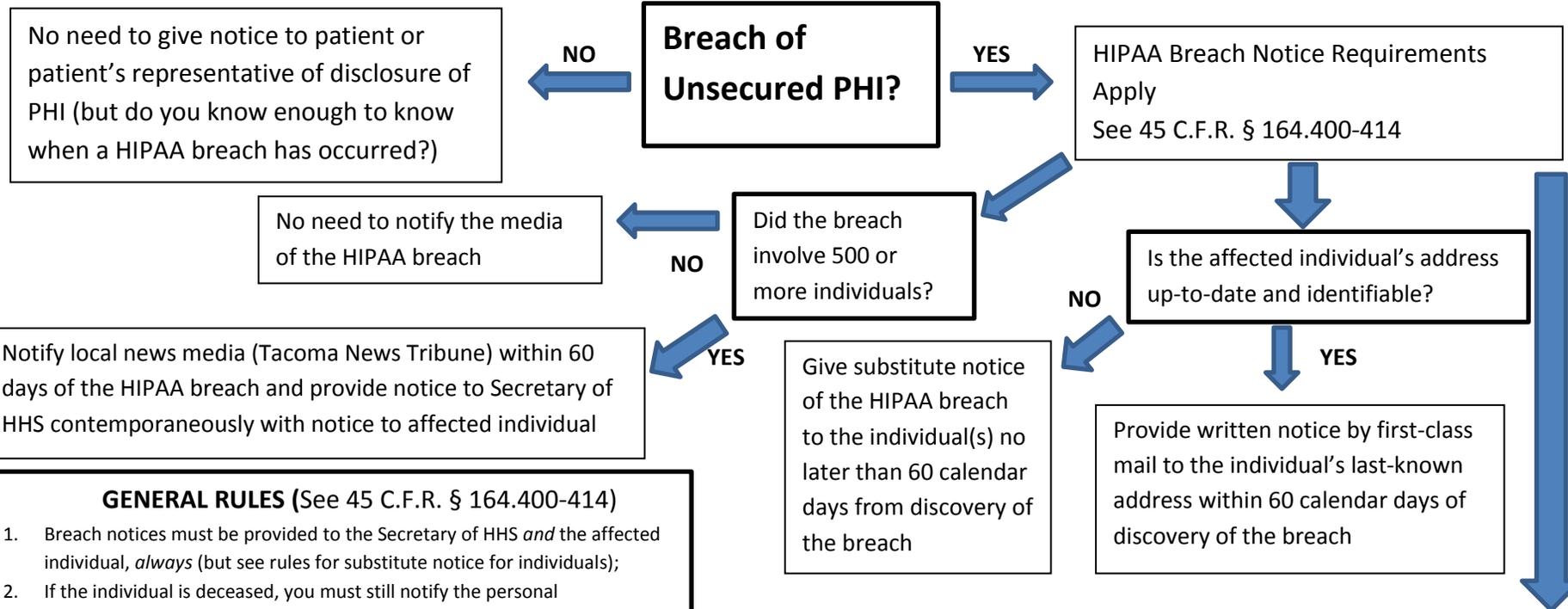


**“Joe Chart”—HIPAA Breach Notice Rules**

**This information does not constitute legal advice. Those seeking assistance in reporting a HIPAA breach should contact legal counsel.**



- GENERAL RULES (See 45 C.F.R. § 164.400-414)**
1. Breach notices must be provided to the Secretary of HHS *and* the affected individual, *always* (but see rules for substitute notice for individuals);
  2. If the individual is deceased, you must still notify the personal representative or next-of-kin at their last-known address;
  3. If individual is deceased, no need to give regular *or* substitute notice if you have insufficient, out-of-date contact information for PR or next-of-kin;
  4. The same notice requirements apply to your *business associates*;
  5. Breach notices must be written in “plain language”;
  6. Breach notices (including substitute notice) must contain the following: (a) Brief description of what happened, including date of the breach or discovery of the breach, if known; (b) description of the types of PHI disclosed; (c) steps the individual should take to protect themselves; (d) brief description of what you are doing to investigate or mitigate the breach and prevent further breaches; and (e) contact information; and
  7. **Substitute notice** for breaches involving **fewer than 10 individuals** may take the form of a conspicuous posting on your website (for as long as you wish to post it), or may be made by “other means”

**ALWAYS give notice to the Secretary of Health and Human Services, no later than 60 days of the beginning of the year *after* the breach (for a breach in 2019, 60 days after January 1, 2020). For breaches involving 500 or more individuals, notice must be given to the Secretary 60 calendar days after breach discovery**

Breach notices to the Secretary must be made at the HHS web portal: <https://www.hhs.gov/hipaa/for-professionals/breach-notification/breach-reporting/index.html>

Great additional info on HIPAA breaches: <https://www.hipaajournal.com/hipaa-breach-notification-requirements/>