In this issue, regulatory developments in medical device cybersecurity; plaintiffs make progress with claims following data breaches; how the “failing firm” defense justifies mergers; the profile of thefts by employees; and skilled nursing's increased ownership by and affiliation with hospitals and their investors.

Medical Device Cybersecurity News
New Gallagher Healthcare paper addressing medical device cybersecurity regulatory oversight and latest Healthcare Practice insurance considerations.
Read more.

Establishing Breach Liability News
Is the pendulum swinging in favor of plaintiffs who allege loss following a breach of their information? The U.S. Court of Appeals for the District of Columbia Circuit found that standing to sue exists so long as plaintiffs allege that a data breach traceable to the target company's negligence exposed them to a substantial risk of identity theft, and they reasonably spent money to protect themselves in the wake of the attack.
Read more.

Further reading.

Nonprofit Margin News
Rising costs, and lower reimbursement, mean that expenses grew faster (7.2%) than revenue (6.0%) in 2016 at nonprofit providers.
Read more.

Merger News
Twelve hospital Presence Health intends to merge into Ascension, the nation's largest nonprofit hospital company, reflecting further consolidation among Catholic systems as Dignity Health and Catholic Health Initiatives also continue their discussions.
Read more.

Presence Healthcare's financials have been improving, but when can poor financial results justify a merger that would not otherwise be allowed on grounds of limiting competition? Winning that argument with the FTC and the courts depends on the organization being unable to meet its financial obligations; unable to reorganize in bankruptcy; and, crucially, demonstrating that the provider has tried to find alternative buyers that would keep the assets in the market and pose a lower threat to competition.
Read more.

Further reading.
Embezzlement News
$1.13M average loss; 48 years old – average age of perpetrator; 28.7% of schemes last for more than 5 years. Hiscox’s 2017 Embezzlement Study reports on white collar crime, and suggests that it is time for everyone to review their crime insurance limit.
Read more.

Skilled Nursing Ownership News
Comparing 2005 with 2015, the percentage of hospitals with shared ownership or investor links to a post-acute care provider increased from 25% to almost 50%; hospitals with investor links to skilled nursing facilities increased from 10.7% to 17.5%; skilled nursing facilities with a corporate investor increased from 36% to 61.8%; skilled nursing facilities with a health company investor increased from 28% to 48.4%; and skilled nursing providers with a chain affiliation increased from 21% to 48%.
Read more.