

Texas HB300



Texas House Bill 300 (Texas HB 300) amended the Texas Medical Records Privacy Act

The items listed are the main areas where Texas has stricter or additional requirements than HIPAA.

EXPANDED SCOPE:

- Texas HB 300 expanded the definition of “covered entity” to also include those entities and individuals that:
- engage in the practice of assembling, collecting, analyzing, storing or transmitting PHI;
- come into the possession of PHI;
- obtain or store PHI; or
- are an employee, agent, or contractor of a person described above

EXPANDED BREACH NOTIFICATION SCOPE AND PENALTIES:

- Under Texas HB 300, any organization conducting business in Texas that owns or licenses computerized data that includes SPI (Sensitive Personal Information) not just PHI (Personal Health Information) must notify Texas residents if their information was breached (wrongfully acquired by an unauthorized person).
- “Sensitive Personal information” includes:
 - (A) an individual’s first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
 - social security number;
 - driver license number or government-issued identification number; or
 - account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual’s financial account; or
 - (B) information that identifies an individual and relates to:
 - the physical or mental health or condition of the individual;
 - the provision of health care to the individual; or
 - payment for the provision of health care to the individual
- Failure to make such notification can subject the entity to a daily fine of up to \$100 for each individual whom notification should be made, with a maximum of \$250,000 for each breach.

Texas State Laws (cont.)



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STRONGER ENFORCEMENT/PENALTIES TO DETER VIOLATIONS AND BREACHES:

- Authorizes the Texas Attorney General, Texas Health Services Authority, or Texas Department of Insurance to request an audit of a covered entity in Texas by the U.S. Secretary of Health and Human Services to determine whether or not the entity was complying with HIPAA.
- Increases civil and criminal penalties against “covered entities” that wrongfully disclose an individual’s PHI (or SPI). This is in addition to penalties for violating federal laws. Texas HB 300 allows for penalties ranging from \$5,000 to \$1.5 million per year.

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EXPANDED PATIENT RIGHTS AROUND ELECTRONIC HEALTH RECORDS:

- “Covered entities” are required to provide individuals with electronic copies of their electronic health records within 15 business days of the patient’s written request. This is stricter than HIPAA’s requirement of 30 days.
- Provisions that prohibit the sale of PHI.
- “Covered entities” are required to provide notice to individuals that PHI is subject to electronic disclosure and to obtain an authorization for any electronic disclosure (excluding disclosures of PHI for treatment, payment, and healthcare operations, insurance or HMO functions, or as required or authorized by federal or state law).
- The Texas Attorney General must establish a website that explains individuals’ privacy rights under federal and Texas laws.
- In addition to patients being able to file a Privacy or Security complaint with the covered entity or the U.S. Department of Health and Human Services, an individual can file a complaint on the Texas Attorney General’s website.

EXPANDED TRAINING REQUIREMENTS:

- Covered entities must train all personnel that handle or come into contact with PHI.
- The training should be tailored for the employee’s responsibilities and the entity’s contacts with PHI.
- Training must cover federal and state regulatory Privacy and Security requirements.
- New employees must complete training within 90 days of beginning employment and repeated at least once every 2 years.
- Employees must provide written or electronic signature to acknowledge that they have been trained.