



TLP White

Happy New Year, everyone. Welcome back to *Hacking Healthcare*:

**Hot Links –**

1. **Texting at work:** CMS recently released a letter clarifying its stance on texting within a clinical environment. Topline takeaways:
  - a) “Texting patient information among members of the health care team is permissible if accomplished through a secure platform.
  - b) Texting of patient orders is prohibited regardless of the platform utilized.
  - c) Computerized Provider Order Entry (CPOE) is the preferred method of order entry by a provider.”

You can find the letter here: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-10.pdf>

2. **Our day (year) in court:** 2018 will bring us a number of tech and security related legal matters. We have previously highlighted<sup>1</sup> the biggest case involving a healthcare company – CareFirst’s petitioning of the Supreme Court to review the standard for demonstrating future damages due to a data breach. We are likely to hear later this month whether the court will hear that case (they extended a previous deadline). Some expect the court to pass on the case (See Alison Frankel’s piece<sup>2</sup>). The impact of this decision will establish precedent for individuals seeking damages when personal data (including protected health information) is lost or exposed.

Other interesting cases are on the docket this year. The first, and perhaps most impactful, we are likely to see action from is *Carpenter v. the United States*, which centers around government access to location data from cell phone service providers. Investigators have previously subpoenaed cell phone location data to determine possible suspects in crimes and assert probable cause to collect further evidence. The defendant in this case is arguing that gathering that information without a warrant (and

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<sup>1</sup> On November 14: <https://nhisac.org/were-taking-you-to-court/>

<sup>2</sup> <https://uk.reuters.com/article/us-otc-databreach/new-scotus-brief-no-circuit-split-on-standing-in-data-breach-class-actions-idUKKBN1ES1V8>

January 4, 2018

just a subpoena) violated his reasonable expectation of privacy. The government says that when you agree to give up your location data in your cell phone contract, you forfeit that expectation of privacy. The Supreme Court isn't so sure about the government's argument. The arguments in this case were concluded in November, with a decision expected early this year. We will keep you posted.<sup>3</sup>

3. **DMARC in Government:** There's some new research showing government agencies have taken DMARC implementation to heart, with adoption increasing 38 percent in the last month. And our friends at HHS get a special shout-out as "the only federal agency to have deployed DMARC across more than 100 domains." Read the report here: <https://www.businesswire.com/news/home/20180102005178/en/DHS-Directive-Increases-Federal-DMARC-Adoption-38>
4. **Tech for Everyone:** The *Longevity Economy*<sup>4</sup> looks like an interesting look into better designing tech products for older people. It strikes me that the impending boom in telemedicine and patient provided data offers the healthcare industry an opportunity to lead and provide meaningful innovation that broadens the accessibility of new technology.
5. **Attribution, and its discontents:** The matter of "attribution" – that is, the process of identifying and publicly presenting evidence of individuals responsible for illegal online activity – is regularly bemoaned as a limiting factor in government's ability to respond to cyber-attacks.

A recent report from RAND offers a useful suggestion for how we might move forward on attribution – through what they call a "Global Cyber Attribution Consortium." I might suggest starting with a small consortium (i.e., governments and private industry from a small handful of committed allies), before expanding to a global scale. But I fully agree that an institutional approach is most sustainable in the long term. Find the report here: [https://www.rand.org/pubs/research\\_reports/RR2081.html](https://www.rand.org/pubs/research_reports/RR2081.html)

**Congress** – no hearings of note this week.

**Conferences and Webinars** –

--Health IT Summit – San Diego, CA (2/1) <<https://vendome.swoogo.com/san-diego-hitsummit-2018/>>

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<sup>3</sup> If you want to read further analysis, check out these two pieces: <http://www.rstreet.org/op-ed/in-defense-of-the-mosaic-theory/>  
AND <https://lawfareblog.com/best-way-rule-carpenter-or-how-expand-fourth-amendment-protections-without-making-mess>

<sup>4</sup> Book can be bought here: <https://www.amazon.com/dp/1610396634/>  
And here's a review: <https://arstechnica.com/science/2017/12/do-we-need-a-tech-boom-for-the-elderly/>

January 4, 2018

--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/>>

--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>>

--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>>

--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 –**

--China lashes out at German ambassador over cyber security  
<<http://abcnews.go.com/International/wireStory/china-lashes-german-ambassador-cyber-security-52006525>>

--National Cybersecurity Center of Excellence (NCCoE) Mitigating Internet of Things (IoT) Based Distributed Denial of Service (DDoS) Building Block  
<<https://www.federalregister.gov/documents/2017/12/27/2017-27870/national-cybersecurity-center-of-excellence-nccoe-mitigating-internet-of-things-iot-based>>

--FTC Gives Final Approval to Lenovo Settlement <<https://www.ftc.gov/news-events/press-releases/2018/01/ftc-gives-final-approval-lenovo-settlement>>

--New cybersecurity threats unwrapped: Hidden Cobra, public safety apps, Western Digital My Cloud <<http://www.healthcareitnews.com/news/new-cybersecurity-threats-unwrapped-hidden-cobra-public-safety-apps-western-digital-my-cloud>>

--Assessing the Bipartisan Secure Elections Act <<https://www.lawfareblog.com/assessing-bipartisan-secure-elections-act>>

January 4, 2018

--The latest 2018 election-hacking threat: 9-month wait for government help  
<<https://www.politico.com/story/2017/12/29/2018-election-hacking-threat-government-help-231512>>

--Jailed Russian says he hacked DNC on Kremlin's orders and can prove it  
<<http://www.mcclatchydc.com/news/nation-world/national/article191857354.html>>

--2017 Was a Terrible Year for Internet Freedom <<https://www.wired.com/story/internet-freedom-2017/>>

--How the "Original Internet Godfather" walked away from his cyber crime past  
<<https://arstechnica.com/information-technology/2018/01/how-the-original-internet-godfather-walked-away-from-his-cybercrime-past/>>

--The Woman Who Smashed Codes: Your new winter reading assignment  
<<https://arstechnica.com/tech-policy/2017/12/the-woman-who-smashed-codes-your-new-winter-reading-assignment/>>

--Hacker Lexicon: What Is Sinkholing? <<https://www.wired.com/story/what-is-sinkholing/>>

--Botnet's Huawei Router Exploit Code Now Public <<http://www.securityweek.com/botnets-huawei-router-exploit-code-now-public>>

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