



## Client Memo

# Record HIPAA Settlement of \$4.8 Million for Exposure of Health Information to Search Engines

The Office for Civil Rights (OCR) of the U.S. Department of Health and Human Services (DHHS) reached a record \$4.8 million settlement with New York-Presbyterian Hospital and Columbia University on May 6, 2014 for violations of the HIPAA Security Rule involving 6,800 patients. The significance of this settlement, though, goes beyond its size. OCR, in its press release<sup>1</sup> found a breach in exposure of patient information to Internet search engines.

The incident, which occurred in 2010, stemmed from the attempt of a physician employed by the university to deactivate “a personally owned server on the NYP network” that resulted in the disclosure of the Protected Health Information to Google search engines. The initial complaint was filed by the partner of a deceased patient when the partner searched the patient’s name on Google and found treatment information. In addition to the release of the protected information as a result of a lack of technical safeguards, OCR found violations in the hospital’s failures to conduct periodic security risk assessments that included equipment such as the server at issue; to implement security measures to reduce the risks of such disclosures; to implement pertinent policies and procedures; and a failure to follow its own security protocols. New York-Presbyterian paid \$3.3 million, and Columbia University paid \$1.5 million. The Resolution Agreement also requires the hospital and university to implement corrective and remediation plans and to report on the progress of these efforts to DHHS.

Computer servers, databases and document management systems that are web-based or Internet accessible are vulnerable to search and retrieval of protected data by Internet search engine algorithms, or “bots,” that crawl cyber-space for data to place on these search engines. This settlement is a stern warning to assess these systems for vulnerabilities of this kind, and to shore up safeguards. It also serves notice that OCR will severely penalize organizations subject to its jurisdiction that do not conduct periodic risk assessments and implement appropriate and updated security policies and procedures.

Ken Rashbaum heads Barton LLP’s Privacy, Cyber-Security and Healthcare and HIPAA Compliance Practice. His team conducts HIPAA assessments, including data maps and gap analysis reports; updates security and privacy policies and procedures and drafts new protocols, in collaboration with in-house work groups; prepares and delivers HIPAA workforce

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training; drafts Security Risk Analysis Reports; and represents healthcare organizations in investigations by the Office of Civil Rights of the United States Department of Health and Human Services, state attorneys general and state healthcare agencies. His bio is available at [www.bartonesq.com/attorneys/kenneth-rashbaum/](http://www.bartonesq.com/attorneys/kenneth-rashbaum/).

## Endnotes

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<sup>i</sup> available at <http://www.hhs.gov/news/press/2014pres/05/20140507b.html>



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