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Data Breaches Are On the Rise: “How To Stay Off The HIPAA Wall of Shame”
An incident in which sensitive, protected or confidential data has potentially been viewed, stolen or used by an individual unauthorized to do so. Data breaches may involve personal health information (PHI), personally identifiable information (PII), trade secrets or intellectual property.
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Privacy Risk Factors
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Why You Should Care?
Data Breaches Are On the Rise: “How To Stay Off The HIPAA Wall of Shame”

- Regulatory Requirements
- Reputation
- Financial Harm
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What To Know About HIPAA/HITECH ENFORCEMENT

• Civil monetary penalties were increased

• State Attorneys General are empowered to enforce the federal HIPAA law.

• Audits for HIPAA compliance were mandated.

• Whistleblower provisions were created, allowing people who complain to OCR that a provider violated HIPAA to get part of any money that the government collects.

• Covered entities are required to report to OCR breaches of an individual’s protected health information, and OCR is required to investigate these reported breaches.

• HITECH clarified that the criminal provisions of HIPAA apply to everyone, not just covered entities.
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**TABLE 2.** Categories of Violations and Respective Penalty Amounts Available

<table>
<thead>
<tr>
<th>Violation Category – Section 1176(a)(1)</th>
<th>Each Violation</th>
<th>All Such Violations of an Identical Provision in a Calendar Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Did Not Know</td>
<td>$100 - $50,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>(B) Reasonable Cause</td>
<td>$1,000 - $50,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>(C)(i) Willful Neglect-Corrected</td>
<td>$10,000 - $50,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>(C)(ii) Willful Neglect-Not Corrected</td>
<td>$50,000</td>
<td>$1,500,000</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Criminal penalties</th>
<th>Potential jail sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tier</strong></td>
<td><strong>Potential jail sentence</strong></td>
</tr>
<tr>
<td>Unknowingly or with reasonable cause</td>
<td>Up to one year</td>
</tr>
<tr>
<td>Under false pretenses</td>
<td>Up to five years</td>
</tr>
<tr>
<td>For personal gain or malicious reasons</td>
<td>Up to ten years</td>
</tr>
</tbody>
</table>
Top Risks Patients Face When Their Data Is Breached

Public Exposure/Embarrassment 61%
Financial Identity Theft 56%
Medical Identity Theft 45%

Source: Ponemon Institute and ID Experts, Benchmark Study on Patient Privacy and Data Security, November 2010. Question: In your opinion, what harms do patients actually suffer if their records are lost or stolen?
5 Myths About Data Breaches

- All Hackers Are Sophisticated
- We Are Too Small
- No One Is Interested In What I/We Have
- IT Is Responsible For Breaches
- If We Keep Our Systems Patched We Can Prevent Data Breaches
Why Are Healthcare Breaches On The Rise?

- Financial Gain
  - Protected Health Information (PHI) Is Valuable On The Black Market.

- Medical Identity Theft
  - Insurance
  - Treatment
  - Scripts

- Security Gap
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## PHI Data Breaches by Type, 2013

<table>
<thead>
<tr>
<th>Type</th>
<th># OF BREACHES</th>
<th>% OF TOTAL</th>
<th># OF RECORDS</th>
<th>% OF TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theft</td>
<td>90</td>
<td>45.2%</td>
<td>5,905,595</td>
<td>83.2%</td>
</tr>
<tr>
<td>Other</td>
<td>26</td>
<td>13.1%</td>
<td>320,314</td>
<td>4.5%</td>
</tr>
<tr>
<td>Unauthorized Access</td>
<td>44</td>
<td>22.1%</td>
<td>313,353</td>
<td>4.4%</td>
</tr>
<tr>
<td>Improper Disposal</td>
<td>8</td>
<td>4.0%</td>
<td>288,167</td>
<td>4.1%</td>
</tr>
<tr>
<td>Loss</td>
<td>19</td>
<td>9.5%</td>
<td>150,282</td>
<td>2.1%</td>
</tr>
<tr>
<td>Hacking IT Incident</td>
<td>12</td>
<td>6.0%</td>
<td>118,394</td>
<td>1.7%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>199</strong></td>
<td><strong>100%</strong></td>
<td><strong>7,906,105</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Source: Redispin 2013 Breach Report
### PHI Data Breach by Source/Device, 2013

<table>
<thead>
<tr>
<th>Source/Device</th>
<th># of Incidents</th>
<th>%</th>
<th># of Records</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laptops and other portable devices</td>
<td>69</td>
<td>34.7%</td>
<td>1,876,349</td>
<td>26.4%</td>
</tr>
<tr>
<td>Desktops and servers</td>
<td>49</td>
<td>24.6%</td>
<td>4,343,440</td>
<td>61.2%</td>
</tr>
<tr>
<td>Paper</td>
<td>38</td>
<td>19.1%</td>
<td>390,144</td>
<td>5.5%</td>
</tr>
<tr>
<td>Other</td>
<td>17</td>
<td>8.5%</td>
<td>406,190</td>
<td>5.7%</td>
</tr>
<tr>
<td>Email</td>
<td>16</td>
<td>8.0%</td>
<td>51,419</td>
<td>0.7%</td>
</tr>
<tr>
<td>Electronic Medical Records</td>
<td>10</td>
<td>5.0%</td>
<td>28,563</td>
<td>0.4%</td>
</tr>
<tr>
<td>Total</td>
<td>199</td>
<td>100%</td>
<td>7,096,105</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Source: Redispin 2013 Breach Report*
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RISK ASSESSMENT PROCESS

1. Identify the risk factors
2. Who can be harmed and how
3. Monitor and Review
4. Implement plan
5. Evaluate the risks
6. Record findings
Privacy Policies & Procedures

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Data Safeguards

- Physical
- Administrative
- Technical
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Workforce Training And Management
Breach Response Process & Plan

**BREACH**
Data has been compromised.

**AWARENESS**
System notification of situation.

**REMEDICATION**
Implement response plan.
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Documentation & Retention
Privacy Resources

What Do You Need To Succeed?
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Q & A

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