

OFFICE OF THE ATTORNEY GENERAL  
TEXAS MEDICAL RECORDS PRIVACY ACT  
ANNUAL REPORT  
FISCAL YEAR 2023



**OFFICE OF THE ATTORNEY GENERAL**  
**TEXAS MEDICAL RECORDS PRIVACY ACT ANNUAL REPORT**  
**FISCAL YEAR 2023**

**INTRODUCTION**

The Texas Medical Records Privacy Act (the “Act”) requires certain persons and entities including health care providers, health plans, and entities that process health insurance claims to take measures to safeguard protected health information (PHI), including training employees concerning PHI. Subject to certain exceptions, the Act generally prohibits covered persons and entities from using or disclosing PHI without first obtaining an individual’s consent.

The Act also requires the Office of the Attorney General to submit an annual report to the Legislature regarding the number and types of medical privacy related consumer complaints received by the Office of the Attorney General and by state agencies which regulate persons or entities subject to the Act and further, to report on the related enforcement actions taken in response to such complaints.<sup>1</sup> This report for Fiscal Year 2023 is submitted in accordance with that requirement.

**DATA GATHERING**

The Act requires certain specifically named agencies (the Texas Medical Board and the Texas Department of Insurance) as well as other state agencies which regulate covered persons or entities, to submit to the Attorney General the information necessary to compile this annual report.<sup>2</sup> Thus, the Office of the Attorney General requested and obtained information from the following state agencies:

- Texas Behavioral Health Executive Council
- Texas Board of Chiropractic Examiners;
- Texas Board of Dental Examiners;
- Texas Medical Board;
- Texas Board of Nursing;
- Texas Board of Optometry;
- Texas Board of Pharmacy;
- Texas Department of Insurance;
- Texas Department of Family and Protective Services;
- Texas Department of Licensing and Regulation;
- Texas Health and Human Services Commission (HHSC);
- Texas Department of State Health Services (DSHS); and
- Executive Council of Physical Therapy and Occupational Therapy Examiners.

The Office of the Attorney General requested, and each agency reported, the following information:

- the total number of consumer complaints received in which the consumer alleged medical privacy violations;
- the types of violations alleged in these complaints;
- the total number of enforcement or disciplinary actions taken by the agency; and
- the types of enforcement/disciplinary actions taken by each.

Each agency’s individual report to the OAG is included in Attachments 1 through 13. Attachment 14 provides the same information regarding complaints received by the Office of the Attorney General. The overview which follows is a compilation of these individual reports.

**OVERVIEW: COMPLAINTS RECEIVED**

The agencies reported a total of 617 complaints received. This number includes all complaints in which a consumer alleged a possible medical privacy violation without regard to the complaint’s validity or ultimate substantiation and without regard to whether the complaint made specific reference to the Act. The number of complaints reported by each agency is as follows:

- Texas Behavioral Health Executive Council 52
- Texas Board of Chiropractic Examiners 15
- Texas Board of Dental Examiners 103
- Texas Medical Board 107
- Texas Board of Nursing 169
- Texas Optometry Board 2
- Texas Board of Pharmacy 59
- Texas Department of Insurance 2
- Texas Department of Family and Protective Services 0
- Texas Department of Licensing and Regulation 0
- Texas Health and Human Services Commission 106
- Texas Department of State Health Services 2
- Executive Council of Physical Therapy and Occupational Therapy Examiners 0

In addition, the Office of the Attorney General received 39 consumer complaints.

Each of the agencies (and the Office of the Attorney General) analyzed complaints received and reported the following regarding the types of violations alleged in these complaints:

- 18 allegations of unlawful marketing practices;<sup>3</sup>
- 226 allegations that a covered entity failed to provide a requested health record;<sup>4</sup>
- 3 allegations of failure to provide required training;<sup>5</sup>
- 411 allegations that a covered entity unlawfully disclosed PHI;<sup>6</sup>
- 6 allegations that a covered entity failed to provide notice.<sup>7</sup>

## OVERVIEW: ENFORCEMENT ACTIONS

For Fiscal Year 2023 the agencies reported taking a total of 163 enforcement or disciplinary actions. Details regarding the specific types of actions taken by each agency and by the Office of the Attorney General are included in Attachments 1-14. Because each agency has its own enforcement authority, process, and scope of responsibility, the Office of the Attorney General - in the interest of efficiency - asked that they report enforcement activity using the disciplinary and enforcement action categories which each already had in place and utilized in other reports.<sup>8</sup>

The agencies' disciplinary and enforcement work focused on taking administrative actions rather than referring matters to the Office of the Attorney General and the specific number and types of actions reported were as follows:

Counseling	32
Disciplinary Action – Agreed Order	7
Dismiss – No Violation	69
Fine Only	1
Fine w/Remedial Education & Deferred	36
Formal Letter of Reprimand Only	1
Other Disciplinary Actions	3
Remedial Education & Deferred	4
Remedial Plans	6
Reprimand	2
Retraining	2

In addition to the administrative actions reported by the agencies, during this reporting period the OAG obtained an Order Granting Plaintiff's Motion for Summary Judgment and Permanent Injunction in *State of Texas vs. Clinica Hispana La Porte, and Luis Alberto Cuan a/k/a Luis Alberto Cuan Lio, individually, and d/b/a Clinica Hispana LaPorte, et al.*<sup>9</sup> In that lawsuit, the State's allegations included that Defendants failed to safeguard the protected health information (PHI) of consumers, and unlawfully disposed of records containing PHI in violation of the Texas Identity Theft Enforcement and Protection Act (ITEPA) and the Texas Deceptive Trade Practices Act (DTPA).<sup>10</sup>

## ATTACHMENTS AND ADDITIONAL INFORMATION

The Act also requires the Office of the Attorney General to maintain a website providing information concerning consumers' privacy rights regarding protected health information and a list of the state agencies which regulate covered entities under the Act, the types of entities which each agency regulates, detailed information regarding each agency's complaint enforcement process, and contact information for each of the agencies for reporting possible violations of the Act.<sup>11</sup> In accordance with the requirements of the Act, that information is available at the website of the Attorney General: <https://texasattorneygeneral.gov/cpd/list-of-regulatory-agencies>.

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<sup>1</sup> Tex. Health & Safety Code Ann. §181.104(a).

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<sup>2</sup> *Id.* §181.104(b).

<sup>3</sup> For purposes of analyzing complaints for this report, unlawful marketing practices refers to possible violations of the following sections of the Act: §181.151, §181.152(a)-(c) and §181.153(a).

<sup>4</sup> The Act requires health care providers who utilize electronic systems capable of fulfilling such requests to provide the electronic health record of persons who request such records not later than the 15<sup>th</sup> business day after the date the provider receives the person's written request. The records must be in electronic form unless the requestor agrees to accept such in another form. *Id.* §181.102(a). This requirement is subject to the exceptions found in §181.102(b).

<sup>5</sup> *Id.* §181.101(a)-(d).

<sup>6</sup> For purposes of analyzing complaints for this report, unlawful disclosure of PHI refers to possible violations of § 181.154(b).

<sup>7</sup> Failure to provide notice refers to a possible violation of §181.154(a).

<sup>8</sup> See Texas Health Professions Council, Annual Report for Fiscal Year 2022, February 1, 2023-Appendix B-Disciplinary Data reports for agencies including the following: Texas Behavioral Health Executive Council, Texas Board of Chiropractic Examiners, Texas State Board of Dental Examiners, Texas Medical Board, Texas Board of Nursing, Texas Optometry Board, Texas State Board of Pharmacy, and the Executive Council of Physical Therapy and Occupational Therapy Examiners. *See* <https://hpc.texas.gov/wp-content/uploads/2023/02/HPC-Fiscal-Year-2022-Annual-Report.pdf> (last accessed October 30, 2023).

<sup>9</sup> In this case the State also alleged that Defendants engaged in deceptive practices in the sale and administration of diagnostic tests for COVID-19. *See*, Order Granting Plaintiff's Traditional Motion for Summary Judgment: *State of Texas vs. Clinica Hispana La Porte, and Luis Alberto Cuan a/k/a Luis Alberto Cuan Lio, individually, and d/b/a Clinica Hispana LaPorte, et al.*; Cause No. 2020-46504; In the 164<sup>th</sup> District Court, Harris County, Texas.

<sup>10</sup> *See*, ITEPA: Tex. Bus. & Com. Code Ch 521; and DTPA: Tex. Bus. & Com. Code § § 17.41-17.63.

<sup>11</sup> *Id.* §181.103.

# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Behavioral Health Executive Council

**Submitted By**

Brenda Skiff

**Reporting Period**

FY 2023

**Total Number of Complaints**

52

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

27

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

14

Unlawful Marketing

11

**Total Number of Enforcement/Disciplinary Actions Taken:**

76

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Disciplinary Action - Agreed Order	7
Dismiss - No Violation	69
Choose Disciplinary Action From List	
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I certify that I am authorized by my agency to submit this report.

Signed

**Brenda Skiff** Digitally signed by Brenda Skiff  
Date: 2023.10.27 13:01:55  
-05'00'

# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Board of Chiropractic Examiners

**Submitted By**  
**Reporting Period**

Joseph McLaughlin  
FY 2023

**Total Number of Complaints**

15

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

11

Failure to Provide Notice

3

Unlawful/Unauthorized Disclosure of PHI

4

Unlawful Marketing

4

**Total Number of Enforcement/Disciplinary Actions Taken:**

2

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Formal Letter of Reprimand Only

1

Fine Only

1

Choose Disciplinary Action From List

Choose Disciplinary Action From List

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Choose Disciplinary Action From List

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I certify that I am authorized by my agency to submit this report.

Signed

Joseph  
McLaughlin

Digitally signed by Joseph  
McLaughlin  
Date: 2023.10.20 12:02:15  
-05'00'

# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas State Board of Dental

**Submitted By  
Reporting Period**

Lauren Studdard  
Examiners FY 2023

**Total Number of Complaints**

103

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

96

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

7

Unlawful Marketing

0

**Total Number of Enforcement/Disciplinary Actions Taken:**

3

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Other Disciplinary Action	3
Choose Disciplinary Action From List	
Choose Disciplinary Action From List	
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I certify that I am authorized by my agency to submit this report.

Signed

*Lauren Studdard*



# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Medical Board

**Submitted By**  
**Reporting Period**

Christopher Palazola  
FY 2023

**Total Number of Complaints**

107

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

75

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

32

Unlawful Marketing

0

**Total Number of Enforcement/Disciplinary Actions Taken:**

8

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Remedial Plans	6
Reprimand	2
Choose Disciplinary Action From List	
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I certify that I am authorized by my agency to submit this report.

Signed

Christopher Palazola  
Digitally signed by Christopher Palazola  
Date: 2023.10.30 12:55:28 -0500

# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Board of Nursing

**Submitted By**  
**Reporting Period**

Danielle Green  
FY 2023

**Total Number of Complaints**

169

**Complaints by Alleged Violations**

**Number**

- Failure to Provide Required Training
- Failure to Provide Access: Health Record
- Failure to Provide Notice
- Unlawful/Unauthorized Disclosure of PHI
- Unlawful Marketing

0  
1  
1  
167  
0

**Total Number of Enforcement/Disciplinary Actions Taken:**

40

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Fine w/Remedial Education (FR) & Deferred (FRD)	36
Remedial Education (RE) & Deferred (RED)	4
Choose Disciplinary Action From List	
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I certify that I am authorized by my agency to submit this report.

Signed

**Danielle Green** Digitally signed by Danielle Green  
Date: 2023.12.08 10:45:17 -06'00'

# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Optometry Board

**Submitted By**  
**Reporting Period**

Janice McCoy  
FY 2023

**Total Number of Complaints**

2

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

2

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

0

Unlawful Marketing

0

**Total Number of Enforcement/Disciplinary Actions Taken:**

0

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Choose Disciplinary Action From List
Choose Disciplinary Action From List
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I certify that I am authorized by my agency to submit this report.

Signed

Janice S McCoy  
Digitally signed by Janice S McCoy  
Date: 2023.11.09 09:12:17 -06'00'

# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas State Board of Pharmacy

**Submitted By**  
**Reporting Period**

Deb Beall  
FY 2023

**Total Number of Complaints**

59

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

0

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

59

Unlawful Marketing

0

**Total Number of Enforcement/Disciplinary Actions Taken:**

0

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Choose Disciplinary Action From List
Choose Disciplinary Action From List
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I certify that I am authorized by my agency to submit this report.

Signed

**Deb Beall** Digitally signed by Deb Beall  
Date: 2023.10.24 07:15:46  
-05'00'



# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Department of Family and Protective Services

**Submitted By**  
**Reporting Period**

October 24, 2023  
FY 2023

**Total Number of Complaints**

0

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

0

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

0

Unlawful Marketing

0

**Total Number of Enforcement/Disciplinary Actions Taken:**

0

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Choose Disciplinary Action From List
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I certify that I am authorized by my agency to submit this report.

Signed

**Jose Martinez**  
Digitally signed by Jose Martinez  
Date: 2023.10.24 10:55:41  
-0500



# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Health and Human Services Commission

**Submitted By**

Summer R. Lee

**Reporting Period**

FY 2023

**Total Number of Complaints**

106

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

Failure to Provide Access: Health Record

Failure to Provide Notice

Unlawful/Unauthorized Disclosure of PHI

106

Unlawful Marketing

**Total Number of Enforcement/Disciplinary Actions Taken:**

34

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Counseling	32
Retraining	2
Choose Disciplinary Action From List	
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I certify that I am authorized by my agency to submit this report.

Signed

Summer R. Lee  
 Digitally signed by Summer R. Lee  
 Date: 2023.11.10 10:08:17 -06'00'



# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Department of State Health Services

**Submitted By**  
**Reporting Period**

Barbara Klein  
FY 2023

**Total Number of Complaints**

2

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

0

Failure to Provide Access: Health Record

0

Failure to Provide Notice

0

Unlawful/Unauthorized Disclosure of PHI

2

Unlawful Marketing

0

**Total Number of Enforcement/Disciplinary Actions Taken:**

0

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Choose Disciplinary Action From List
Choose Disciplinary Action From List
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I certify that I am authorized by my agency to submit this report.

Signed

Barbara Klein  
Digitally signed by Barbara Klein  
Date: 2023.11.10 13:21:29  
-06'00'



# TEXAS MEDICAL RECORDS PRIVACY ACT REPORT

**Agency**

Texas Attorney General

**Submitted By**  
**Reporting Period**

Alissa Jacobs  
FY 2023

**Total Number of Complaints**

39

**Complaints by Alleged Violations**

**Number**

Failure to Provide Required Training

3

Failure to Provide Access: Health Record

14

Failure to Provide Notice

2

Unlawful/Unauthorized Disclosure of PHI

18

Unlawful Marketing

2

**Total Number of Enforcement/Disciplinary Actions Taken:**

1

**Types of Disciplinary/Enforcement Actions Taken**

**Number**

Litigation

1

Choose Disciplinary Action From List

Choose Disciplinary Action From List

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I certify that I am authorized by my agency to submit this report.

Signed

Alissa Jacobs  
Digitally signed by Alissa Jacobs  
Date: 2023.11.17 10:43:37  
-06'00'