

MTIndia Newsletter – Proactive provisions to protect PHI

Source: <http://sci.tech–archive.net/Archive/sci.med.transcription/2004–08/0041.html>

From: AbeilleDeSucre (*abeilledesucre_at_aol.com*)
Date: 07/31/04

Date: 31 Jul 2004 13:59:56 GMT

Subj: MTIndia Newsletter – Proactive provisions to protect PHI
Date: 07/31/2004 12:54:04 AM Pacific Daylight Time
From: amit@mtindia.org
To: MTIndia@yahoogroups.com
Sent from the Internet (Details)

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31 July 2004

Proactive provisions to protect PHI ...

Dear Friends,

NASSCOM recently announced the findings of a special study it has conducted on India's Information Security Environment. The report benchmarks Indian IT services and ITES–BPO companies against their US and UK peers, with regards to the deployment of best practices in the areas of data security, confidentiality and privacy laws.

The study shows that overseas companies are quite comfortable with the

existing Information Security scenario in India and have rarely faced any issues related to data security, data protection or confidentiality while offshoring work to India.

The NASSCOM study has thrown up the following findings about the Information Security orientation of the Indian IT services and ITES–BPO market. It indicates that:

- * Indian companies have robust security practices, comparable to those followed by Western companies.
- * Indian companies adhere to global standards such as the BS 7799, which covers all areas of security.
- * Companies that are compliant with the BS 7799 standard have established Information Security Management Systems (ISMS) policy for ensuring information security in the areas of usage policy, information classification policy, mobile computing policy, risk management policy and third party access policy.
- * Indian vendors normally sign Service Level Agreements (SLAs) which have very strict confidentiality and security clauses built into them at the network and data levels. Such SLAs also cover all relevant laws that customer companies want the offshore services provider to comply with and the actions that can be taken in case of breaches.
- * Spending on security ranges from five to 15 percent of the IT budget.
- * India has a strong regulatory environment, covered by laws such as the IT Act 2000, the Indian Copyright Act, the Indian Penal Code Act and the Indian Contract Act, 1972, to safeguard the interests of companies offshoring work to the UK and US.

However, the IT Act does not have any direct, proactive provisions to protect data. Protection is through implication and therefore damages recoverable can only be through a laborious process of "demonstrating and proving" that there has been a breach.

Says cyber law expert Pavan Duggal, "Specific provisions provide 'incidental' protection to data. There is no law governing misuse such as deletion, leaking out information as well as threats to put out sensitive information on the internet."

Also, the liability of any breach lies with the network service provider (Section 79)–in a BPO this will mean the Company – and not the employee whereas most data breaches are by 'rogue' employees.

The Government proposes amendments to a handful of legislations ranging from the Information Technology Act 2000, the Indian Penal Code, the Indian Contracts Act, Consumer Protection Act as well as the Specific Relief Act to incorporate data privacy and security laws.

An expert group set up by the Department of Information Technology is sifting through domestic laws with a view to fine–tuning them. The exercise is aimed at enabling business process outsourcing and other IT enabled services to handle work from the US and EU with competitive advantage.

See:

<http://economictimes.indiatimes.com/articleshow/792726.cms>

Ciao!

Maj (Dr.) Amit Chatterjee, SM
Strategist / Founder ~ <mailto:amit@mtindia.org>
MT India ~ www.mtindia.org
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NEWS AND VIEWS :

1) CBay Selected by University of Michigan Health System to Provide Medical Transcription Services

CBay Systems, Ltd. has been awarded a multi-year contract to provide medical transcription and information management services to University of Michigan Health System. The scope of the contract includes support to University Hospital and approximately 30 health centers and 120 outpatient clinics in Michigan.

Physicians at University of Michigan Health System will dictate via the telephone, digital voice recorder or PDA and transcripts will be delivered seamlessly into the hospital's health information management system. CBay's web-based solution is fully HIPAA compliant and provides accuracy and turnaround schedules that match the best in the industry—all while offering substantial savings without any capital investment.

CBay is the world's fourth largest provider of transcription services to the healthcare industry and has U.S. based and offshore production facilities employing more than 3,700 people serving over 800 clients.

<http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/07-27-2004/0002218713&EDATE=>

2) MedQuist Announces Key Findings of Independent Review of Client Billing

The review, conducted for the Board of Directors by Debevoise & Plimpton LLP and PricewaterhouseCoopers LLP, identified a number of issues regarding the company's billing practices. The review found that with respect to its contracts that called for billing based on the "AAMT line," the company used ratios and formulas to determine the number of "AAMT" transcription lines for which clients were billed rather than counting the number of relevant characters to determine a billable line as provided for in the contracts. With respect to these contracts, the company's use of ratios and formulas as a surrogate for counting was generally not disclosed to the clients. In addition, a company employee explained inaccurately to KPMG LLP (KPMG), the company's outside auditors, the computation of AAMT lines on one of the company's major transcription platforms. The use of ratios and formulas caused some clients to be billed more and some to be billed less than if the

counting method provided for in the contracts had been used. In addition, the ratios and formulas for certain client accounts were changed by the company, generally without disclosure to clients, in order to affect profit margins. Due to the ambiguities inherent in the AAMT line definition and the limited extent of the information available to the company for earlier periods, the company is unable at this time to determine with any reasonable certainty the aggregate amount of overbilling.

MedQuist has also been informed by the staff of the Securities and Exchange Commission that the SEC has opened a formal investigation of the company. The company will continue its efforts to cooperate with the SEC, as it has since it voluntarily advised the SEC of the company's review of its billing methods.

The Board also took disciplinary action against five MedQuist employees. Said Gregory Sebasky, MedQuist's President: "We believe that we have done what is necessary and appropriate in light of the results of the review. We will continue to build a strong and motivated organization and continue MedQuist's commitment to a high standard of ethics and customer satisfaction." The Board also announced that it has accepted the resignations of its Chief Financial Officer, Brian Kearns, and its Chief Legal Officer, John Suender.

<http://www.mtchat.com/ubbthreads/showflat.php?Cat=&Board=UBB10&Number=23459&page=0&view=collapsed&sb=5&o=&fpart=6>
<http://business-times.asia1.com.sg/story/0.4567.123640.00.html>

3) Cogient, AssistMed sign agreement

AssistMed Inc., a provider of Web-based transcription and health data integration products, and Cogient Corp., a medical practice management and Electronic Medical Record application service provider, have signed an agreement covering the United States and Canada, with the aim of capturing significant market share driven by government initiatives to have widespread EMR adoption.

<http://www.globetechnology.com/servlet/story/RTGAM.20040730.gtcogi0730/BNStory/Technology/>

4) Physicians Resist Electronic Order Entry

Physicians' resistance to computerized physician order entry (CPOE) systems is impeding their adoption more than the cost of such systems, according to a new study by the Harvard Medical School.

Researchers conducted extended interviews with 52 senior managers at 26 hospitals and identified physician resistance, high cost of systems and immature products as the top three obstacles to implementing CPOE.

Fewer than 15 percent of all U.S. hospitals are estimated to use CPOE, in which physicians enter orders for medications, tests and other services

electronically.

<http://www.eweek.com/article2/0.1759.1622393.00.asp?kc=EWRSS03119TX1K0000594>

5) Cebu urged to lower cost of MT training

There is a need for Cebu to bring down the cost of training for medical transcription (MT) so it can produce enough manpower for Cebu's next big potential business. According to Cebu Holdings Inc. (CHI) president Rene Almendras, medical transcription is Cebu's next real opportunity after the flourishing of call centers in the area. During the annual general membership meeting of the Cebu Chamber of Commerce and Industry at the City Sports Club Cebu last week, he said the cost of training at the only MT school in Cebu is very high because of the law of supply and demand.

But International School for Medical Transcription (ISMT) president Maria Lourdes Go denied the school's training was expensive. Almendras said MT investors have expressed interest in locating in Cebu, but the availability of manpower is hindering them from doing so.

<http://www.sunstar.com.ph/static/ceb/2004/07/21/bus/cebu.urged.to.lower.cost.of.mt.training..html>

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