



HIPAA-HITECH Compliance & the Behavioral Health Field

Choosing HIPAA-Compliant Technology Part II

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Jay Ostrowski

Business Associations

- Behavioral Health Innovation - President
- International Society for Mental Health Online - President
- Mid Atlantic Telehealth Resource Center (MATRC)
 - Telehealth Consultant and Board Advisor
- National Board for Certified Counselors
 - Director of Product and Business Development
- Licensed Professional Counselor (MI and SC)
- Licensed Professional Counselor Supervisor (SC)
- National Certified Counselor
- Approved Clinical Supervisor
- Distance Certified Counselor
- Certified Telemedicine Clinical Presenter



Outline

- Overview of HIPAA Compliance & HITECH
- Overview of HIPAA Compliant Technology Issues
- Questions and Discussion about HIPAA-HITECH Compliance



Why Is This Important?



December 2014

U.S. Department of Health and Human Services
Office for Civil Rights

BULLETIN: HIPAA Settlement Underscores the Vulnerability of Unpatched and Unsupported Software

Anchorage Community Mental Health Services (ACMHS) has agreed to settle potential violations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Security Rule with the Department of Health and Human Services (HHS), Office for Civil Rights (OCR). ACMHS will pay \$150,000 and adopt a corrective action plan to correct deficiencies in its HIPAA compliance program. ACMHS is a five-facility, nonprofit organization providing behavioral health care services to children, adults, and families in Anchorage, Alaska.

<http://www.hhs.gov/ocr/privacy/hipaa/enforcement/examples/acmhs/acmhsbulletin.pdf>



HIPAA Compliance is easy Right?

BAA + Encryption + Privacy Policy
is **NOT** HIPAA Compliance





The Health Insurance Portability and Accountability Act of 1996 (HIPAA)

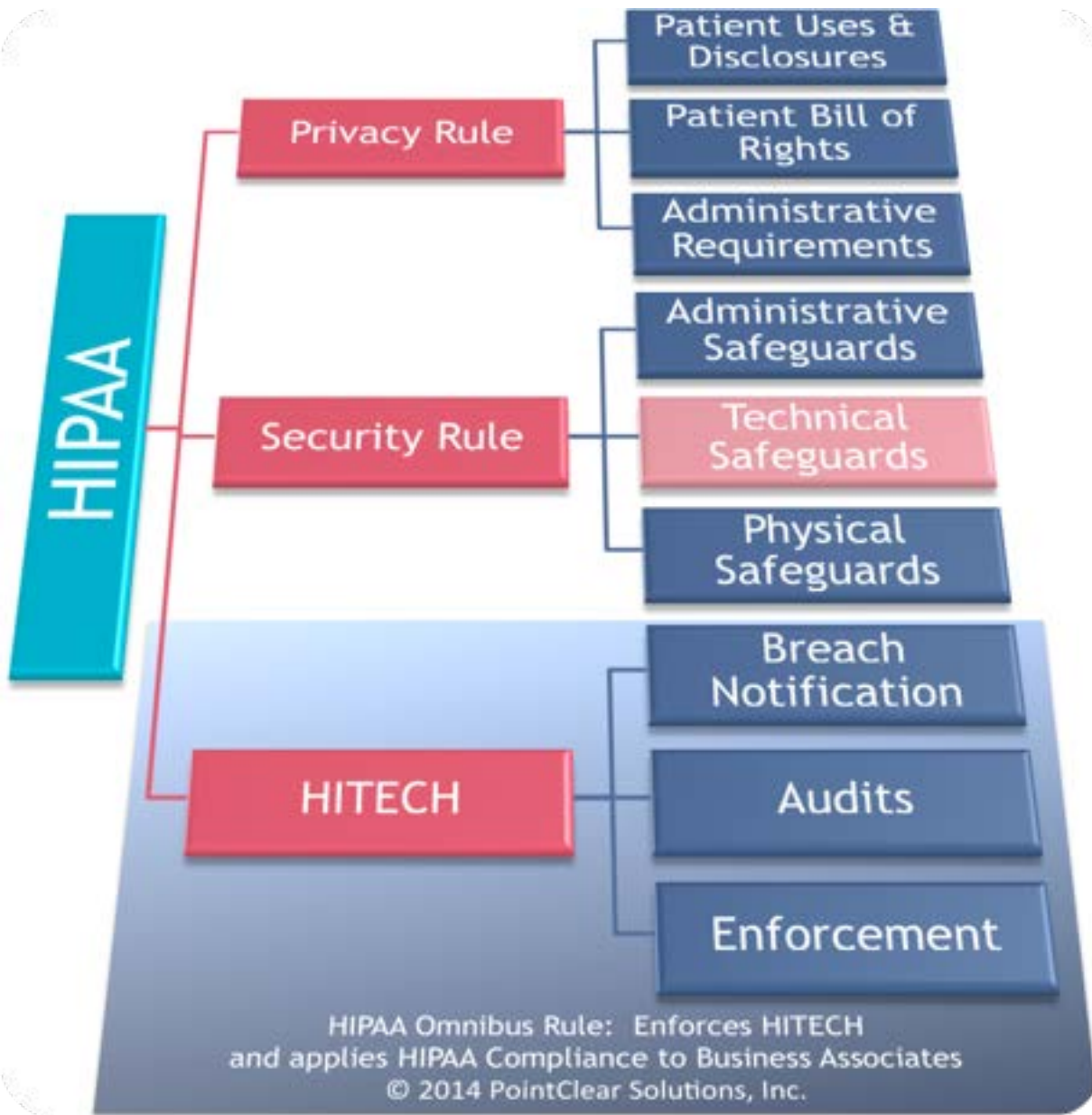




HITECH Enforcement

Grace period ended
September 22, 2014





Who Has to Comply?

Covered Entity

A covered entity is

- 1) a health care provider that conducts certain standard administrative and financial transactions in electronic form;
- 2) a health care clearinghouse; or
- 3) a health plan.

Business Associate

What Is a “Business Associate?” A “business associate” is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity.



Private Health Information (PHI)

“Individually identifiable health information”

18 Identifiers:

- Name
- Address (all geographic subdivisions smaller than state, including street address, city, county, or ZIP code)
- All elements (except years) of dates related to an individual (including birth date, admission date, discharge date, date of death, and exact age if over 89)
- Telephone numbers
- FAX number
- Email address
- Social Security number
- Medical record number
- Health plan beneficiary number
- Account number
- Certificate/license number
- Vehicle identifiers and serial numbers, including license plate numbers
- Device identifiers or serial numbers
- Web URLs
- IP address
- Biometric identifiers, including finger or voice prints
- Full-face photographic images and any comparable images
- Any other unique identifying number, characteristic, or code

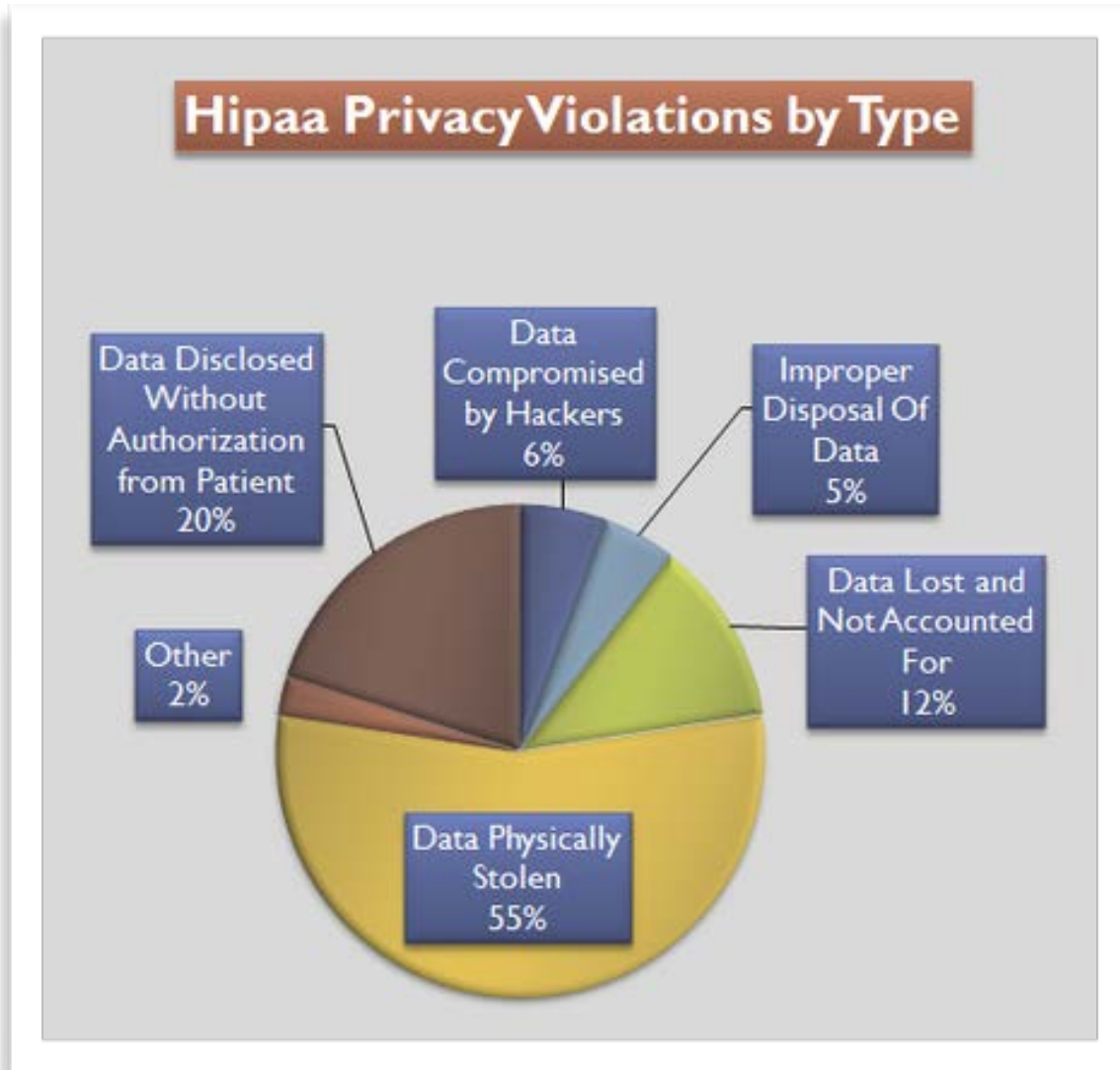
Refer to these links for specific definitions.

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/De-identification/guidance.html>

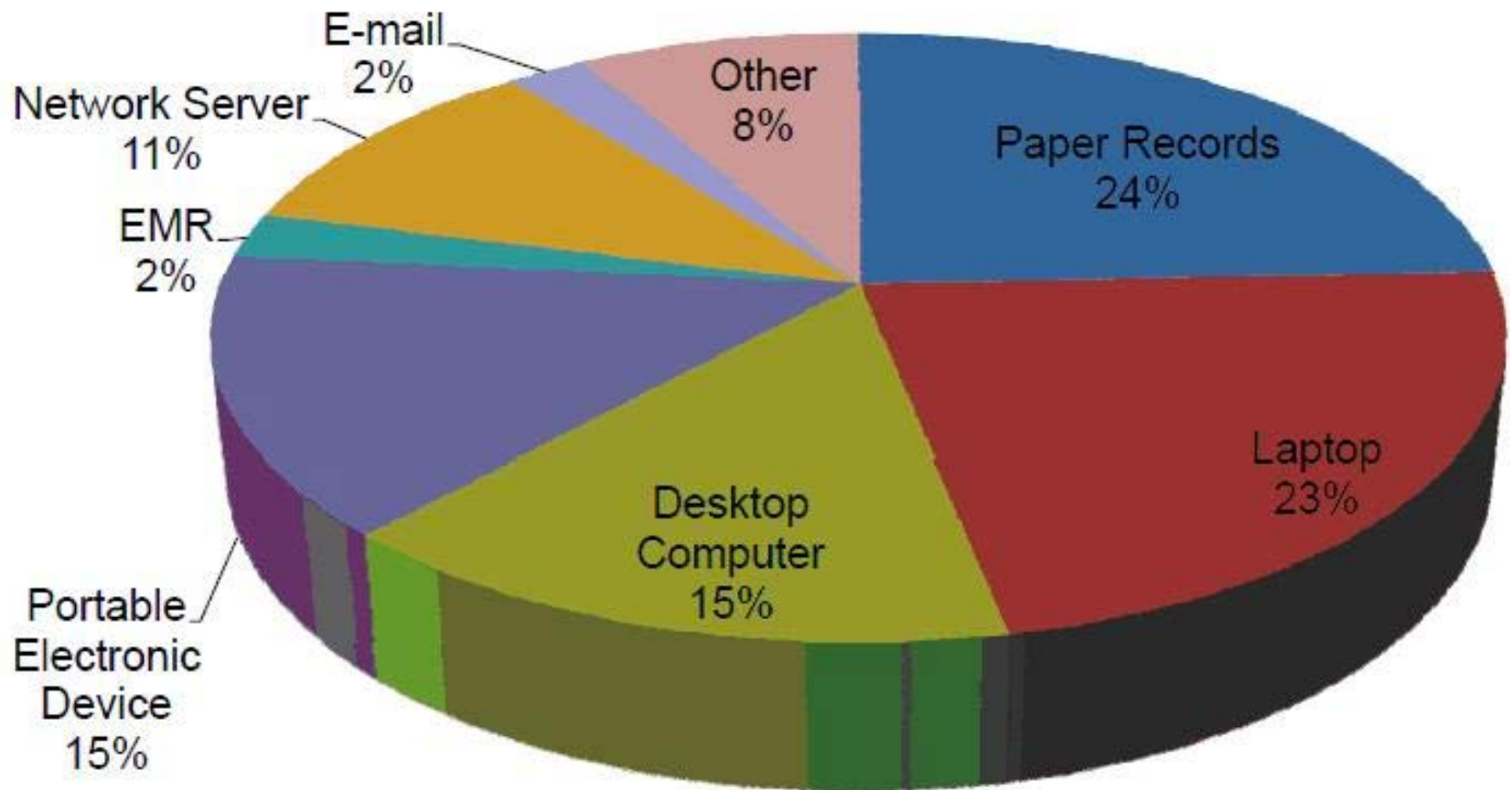
<http://cphs.berkeley.edu/hipaa/hipaa18.html>



Common Types of Violations



Breach Notification: 500+ Breaches by Location of Breach



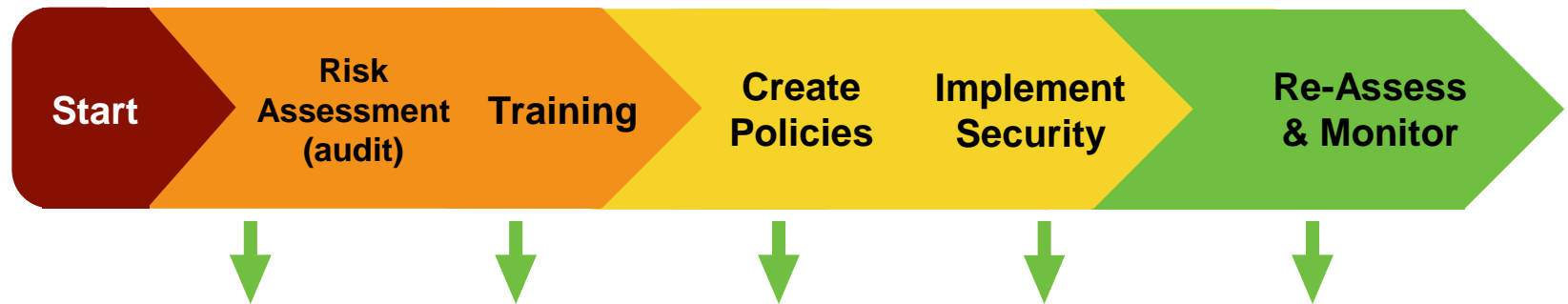
HIPAA-HITECH Violation Categories

Each category has a Civil Monetary Penalty (CMP)

Violation Category	Each Violation	Total CMP for Violations of an Identical Provision in a Calendar Year
Unknowing	\$100 – \$50,000	\$1,500,000
Reasonable Cause	\$1,000 – \$50,000	\$1,500,000
Willful Neglect – Corrected	\$10,000 – \$50,000	\$1,500,000
Willful Neglect – Not Corrected	At least \$50,000	\$1,500,000



HIPAA-HITECH Compliance Roadmap



Your Role

<p>Risk Assessment What ePHI is stored Where is it stored? Who has access? Access controls? Privacy Officer?</p>	<p>Training Staff training</p>	<p>Create Policies Assign specific responsibilities, processes and protocols.</p>	<p>Security Implement physical, technological, & administrative controls</p>	<p>Evaluation Set up and test monitoring systems.</p>
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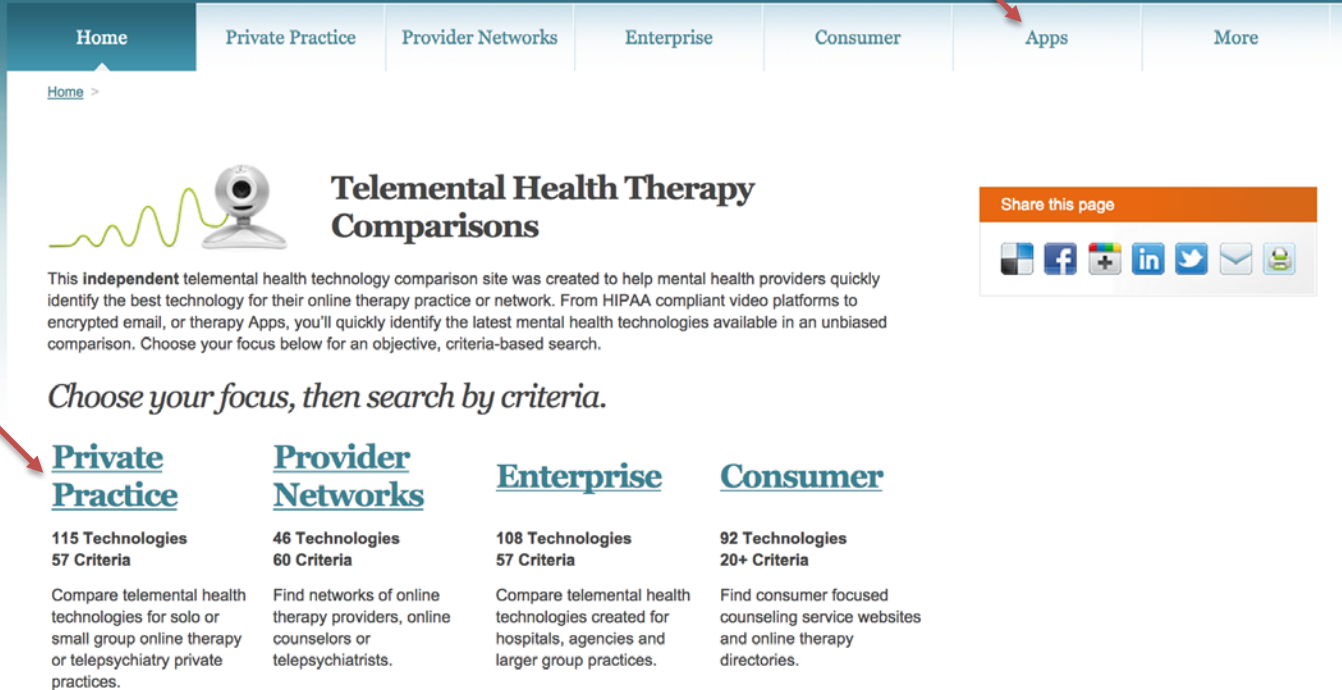


Is This Vendor HIPAA-Compliant?

- Vendors often say they are HIPAA compliant, when they really mean complain with one small area. Others claim HIPAA doesn't apply because they are not CEs.
- But by allowing access to ePHI you are essentially “delegating” your HIPAA compliance to the vendor and they need to implement all the same protections as if they are you.
- For many reasons, a vendor' work with other CEs (even large ones) does not by itself, mean they are really compliant.




Choosing HIPAA Compliant Technology



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Telemental Health Therapy Comparisons

This **independent** telemental health technology comparison site was created to help mental health providers quickly identify the best technology for their online therapy practice or network. From HIPAA compliant video platforms to encrypted email, or therapy Apps, you'll quickly identify the latest mental health technologies available in an unbiased comparison. Choose your focus below for an objective, criteria-based search.

Choose your focus, then search by criteria.

<u>Private Practice</u>	<u>Provider Networks</u>	<u>Enterprise</u>	<u>Consumer</u>
115 Technologies 57 Criteria	46 Technologies 60 Criteria	108 Technologies 57 Criteria	92 Technologies 20+ Criteria
Compare telemental health technologies for solo or small group online therapy or telepsychiatry private practices.	Find networks of online therapy providers, online counselors or telepsychiatrists.	Compare telemental health technologies created for hospitals, agencies and larger group practices.	Find consumer focused counseling service websites and online therapy directories.

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Telemental Health Regulation, Certification and Training

<https://telementalhealthcomparisons.com>



Choosing HIPAA Compliant Technology

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Apps

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Home > Private Practice – Online Therapy Technology



Private Practice Telemental Health Technology

An independent comparison of the telemental health technology options for Psychiatrists, Psychologists, Counselors and Social Workers in solo online private practice counseling. Telemental health technologies and software platforms are constantly improving. Use this comparison site to identify the online counseling or telepsychiatry platform that meets your practice needs.

Note: Some of the technologies may NOT have been created for telemental health but were included for comparison purposes. Click criteria such as "HIPAA compliant" to find technology that meets your needs.

Private Practice Telemental Health Technology Comparisons

Search for:

Search

START HERE

1. Filter results by clicking on the **CLICK**
2. Click on the blue bar to show more choices



	VSee	Interactive Care	HealthLinkNow	BlueJeans	TheraWeb	POLYCOM
	Vsee	Interactive Care	HealthLinkNow	Blue Jeans	TheraWeb	Polycom
	0	0	0	0	0	0

Communication

CLICK Video Conference (One to one)	✓	✓	✓	✓	✗	✓
Video Conference (Group Capacity)	unlimited			25		1
CLICK Email Over Secure Private Network						

Resources

HIPAA Summary for Small Providers

www.hhs.gov/ocr/privacy/hipaa/understanding/summary/privacysummary.pdf

Covered Entity Definition

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/>

<http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/HIPAAGenInfo/Downloads/CoveredEntitycharts.pdf>

Covered Entity Training

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/training/coveredentities.pdf>

Sample BAA

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/contractprov.html>

How the OCR enforces:

<http://www.hhs.gov/ocr/privacy/hipaa/enforcement/process/howocrenforces.html>

Required in Release of Information: <http://privacyruleandresearch.nih.gov/authorization.asp>

NIST HIPAA Security Toolkit <http://scap.nist.gov/hipaa/>

HITECH <http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf> Jan 25th 2013

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/securityrule/nist80066.pdf>





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