"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.

Breach of No need to give notice to patient or **HIPAA Breach Notice Requirements** NO YES patient's representative of disclosure of **Unsecured PHI?** Apply PHI (but do you know enough to know See 45 C.F.R. § 164.400-414 when a HIPAA breach has occurred?) No need to notify the media Did the breach of the HIPAA breach involve 500 or Is the affected individual's address NO more individuals? up-to-date and identifiable? NO Notify local news media (Tacoma News Tribune) within 60 YES Give substitute notice days of the HIPAA breach and provide notice to Secretary of of the HIPAA breach HHS contemporaneously with notice to affected individual Provide written notice by first-class to the individual(s) no mail to the individual's last-known later than 60 calendar **GENERAL RULES (**See 45 C.F.R. § 164.400-414) address within 60 calendar days of days from discovery of Breach notices must be provided to the Secretary of HHS and the affected discovery of the breach the breach 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; ALWAYS give notice to the Secretary of Health and Human Services, no later than 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 If individual is deceased, no need to give regular or substitute notice if you have insufficient, out-of-date contact information for PR or next-of-kin; 60 days of the beginning of the year after the breach (for a breach in 2019, 60 The same notice requirements apply to your business associates; days after January 1, 2020). For breaches involving 500 or more individuals, Breach notices must be written in "plain language"; notice must be given to the Secretary 60 calendar days after breach discovery Breach notices (including substitute notice) must contain the following: (a) Brief description of what happened, including date of the breach or Breach notices to the Secretary must be made at the HHS web discovery of the breach, if known; (b) description of the types of PHI portal: https://www.hhs.gov/hipaa/for-professionals/breach-notification/breachdisclosed; (c) steps the individual should take to protect themselves; (d) reporting/index.html brief description of what you are doing to investigate or mitigate the breach and prevent further breaches; and (e) contact information; and Great additional info on HIPAA breaches: https://www.hipaajournal.com/hipaa-breach-notification-7. Substitute notice for breaches involving fewer than 10 individuals may requirements/ 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"

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