provided in writing and will also provide notice by phone, or other means, as appropriate.
3. The HIPAA Compliance and Privacy Officer sends written notification by first-class mail to the Individual at the Individual's last known address. If First-Class mail is returned and/or the Individual has previously agreed to receive electronic notice (ePHI), and that agreement is still in place, then the HIPAA Compliance and Privacy Officer may send notice by electronic mail. For breaches that involve the PHI of deceased persons, the HIPAA Compliance and 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 HIPAA Compliance and 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 ninety (**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 ninety (**90**) days so that an Individual may inquire as to whether-or-not their PHI was included in the breach.