

# DATA SECURITY **AND** PRIVACY

# WORKING TOGETHER, OUR TEAM PROVIDES INSIGHTFUL COUNSEL AND A DEPTH OF SPECIALIZED EXPERIENCE.

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## Overview:

**S**ince well before companies entered the age of “Big Data,” Benesch attorneys have been advising clients on data security and privacy issues, including the protection of sensitive information and data, in the United States and around the world.

**T**oday's landscape for data security and privacy is characterized by increasing complexity. We have more computers, mobile applications, 24/7 connectivity, cross-border data flows and evolving security threats than ever before, while being subject to more stringent legal requirements and security standards. These changes, coupled with the recent surge in high-profile data security

breaches and increased global enforcement, mean that data security and privacy compliance can no longer be placed on the back burner – they have become among the highest-priority issues for businesses of all sizes.

**B**enesch has stayed ahead of the trends and consistently helped clients of all sizes and industries navigate their data security and privacy compliance needs. The team at Benesch is experienced to be able to support clients in a global, always-connected business landscape.

**A**dditionally, certain industries, such as health care, financial services and cloud services, have evolved such that data security and privacy have taken on extra

significance. Benesch maintains distinct capabilities in support of data security and privacy through the joint efforts of its Innovations, Information Technology and Intellectual Property Practice Group (3iP); Health Care Practice Group; and Labor & Employment Practice Group. Working together, this interdisciplinary team provides insightful counsel and a depth of specialized experience to clients across industries and situations.

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## FACTS

The Benesch 3iP Group is comprised of over 20 attorneys, patent agents and paralegals.

One team member is experienced as an engineer and has served as in-house counsel and Global Privacy Program Manager for a global *Fortune* 500 company.

Team includes members of the International Association of Privacy Professionals (IAPP) who have achieved the CIPP designation.

Several attorneys listed in information technology law among the Best Lawyers® “Best Lawyers in America” rankings by *U.S. News & World Report*.

Received “top firm” ranking in Information Technology Law by Best Lawyers®/*U.S. News & World Report* “Best Law Firms” report.

## OUR 3iP PRACTICE

Innovations, Information Technology & Intellectual Property

As businesses more frequently turn to technology when interacting with customers,

connecting employees, and transmitting and storing sensitive information globally, Benesch acts as a valuable partner that enables businesses to address the legal aspects of data security and privacy to manage risk to their stakeholders.

The 3iP team is fully versed in the latest technology solutions available to companies, and understands the nuances of increasingly stringent laws and regulations that govern how companies manage information flow and storage. The firm frequently partners with technology vendors and consultants to implement policies and solutions that are required under the expanding body of law in this area.

Benesch regularly works on data security and privacy-related matters as special outside counsel or through cost-effective onsite, short-term assignments to help clients proactively. We also provide the experience needed to respond quickly to data breach situations.

## Service Examples:

### COMPREHENSIVE U.S. AND GLOBAL DATA SECURITY AND PRIVACY COMPLIANCE, INCLUDING:

- HIPAA/HITECH
- Gramm-Leach-Bliley
- Children’s Online Privacy Protection Act
- Telecommunications Act
- Electronic Communications Privacy Act
- Privacy Act
- FERPA
- FACTA
- FTC Privacy Guidelines
- FTC “Red Flag” (identity theft mitigation) rule
- US state privacy and security standards
- EU, ADEA and Swiss Data Protection Directives
- US/EU and US/Swiss Safe Harbor Protocols
- Canadian national and provincial privacy and security standards
- Domestic and foreign data breach prevention and management
- Document retention and destruction
- Software, hardware and vendor services agreements
- Usage and privacy policies for websites and web-based apps
- PCI-DSS, NIST and ISO technical standards
- SSAE 16 audit standard
- Internal compliance program development

# OUR HEALTH CARE PRACTICE

Updates to HIPAA have rippled throughout the health care industry to now directly regulate vendors and other service providers to the health care industry (“business associates”), along with hospitals, health plans, doctor’s offices and others within the industry, who must take special care in managing information about patients and their care. One of the most noticeable trends in the industry is the movement to electronic medical records and use of electronic tools to manage care.

Benesch understands the tools and regulations shaping the health care landscape. Our team members offer diverse perspectives, specialized knowledge and experience that provide an insider’s viewpoint and a unique understanding to each engagement.

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“BENESCH UNDERSTANDS THE TOOLS AND REGULATIONS SHAPING THE HEALTH CARE LANDSCAPE.”

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## FACTS:

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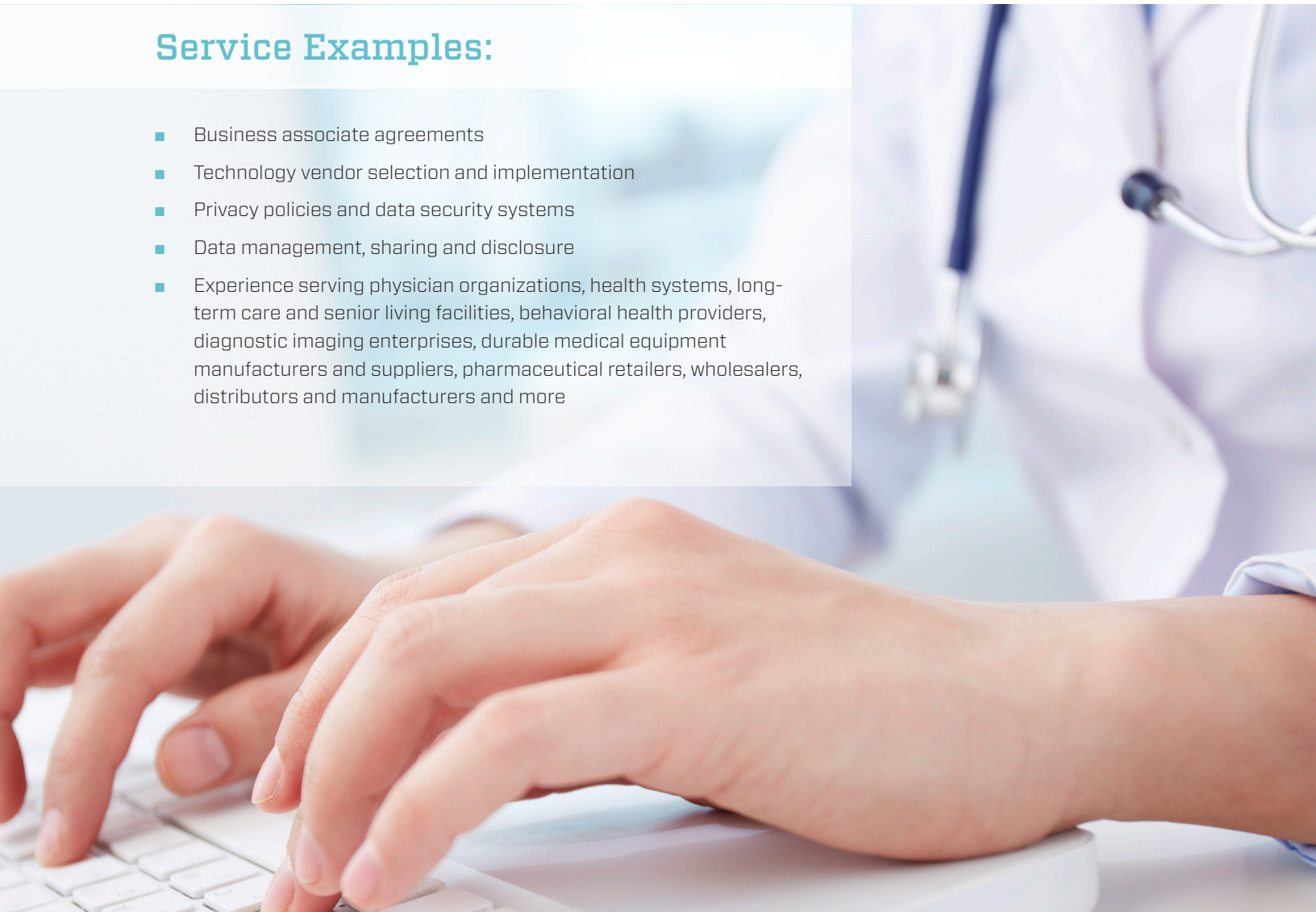
More than 200 years of combined experience in the health care industry with team members who have worked as health care providers.

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Health Care Practice Group received first-tier rankings in Cleveland and Columbus, OH in 2014 for our health care practice in the Best Lawyers® “Best Law Firms” rankings by *U.S. News & World Report*.

## Service Examples:

- Business associate agreements
- Technology vendor selection and implementation
- Privacy policies and data security systems
- Data management, sharing and disclosure
- Experience serving physician organizations, health systems, long-term care and senior living facilities, behavioral health providers, diagnostic imaging enterprises, durable medical equipment manufacturers and suppliers, pharmaceutical retailers, wholesalers, distributors and manufacturers and more







## FACTS:

Benesch partner received Presidential appointment to National Labor Relations Board and Congressional appointment for third consecutive term on the U.S. Commission on Civil Rights.

Active involvement with clients across industries, including retail, automotive, health care, manufacturing, trucking, technology, food and beverage distribution, industrial product distribution, professional services, banking and more.

Received first-tier rankings in 2014 in Cleveland and Columbus, OH in Labor & Employment Litigation by Best Lawyers® in the *U.S. News & World Report* "Best Law Firms" list.

## OUR LABOR AND EMPLOYMENT PRACTICE

Employers face major regulatory challenges from the likes of HIPAA, the Fair and Accurate Credit Transactions Act (FACTA), the Americans with Disabilities Act (ADA) and others. Management of the resulting data is critical, which has put a premium on the increased use of technology for data storage, sharing and security.

In today's workplaces, it is important to have a partner who helps ensure the proper processes, policies and tools are in place to protect the sensitive information that belongs to your business, your employees and your customers.

Benesch has experience providing training to privacy officers to maintain compliance with data security regulations, and we work with companies to prevent data loss or to help mitigate a data breach. In addition, the team is able to offer pragmatic advice on how to reduce the risk of employee data theft. An expansion of HIPAA has created compliance needs for companies doing business with entities in the health care industry. Additionally, more companies are moving to self-funded health plans, which require data security and compliance on par with what is expected of traditional health insurers.

## Service Examples:

- Noncompete agreements and trade secret rights
- Employer policies on Internet use, email, mobile devices, voicemail and social media
- Counsel for HIPAA, FACTA and ADA compliance
- Security measures for third-party providers
- Employee privacy issues, including searches of employee property and drug and alcohol testing
- Employee nondisclosure obligations for confidential and proprietary information
- Securing, maintaining and enforcing cyber insurance policies
- Negotiation of new system implementations with European work councils



Cleveland

Columbus

Indianapolis

Philadelphia

Shanghai

White Plains

Wilmington

[www.beneschlaw.com/dataprivacy](http://www.beneschlaw.com/dataprivacy)