



TLP White

We take one more trip to Europe – this time to look at Privacy Shield – as well as revisiting data breach laws, new regs, and old court cases. Welcome back to *Hacking Healthcare*:

Hot Links –

1. **Privacy Shield:** Following our review of the European GDPR, let's shift our focus to the EU-US Privacy Shield framework. Privacy Shield came into effect in 2016¹ to enable transatlantic commerce that is compliant with laws in respective jurisdictions. Privacy Shield came into effect to replace the previous Safe Harbor agreement, which the European Court of Justice invalidated in 2015.

Privacy Shield creates a standard set of principles that govern the transfer of protected data of EU citizens to the United States (e.g., for purposes of storing or processing). A company can self-certify compliance with the Privacy Shield framework by registering with the U.S. Department of Commerce.²

The framework³ is built around the same concepts of privacy and data protection that underpin GDPR and previous European data regulations. There are requirements for disclosure of data collection and use to relevant individuals, the limited use of data for appropriate purposes, the use of necessary security controls, and oversight regarding any use of the data by third parties. The framework requires companies who self-certify to provide recourse for any citizens to register complaints.

The EU has indicated that the Privacy Shield framework will be subject to an annual review, so as the GDPR is implemented over the coming years we will need to keep an eye on corresponding modifications to Privacy Shield.

2. **Data Breach:** There is a good piece in Lawfare⁴ this week that is relevant to our recent discussion of data breach laws in Europe, Australia, and the U.S. Susan Landau looks at how the theft of personal information – including personal health information – can

¹ <https://www.commerce.gov/news/fact-sheets/2016/07/fact-sheet-overview-eu-us-privacy-shield-framework>

² <https://www.privacyshield.gov/PrivacyShield/ApplyNow>

³ <https://www.privacyshield.gov/EU-US-Framework>

⁴ <https://www.lawfareblog.com/understanding-data-breaches-national-security-threats>

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pose a national security risk. She goes on to suggest that Congress should address this shortcoming with a national data breach requirement.

3. Update to 'Common Rule': "With the exception of certain burden-reducing provisions of the 2018 Requirements," the interim final rule updating 'Common Rule' requirements will now come into effect in July. This update includes new exemptions to research activities, which is what has prompted the delay in order for detailed implementation guidance to be developed. Find the register notice here:
<https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-00997.pdf>

4. The Court takes a Pass: The Supreme Court ruled against CareFirst this past week in a case we have been watching for quite some time. If you remember, CareFirst's complaint to the Supreme Court was over the interpretation of "harm" in the context of the data breach victims. The case will now be heard in the DC court of appeals, which took a broader view over whether the victims had suffered any "harm" when they agreed to hear the case.⁵

In other court news, U.S. v. Microsoft will be heard today.⁶

5. HIMSS We Go: As many of your flight itineraries are reminding you, HIMSS is next week in Las Vegas. Health IT Security has a great preview here:
<https://healthitsecurity.com/news/himss18-focusing-on-holistic-healthcare-cybersecurity>

Congress –

Tuesday, February 27:

--Hearings to examine United States Cyber Command in review of the Defense Authorization Request for fiscal year 2019 and the Future Years Defense Program (Senate Armed Services)⁷

Wednesday, February 28:

--Hearing: A Review and Assessment of the Department of Defense Budget Strategy Policy and Programs for Cyber Operations and U.S. Cyber Command for Fiscal Year 2019 (House Armed Services)⁸

Thursday, March 1:

⁵ <http://www.healthcareitnews.com/news/supreme-court-rejects-carefirst-bid-review-breach-case>

⁶ <https://www.lawfareblog.com/microsoft-ireland-oral-argument-preview-will-supreme-court-stave-data-localization>

⁷ <https://www.armed-services.senate.gov/hearings/18-02-27-united-states-cyber-command>

⁸ <https://armedservices.house.gov/hearings>

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--An oversight hearing to examine private sector and government challenges and opportunities to promote the cyber security and resiliency of our nation's critical energy infrastructure (Senate Energy)⁹

Conferences and Webinars –

--NH-ISAC GDPR 101 Webinar (3/13) <<https://nhisac.org/events/nhisac-events/nh-isac-gdpr-101/>>

--Basic Best Practices in Cybersecurity – Alabama (2/21) <<https://nhisac.org/events/nhisac-events/basic-best-practices-in-cybersecurity-alabama/>>

--InfoSec World – Orlando (3/19) <<https://nhisac.org/events/nhisac-events/infosec-world/>>

--Medical Device Workshop at Philips Healthcare – Andover, MA (3/20)

<<https://nhisac.org/events/nhisac-events/medical-device-workshop-at-philips-healthcare-andover-ma/>>

--Health IT Summit – Cleveland, OH (3/27) <<https://vendome.swoogo.com/2018-Cleveland-Health-IT-Summit>>

--Health IT Summit – San Francisco, CA (4/5) <<https://vendome.swoogo.com/2018-San-Francisco-HIT-Summit>>

--Security Workshops at Intermountain Health – Park City, UT (4/24)

<<https://nhisac.org/events/nhisac-events/security-workshop-at-intermountain-park-city-ut/>>

--Medical Device and Pharmaceutical Security Workshop – London

<<https://nhisac.org/events/nhisac-events/security-workshops-london/>>

--2018 NH-ISAC Spring Summit – Sawgrass, FL (5/14-17)

<<http://www.marriott.com/hotels/travel/jaxsw-sawgrass-marriott-golf-resort-and-spa/>>

--Health IT Summit – Philadelphia, PA (5/21) <<https://vendome.swoogo.com/2018-Philly-HITSummit>>

--Health IT Summit – Minneapolis, MN (6/13) <<https://vendome.swoogo.com/2018-Minneapolis-Health-IT-Summit>>

--Biotech / Pharmaceutical Security Workshop - Dublin, Ireland (6/21)

<<https://nhisac.org/events/nhisac-events/medical-device-and-pharmaceutical-security-workshop-dublin/>>

--Health IT Summit – Nashville, TN (6/28) <<https://vendome.swoogo.com/2018-Nasvhille-HITSummit>>

--Health IT Summit – Denver, CO (7/12) <<https://vendome.swoogo.com/2018-Denver-HITSummit>>

--Health IT Summit – St. Petersburg, FL (7/24) <<https://vendome.swoogo.com/StPetersburg-HITSummit-2018>>

--Health IT Summit – Boston, MA (8/7) <<https://vendome.swoogo.com/2018-Boston-Health-IT-Summit>>

--Biotech/Pharma Security Workshop at Gilead Sciences, Foster City, CA (8/29)

<<https://nhisac.org/events/nhisac-events/biopharma-workshop-at-gilead-sciences-foster-city-ca/>>

⁹ <https://www.energy.senate.gov/public/index.cfm/2018/3/full-committee-hearing-to-examine-cyber-security-in-our-nations-critical-energy-infrastructure-030118>

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--Health IT Summit – Seattle, WA (10/22) <<https://vendome.swoogo.com/2018-Seattle-HITSummit>>

--2018 NH-ISAC Fall Summit – San Antonio, TX (11/26-29)

<<https://www.destinationhotels.com/la-cantera-resort-and-spa>>

Sundries –

--**Asymmetrik Wins ONC Challenge with Secure FHIR Server**

<<https://healthitsecurity.com/news/asymmetrik-wins-onc-challenge-with-secure-fhir-server>>

--**Stakeholders Desire Clarification on Secure Data Exchange in TEFCA**

<<https://healthitsecurity.com/news/stakeholders-desire-clarification-on-secure-data-exchange-in-tefca>>

--**SEC Releases Updated Cybersecurity Guidance** <<https://www.bankinfosecurity.com/sec-releases-updated-cybersecurity-guidance-a-10678>>

--**AT&T loses years-long quest to cripple FTC authority over telecoms** <

<https://arstechnica.com/tech-policy/2018/02/att-loses-years-long-quest-to-cripple-ftc-authority-over-telecoms/>>

--**The Toolset of an Elite North Korean Hacker Group On the Rise**

<<https://www.wired.com/story/north-korean-hacker-group-apt37/>>

--**Coinbase: We will send data on 13,000 users to IRS** <<https://arstechnica.com/tech-policy/2018/02/coinbase-we-will-send-data-on-13000-users-to-irs/>>

--**Cyberspace Norms and U.S.-China Relations: Addressing the Challenge of ‘China, Inc.’**

<<https://www.lawfareblog.com/cyberspace-norms-and-us-china-relations-addressing-challenge-china-inc>>

--**Apple moves to store iCloud keys in China, raising human rights fears**

<<https://www.reuters.com/article/us-china-apple-icloud-insight/apple-moves-to-store-icloud-keys-in-china-raising-human-rights-fears-idUSKCN1G8060>>

--**U.S. telecom agency plans new spectrum auction to speed 5G networks**

<<https://www.reuters.com/article/us-usa-wireless-auction/u-s-telecom-agency-plans-new-spectrum-auction-to-speed-5g-networks-idUSKCN1GA2KJ>>

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