

# eHealthlaw&policy

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## Thailand health system suffers health data leak

Thailand's health system suffered a data breach in late March, which saw the personal details of foreign nationals living in Thailand leaked online, an official from the Department of Disease Control at the Ministry of Public Health, has confirmed. The cause of the breach, according to the Ministry, was due to a security weakness that allowed health officials to access the database of personal health information without logging-in and the transfer of that data to other health officials, resulting in an unintentional leak of data.

"The breach revealed not only personal details such as name, passport number, nationality but also health data such as the details of vaccination of people entering Thailand," explains Dhiraphol Suwanprateep, Partner at Baker & McKenzie. "Although Thailand already has the National Health Act B.E. 2550 (A.D. 2007) to protect health data, in practice the law cannot prevent data breaches that are technical in nature. Pressure needs to be brought to bear on relevant government departments to make sure that they use sufficiently secure methods of accessing and transferring health data."

**IN THIS ISSUE**  
**Blockchain** Healthcare applications **03**  
**Sweden** Ambitions in the eHealth field **06**  
**mHealth** US guidance for app developers **08**  
**Online Pharmacies** Italian regulation **10**  
**Advertising** FTC **13**  
**Wearables** CareKit **14**  
**Cyber Crime** German hospitals & malware **15**

## WHO makes legal and policy recommendations for eHealth

The World Health Organisation ('WHO') published on 14 March its report 'From innovation to implementation - eHealth in the WHO European Region,' based on data collected from the 2015 WHO global survey on eHealth. The report outlines key trends and progress in eHealth across Europe, highlighting an 'increasing appetite for eHealth.' Further, the report makes law and policy recommendations to expand the use of eHealth.

"The report puts all of the information on the subject into one place, which is a massive step for people wanting to drive eHealth forward and helps people transitioning into the space with their business case and with data protection issues," believes Collette Johnson, Director at Plextek Consulting.

The report details statistics around legislation and policy,

finding *inter alia* that 80% of countries have privacy legislation in place around electronic health records ('EHRs'), while 73% of countries have no entity with oversight of mHealth technology. 38% of countries have no specific telehealth policy or strategy in place.

The report contains sections on various eHealth technologies, with a summary of recommendations pertaining to each area. For example, the WHO encourages countries to develop national telehealth strategies and to systematically evaluate telehealth services to indicate their progress and benefits. "Most of the recommendations are spot-on, particularly around the need for standardisation, comprehensive policy and reimbursement support, and improved digital literacy," says Philippe Bradley-Schmieg, Associate at Covington & Burling. "The call for 'detailed'

EHR laws is questionable. German and French EHR laws have simply added to already tough and complicated legal environments, with unimpressive results over the past decade. Countries like Poland and Belgium have instead focused on removing blockers in existing laws. For example, in 2014 Belgium changed a law to say that patient records have to be maintained 'by' a hospital, not 'in' a hospital, unlocking the use of key eHealth technologies."

The report highlights that progress requires strong political commitment and sustainable funding. "The report uncovered the need for policies and strategies to drive eHealth forward," adds Johnson. "The other area highlighted was training as people struggle with this in implementation and roll out and this tends to be where most programmes fail."

## Singapore looks to encourage the gamification of healthcare

Singapore's National Healthcare Group ('NHG'), Serious Games Association and Infocomm Development Authority launched the Health Innovation Technology Challenge ('HITC') on 28 March, a nationwide contest for game technologies and gamification solutions that help identify healthcare problems and provide innovative healthcare solutions.

"The National Healthcare Group launched the HITC with a view to help patients and healthcare providers better understand illnesses through

the use of gaming technology," explain Andy Leck and Ren Jun Lim of Baker & McKenzie. "The NHG had noted in previous studies that patients retained information better when their treatments included gameplay. The HITC builds on a similar competition organised by the NHG last year, which focused on how the use of games could improve patient care."

The national competition is the result of a collaborative effort to boost healthcare through innovative technologies. The goal of gamification is

to encourage patients to alter their behaviour, through for example, being rewarded with positive reinforcements if milestones are reached.

However there are a number of potential legal issues that need to be considered. "For example, depending on the functions of the game it may be potentially regulated as a medical device. Depending on the risk classifications, these medical devices may require simple notification or more complex registration, for example," adds Leck.