HOWARD BURDE
HEALTH LAW LLC

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In

Cloud Computing

and

HIPAA

(a love story)

Outline

1.What is Cloud Computing?
2.Why Cloud is Unique for PHI (and why not)
3.HIPAA Security Rules
4.Meaningful Use
5.Enforcement

>

Cloud Computing Is:

The Use of Services and Applications, Including the Storage of Data, Hosted Remotely from the User and Accessed Through the Internet.

Health Care Concerns for Cloud Computing

1. **Access to Data; Back-up**
   Disaster Recovery/Business Continuity

2. **Required and Addressable Controls**

3. **Security**
   - **Administrative Safeguards**
   - **Physical Safeguards**
   - **Technical Safeguards**

4. **PHI In Motion/At Rest**

Cloud Computing Federal Rules to Address:

Security: *The Overwhelming Issue is whether and how the information is secured in motion or at rest.*

Privacy Rules are Important, but apply to the Covered Entity or other Cloud User, Not to the Use of the Cloud. In other words, you need to comply regardless of the location of the PHI.

Administrative Safeguards

Security Management
- Risk Analysis
- Risk Management
- Sanction
- Review

Assigned Responsibility

Work Force Security
- Authorization and/or Supervision

Information Access Management

Security Awareness and Training
- Security Reminders
- Protection from Malicious Software
- Log-in Monitoring
- Password Management

Security Incident Procedures

Contingency Plans
- Data Backup
- Disaster Recovery

Physical Safeguards

Facility Access Controls:

> **Contingency Operations**
> **Facility Security**
> **Access Control and Validation**
> **Maintenance of Records**

Work Station Use and Security

Devise and Media Controls

> **Disposal**
> **Media Re-use**
> **Accountability**
> **Data Back-up and Storage**

Technical Safeguards

Access Control

Unique User Identification
Emergency Access Procedures
Automatic Logoff
Encryption and Decryption

Audit Controls

Integrity

Mechanism to Authenticate PHI

Person or Entity Authentication

Transmission Security

Meaningful Use

Many of the Same Requirements:
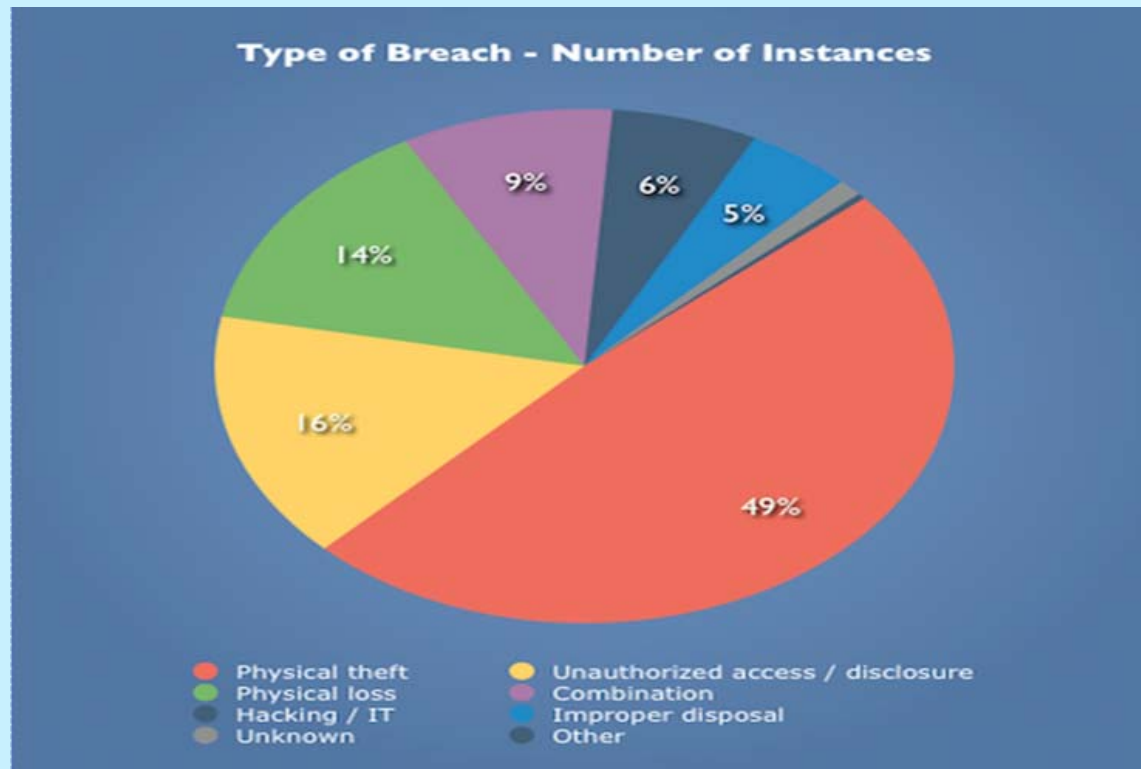
Encryption and Decryption
Log Actions Related to PHI
Verification that PHI is not Altered in Transit
Log of Disclosures

Privacy and Security Concerns
What Are Causes of Breach?

Type of Breach - Number of Instances

- Physical theft — 49%
- Unauthorized access / disclosure — 16%
- Physical loss — 14%
- Combination — 9%
- Hacking / IT — 6%
- Improper disposal — 5%
- Unknown
- Other

Privacy and Security
Cloud Computing Poses Same Concerns
1. **Audits**
    - **OCR**
        - **HITECH Mandate**
        - **KPMG Contract**
        - **Protocol**
        - **Site Visit**
        - **Audit Reports**
        - **BAAs**
    - **Private**
2. **State Attorneys General**
    - **NAAG**
    - **OCR Training - Booz Allen Hamilton**

- **Final Thoughts**:

  . **Worry is Paying Interest on a Debt You Do Not Owe (Preparation and compliance beat worrying)**

  Finally, no matter what technology you implement or enable,

  - **There is no App for Common Sense!**

  Questions? Gripes? Complaints?

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