

Normal P axis, PR, rate & rhythm
P V1 -10 mV or more negative
Q/S in V1 & V2
QTc > 470 ms
ST-T negative AMT/LAT/INF
T > -30 mV, ST > -05 mV

13th Annual Texas Health Law Conference
October 1, 2015

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Health Care in Texas: The Ever-changing Landscape
David Hilgers, Philippe Bochaton, and Will Schlotter

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Reduction in Uninsured

Impact on Uninsured*	2013	2015	Change
U.S.	18%	11.4%	-6.6%
Texas	26.8%	20%	-6.8%

*CMS 2015

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The Results So Far

- Uncompensated care in the US is reduced by \$7.4 Billion in 2015 (Department of Health and Human Services)
- \$5 Billion of this savings went to the 28 states that expanded Medicaid
- CHS, HCA, Lifepoint and Tenet announced a reduction of greater than 54% in uncompensated care in the last quarter of 2014
- Charity Care decreased by 40% in expansion states and 6.2% in non-expansion states.

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The Results So Far In Texas

- 20% uninsured
- Over 5 Million people uninsured, 900,000 children, Number 1 in the country by percentage or raw numbers (Kaiser)
- The 31% decrease in the rate of uninsured Texans was similar to drops in other states that did not expand Medicaid coverage. For expansion states, the average decrease in the rate of uninsured was 53% (Rice University)
- 1.3 Million Texans enrolled through the insurance exchange (CPPP)

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The Results So Far In Texas

- Uncompensated care costs for Texas — \$5.5 billion/yr (CNN)
- Foregone economic impact over 8 years — \$270 Billion (US News and World Report)
- 2nd highest insurance premiums (behind Fla).
- Medicaid enrollment pre-ACA — 4.4 million vs 4.6 million in 2015 (Kaiser)

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Results in Texas

- The amount of change was unequal among income levels. The poorest Texans saw a less dramatic improvement — the uninsured rate for people earning less than \$16,000 fell by 20%, while the uninsured rate for people earning more income fell by 45%.
- Average increase in silver premiums nationally is 2%, in Texas — 8% bronze plan nationally is 4% and 10% in Texas. Compares to 10% increases in premiums annually before 2012.

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Time Bomb for Financing Health Care in Texas

- Medicaid Disproportionate Share dollars will decrease by \$43 Billion by 2025
- In 2018, a decline of \$2 Billion
- Expansion of Medicaid Federal government pays 100% dropping to 90%
- DSH is funded 60% by Federal government
- Federal Waiver program monies (\$4 Billion per year) will expire in 2016 and any renewal will likely shift to pay for coverage and access not for indigent.

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Accountable Care Organizations - Medicare Shared Savings Program

- Nationally: 333 MSSP programs with 72 Million beneficiaries which is 14% of the Medicare population
- Texas: 29 MSSP programs (9%) with 361,000 beneficiaries and 11% of the national MSSP population
- National Savings: \$800 Million in savings with \$341 Million paid in bonuses(CMS)
- Texas Savings: \$190 Million with \$83 Million in bonuses paid.
- Memorial Hermann and RGV ACO were 1st and 5th with bonuses of \$22 Million and \$7.5 Million respectively

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Accountable Care Organizations

- Quality improvements continued: improvement in 27 of 33 quality measures for MSSPs
- Actually the ACOs that did not make any savings had a lower cost per patient than those that did earn savings
- This phenomenon indicates that a key issue in earning a bonus is the relative level of the benchmark given the area by the CMS
- 2015 added 89 new MSSPs

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Decline in Cost of Health Care

- 2010-2012 – Health care spending grew more slowly than the U.S. economy – 3.7% versus 7% average before
- Federal budget projections for Medicare
 - Projected reduction in Medicare/Medicaid spending from 2011 to 2020 is \$1.1 Trillion
 - CBO predicts that health care as a percent of GDP will be 8% in 2039 as compared to 15% projected in 2010
 - Per person cost for Medicare in 2011: \$12,000, in 2014: \$11,200
 - ACA is projected to cost \$142 Billion less over the next 10 years than initially projected
- Currently, the health care inflation rate is 2.57% compared to 2.34% last year and an average of 5.44%

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Consequences of Decline

- Viability of the Medicare Trust Fund has been extended to 2030
- No increase in part B premiums for 3 years
- Reduction in Federal premium subsidies of \$37 Billion
- Slowing of commercial or employer provided premium costs—total family premium \$2,600 less than projected in 2010
- Obvious impact on the federal budget
- Growth in Medicare spending fell by more than the growth in overall health spending despite the growth in Medicare enrollment

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Why the Decline

- Lower underlying inflation
- Higher costs to the consumer
- Reduced hospital utilization — \$16 Billion savings in 2014
- Reductions in home health costs — 75,000 fewer patients
- Reduced expenditures on drugs
- Enforcement
- ACA impact is probably limited at this point

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Why the Reduction ACA Costs

- Decline in health care inflation
- \$5 Billion received in provider revenues
- Prescription drug spending is down
- Hospital admissions are down
- Fewer than expected new Medicaid enrollees
- Fewer employers dropped insurance than projected

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Data Security in a Dangerous Information World

Jeff Jensen and Peter Sloan

@HBHealthcarelaw

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Verizon 2015 Data Breach Investigations Report

79,790 Security Incidents:

29% Miscellaneous Errors

25% Crime-ware

21% Insider Misuse

15% Physical Theft/Loss

4% Web App Attacks

4% Denial-of-Service Attacks

<1% Cyber-espionage

<1% Point-of-Sale Intrusions

<1% Card Skimmers

4% Other

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Verizon 2015 Data Breach Investigations Report

2,122 Security Breaches with Confirmed Data Loss:

27% Point-of-Sale Intrusions

8% Miscellaneous Errors

18% Crime-ware

3% Physical Theft/Loss

17% Cyber-espionage

3% Payment Card Skimmers

10% Insider Misuse

<1% Denial of Service Attacks

9% Web App Attacks

4% Other

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Verizon 2015 Data Breach Investigations Report

Top Breach Patterns for Healthcare (2012-2014):

32% Miscellaneous Errors

9% Web Apps

26% Privilege Misuse

4% Cyber-espionage

16% Lost & Stolen Assets

1% Crime-ware

12% Point of Sale

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“You’re going to be hacked. Have a plan.”

- FBI Cyber Division Assistant Director Joseph Demarest (2014)

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Ponemon 2015 Cost of Data Breach Study United States

Average for All Industries:

\$217 per person/record

Average for Healthcare:

\$398 per person/record

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Ponemon 2015 Cost of Data Breach Study

Factors That Reduce Breach Costs

- Incident response team
- Extensive use of encryption
- Business Continuity Management (BCM) involvement
- Chief Information Security Officer (CISO) appointed
- Employee training
- Board-level involvement
- Insurance protection

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HIPAA Enforcement: Cancer Care Group P.C.

- Notified OCR of laptop bag theft – back-up media with unencrypted PHI of 55,000 patients
- OCR found widespread non-compliance with HIPAA Security Rule
- \$750,000 resolution payment & CAP

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The Reasonable Information Security Program

IDENTIFY

- Identify information to be protected

ASSESS

- Assess threats, vulnerabilities, and risks

SAFEGUARD

- Establish policies and controls, train, and test

CONTRACT

- Select, contract with, and oversee third parties

RESPOND

- Establish response readiness and respond to incidents

ADJUST

- Review and update program

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The Reasonable Information Security Program

IDENTIFY

- An organization should identify the types of information in its possession, custody, or control for which it will establish security safeguards (“Protected Information”).

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Protected Information:

- PHI of Covered Entities & Business Associates (HIPAA)
- PI (47 states, D.C., & 3 territories)
- Information given protected status by contract (payment card data)
- Information given protected status by privacy notices
- Trade secret and business confidential information

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State-level PI

Generally, state resident's name combined with another identifier:

- Social Security number,
- driver's or state identification number, or
- financial or card number with access information

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State-level PI - Additional Elements:

- Medical information (AR, CA, FL, MO, MT, ND, NV, OR, PR, RI, TX, & WY)
- Health insurance information (CA, FL, MO, ND, OR, RI, TX, & WY)
- Unique biometric data / DNA profile (IA, NE, NC, OR, WI, & WY)
- Shared secrets or security token for authentication (WY)
- Taxpayer ID or other taxpayer information (MD, MT, PR, & WY)
- IRS identity protection PIN (MT)
- E-mail address or Internet account number, with security access information (FL, NC, & RI)
- Digital or electronic signature (ND)
- Employment ID number, combined with security access information (ND)
- Birthdate (ND)
- Birth or marriage certificate (WY)
- Parent's surname before marriage (ND)
- Work-related evaluations (PR)

NV as of 7/1/15, WY as of 7/1/15, ND as of 8/1/15, MT as of 10/1/15,
OR as of 1/1/16, RI as of 7/2/16

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State-level PI – Notification Deadlines

Generally, most “expeditious” or “expedient” time possible, without “unreasonable delay”

States increasingly providing deadlines:

- Florida – 30 days
- Ohio – 45 days
- Wisconsin – 45 days
- Rhode Island (as of 7/2/2016) – 45 days
- Connecticut (as of 10/1/2015) – 90 days

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The Reasonable Information Security Program

RESPOND

- An organization should be prepared to respond to security breaches of Protected Information.
- An organization should respond effectively to detected breaches of Protected Information.

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10 Activity Channels for Breach Response

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Cybersecurity Unit
Computer Crime & Intellectual Property Section
Criminal Division
U.S. Department of Justice

Best Practices for Victim Response and Reporting of Cyber Incidents

Version 1.0 (April 2015)

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DOJ Best Practices for Victim Response and Reporting of Cyber Incidents

“Any Internet-connected organization can fall prey to a disruptive network intrusion or costly cyber attack. A quick, effective response to cyber incidents can prove critical to minimizing the resulting harm and expediting recovery. **The best time to plan such a response is now, before an incident occurs.**”

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DOJ Best Practices for Victim Response and Reporting of Cyber Incidents

- Identify your “Crown Jewels.”
- Have an actionable plan in place before an intrusion occurs.
- Have appropriate technology and services in place before an intrusion occurs.
- Have appropriate authorization in place to permit network monitoring.
- Ensure your legal counsel is familiar with technology and cyber incident management to reduce response time during an incident.
- Ensure organization policies align with your cyber incident response plan.
- Engage with law enforcement before an incident.
- Establish relationships with cyber information sharing organizations.

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Breach Response Readiness

- Coordinate Readiness Planning through Your Legal Counsel, with Privilege
- Gather Information for Readiness Planning
- Identify & Involve Your Incident Response Governance Team Members
- Establish Your Service Provider Relationships
- Prepare Your Response Readiness Plan
- Train Your Team

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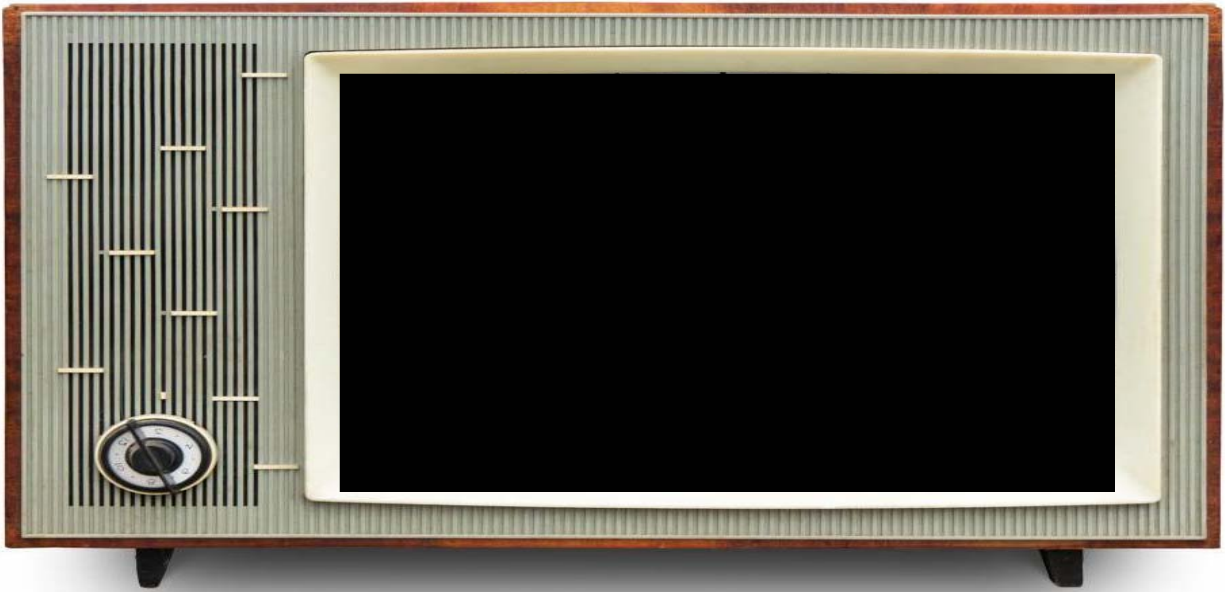
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**The Coming of Telemedicine: Business and
Compliance Opportunities**
Julian Rivera and Ryan Rogers

@HBHealthcarelaw

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KIOSKS



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On-Demand Telemedicine Growth



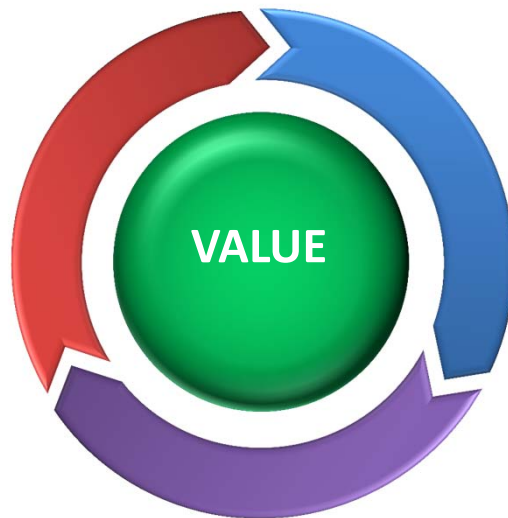
Source: THINK-Health curated list of telehealth companies, 24 September 2015

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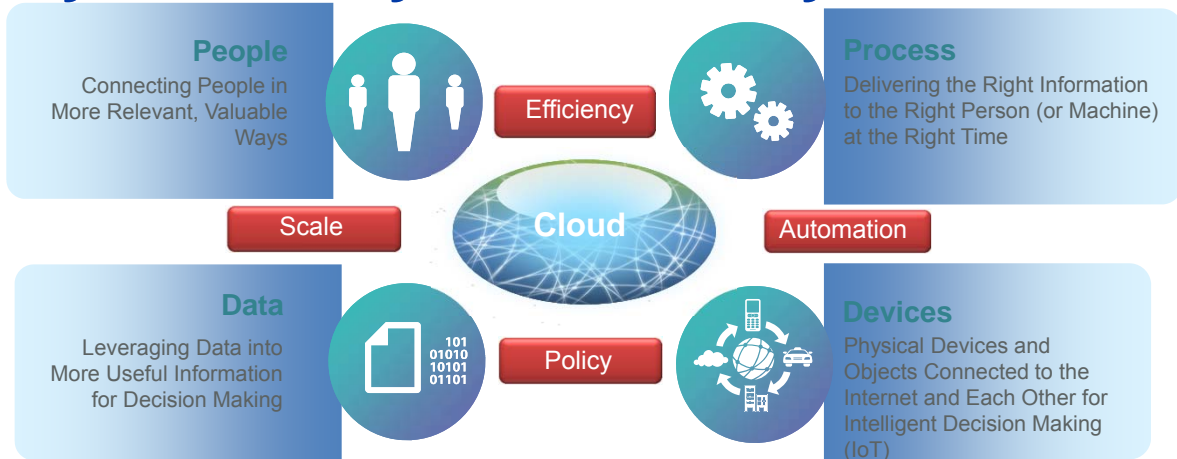
Continuity of Care



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The Intelligent Health System

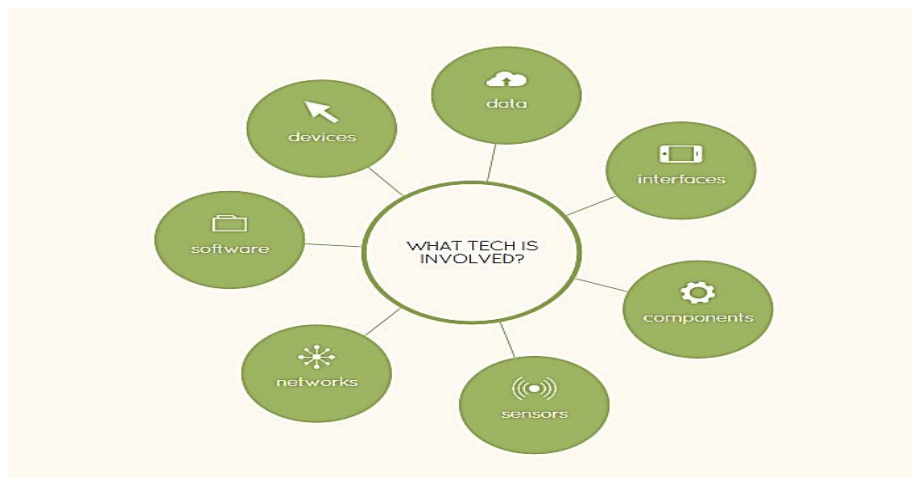
Any Time, Anywhere, Always Available



Source: "The Internet of Everything: A \$19 Trillion Opportunity," Cisco Consulting Services, 2014

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Health-Tech Success: What's Missing?



www.informationisbeautiful.net/visualizations/the-internet-of-things-a-primer

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..... conversation

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Thank You!



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Hypothetical Client Meeting: Your Employee Blew the Fraud Whistle. Now What?

- Moderator: Brian Flood, Partner, Husch Blackwell
- Panelists:
 - Lorinda Holloway, Partner, Husch Blackwell
 - Kevin Koronka, Partner, Husch Blackwell
 - Cindi Faulkner, former President and Chief Operating Officer of a multi-facility healthcare company (playing the role of the client)

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Questions?
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