

Lessons from Breach Street:

What recent breach incidents tell us about
current HIPAA problems

A brief history of HIPAA

- 1996: HIPAA statute passes
- 2000/2001: Privacy Rule published
- 2003: Privacy Rule enforceable, Security Rule published
- 2005: Security Rule enforceable
- 2009: HITECH Act passes, initial regulations passed
- 2013: HITECH “omnibus rule”

“HITECH” Act and Omnibus Rule Provisions

- New Data Breach Rules
 - “unsecured” PHI is the key
- Standard Exceptions:
 - Wrong person at the right covered entity
 - Workforce member access in good faith
 - Person authorized to access PHI generally
 - Recipient not reasonably likely to retain PHI
- General Exception:
 - Was “no substantial harm”
 - Now “low risk of compromise”

Older Breaches: The Classics

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