

[SAMPLE BREACH NOTICE TO PATIENT]

[Massachusetts form of breach notice to patient to be used in the event of a breach of PHI that **includes** any of the following “personal information” of Massachusetts residents: first name and last name or first initial and last name in combination with any 1 or more of the following data elements that relate to such resident: (a) Social Security number; (b) driver’s license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident’s financial account].

[Date]

[Insert Name and Address]

Dear [Name of Patient]:

I am writing to notify you of a recent breach of your protected health information (“PHI”) and personal information from [Name of Organization or Individual Mental Health Counselor] . This notification is sent pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) and Massachusetts law. I discovered the breach on [Date and Time]. The following occurred:

[Describe what happened in general terms, including:

A brief description of what happened, including the date the breach actually occurred, if known

- *Where the breach occurred*
- *Who used the PHI and personal information or to whom the disclosure of PHI and personal information was made, including whether it was a Covered Entity or Business Associate*
- *What kind of PHI and personal information was involved in the breach (e.g., full name, social security number, date of birth, home address, patient ID number or billing number, diagnosis, insurance information, etc.)*
- *Whether the PHI and personal information was actually viewed or accessed*
- *Mitigation efforts]*

[If applicable, such as where SSN, financial information or other information has been disclosed]

Under Massachusetts law, you have the right to obtain any police report filed in regard to this incident. If you are the victim of identity theft, you also have the right to file a police report and obtain a copy of it.

Massachusetts law also allows consumers to place a security freeze on their credit reports. A security freeze prohibits a credit reporting agency from releasing any information from a consumer's credit report without written authorization. However, please be advised that placing a security freeze on your credit report may delay, interfere with, or prevent the timely approval of any requests you make for new loans, credit, mortgages, employment, housing or other services.

If you have been the victim of identity theft, and you provide the credit reporting agency with a valid police report, it cannot charge you to place, lift, or remove a security freeze. In all other cases, a credit reporting agency may charge you up to \$5.00 each to place, temporarily lift, or permanently remove a security freeze.

To place a security freeze on your credit report, you must send a written request to each of the three major consumer reporting agencies: Equifax (www.equifax.com); Experian (www.experian.com); and TransUnion (www.transunion.com) by regular, certified or overnight mail to the addresses below:

Equifax Security Freeze
P.O. Box 105788
Atlanta, GA 30348

Experian Security Freeze
P.O. Box 9554
Allen, TX 75013

TransUnion Security Freeze
Fraud Victim Assistance Department
P.O. Box 6790
Fullerton, CA 92834

In order to request a security freeze, you will need to provide the following information: Your full name (including middle initial as well as Jr., Sr., II, III, etc.);

1. Social Security Number;
2. Date of birth;
3. If you have moved in the past five (5) years, provide the addresses where you have lived over the prior five years;
4. Proof of current address such as a current utility bill or telephone bill;
5. A legible photocopy of a government issued identification card (state driver's license or ID card, military identification, etc.)
6. If you are a victim of identity theft, include a copy of either the police report, investigative report, or complaint to a law enforcement agency concerning identity theft;
7. If you are not a victim of identity theft, include payment by check, money order, or credit card (Visa, MasterCard, American Express or Discover only). Do not send cash through the mail.

The credit reporting agencies have three (3) business days after receiving your request to place a security freeze on your credit report. The credit bureaus must also send written confirmation to you within five (5) business days and provide you with a unique personal identification number (PIN) or password, or both that can be used by you to authorize the removal or lifting of the security freeze.

To lift the security freeze in order to allow a specific entity or individual access to your credit report, you must call or send a written request to the credit reporting agencies by mail and include proper identification (name, address, and social security number) **and** the PIN number or password provided to you when you placed the security freeze as well as the identities of those entities or individuals you would like to receive your credit report or the specific period of time you want the credit report available. The credit reporting agencies have three (3) business days after receiving your request to lift the security freeze for those identified entities or for the specified period of time. To remove the security freeze, you must send a written request to each of the three credit bureaus by mail and include proper identification (name, address, and social security number) **and** the PIN number or password provided to you when you placed the security freeze. The credit bureaus have three (3) business days after receiving your request to remove the security freeze.

By establishing your fraud alert, you will receive a follow-up letter that explains how to receive a free copy of your credit report. Examine your credit report closely for signs of fraud. Continue to monitor your credit reports, even though a fraud alert has been placed on your account. You may obtain a free copy of your credit report every 12 months by visiting www.annualcreditreport.com or completing an Annual Credit Request Form at www.ftc.gov/bcp/menus/consumer/credit/rights.shtm and mailing the form to Annual Credit Report Request Service, P.O. Box 1025281, Atlanta, GA 30348-5281.

Please know that I take very seriously my role in protecting your protected health information and personal information and I am truly distressed by this breach. Please accept my sincerest apology for the stress and worry this incident has caused. I am doing everything possible to rectify the situation.

You can reach me during normal business hours with any questions or concerns you may have at the following number [insert phone number].

Optional:

I have also established a section on my web site with updated information on this breach. You can reach my web site at: [insert web site address].

Sincerely,

[Insert Name]

1703462v1/14993-3