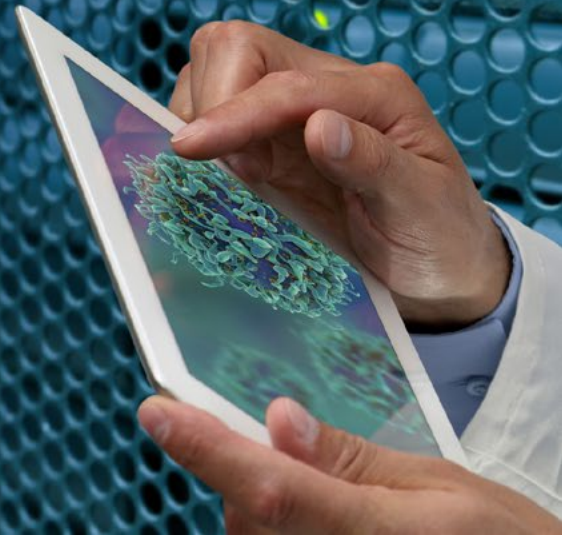# eDiscovery in Healthcare

Due to the explosion of new technologies in the healthcare industry, new data sources, and lengthy retention policies and requirements, healthcare providers have become deluged in data. In addition, regulatory bodies are taking a larger role in mandating how healthcare data is controlled, utilized and shared. Accordingly, legal departments are seeing an increase in the risk and cost that this massive amount of data brings and are called to manage this data in the most efficient and cost-effective manner possible.

As healthcare organizations manage and control more and more data, they must:

- Meet the challenges of a constantly evolving regulatory environment.

- Execute an information lifecycle strategy to reduce the amount of electronically stored information (ESI) subject to legal hold and discovery review.

- Be mindful of the risks related to new data flowing in or out of the organization due to acquisitions and divestures.

- Improve the management and control of eDiscovery requests from third parties.

- Identify appropriate resources and custom solutions for a holistic approach to data collection.

- Efficiently manage costs related to litigation, investigations and regulatory requests.

Why KPMG

KPMG's Forensic Technology Services (FTS) has years of experience supporting clients in the healthcare sector with novel, large-scale, agile solutions. KPMG brings advanced technology and processes to meet the rapidly changing needs of our clients in a cost-effective manner.

Using a wide range of sophisticated technology, KPMG professionals can help organizations address the risks and costs involved with evidence and discovery management.

Our new and innovative approach to Managed Review complements traditional contract review management and technology-assisted review methodologies and supplements with an experienced team that provides more with less for our healthcare clients.

Our professionals have significant experience dealing with the regulatory challenges present in the healthcare industry.

We have dedicated technology centers enabling us to process, host, and distribute documents and data in manageable formats, while providing secure and private Web access to authorized users worldwide.

Our trained data analytics professionals process and perform data analytics on large volumes of transactions, whether the data at issue involves pricing, claims, patients, interactions, procedures, payments, reimbursements, quality, coding, referrals, bundling, or utilization.

Our processes ensure the safeguarding the "crown jewels," i.e., data that is essential to the business, and eliminating risk exposures to such sensitive data as personally identifiable information (PII) and protected health information (PHI).

Examples of how we help clients:

Challenge

Benefits

The data volumes of eDiscovery reviews are growing immensely, making it unbearable for a manual, linear review. It is becoming more commonplace to leverage technology-assisted review and analytics to cull down the amount of data that needs eyes on review. KPMG's methodology brings together technology, industry expertise and statistical workflows to create a more robust eDiscovery review using defensible data reduction, review celerity and quality control.

Using technology-assisted review workflows based on continuous learning algorithms on a 150,000 document review, we were able to prioritize the review to only 46,000 documents of interest, creating a statistically valid sample of the remaining documents and saving the client $100,000 or 66% on review related costs.

KPMG routinely provides **burden arguments**, affidavits and expert testimony and appears before governing bodies to provide a detailed cost-based approach for our client to comply with the current request. KPMG also recommends solutions that can provide the same results, but at a fraction of the cost by limiting the scope, but remaining accurate.

In one particular case, KPMG's Forensic Technology team worked with our client's outside counsel to testify in front of the Government to drastically limit a scope of subpoena, resulting in limiting scope, reducing the estimated cost of the matter from more than $6.3 million to approximately $1 million.

Why spend incremental money to re-process and re-review the same data matter after matter, year after year? We have implemented a cost- effectively model that allows clients to create a "repository" of past responsiveness and privilege tagging that can be continually **re-used** to streamline the culling and review process on supplemental matters.

For a large healthcare enterprise client, we were able to realize savings of $42,500 by re-using the processed data for custodians from an older matter for a new matter. In another matter, using the tagging for responsiveness and privilege, our client was able to save $26,000 in first-level review cost by sampling and validating the existing work.

To maintain a strong and effective eDiscovery program, a defensible **retention and legal hold plan** must be in place. We frequently consult our clients by ensuring their current methodologies in place are efficient while ensuring all company policies and government regulations are met.

For a large Healthcare provider, we recently consulted with in-house counsel on their retention policy and legal hold methodology. Taking inventory of the data on the company's servers, we found that a three-year communication retention plan would result in the deletion of 65% of all communications, a decrease in eDiscovery spend of $700,000 per year, and technology infrastructure spend reduction of $1,000,000 per month.

Nowadays, intelligent automation and robots are being used in so many aspects of our lives, from delivery services to self-driving cars. This is no different in the eDiscovery and legal space. KPMG is on the forefront of using these advanced techniques in upstream process of eDiscovery to drive efficiencies and decrease costs for our clients.

KPMG is automating processing workflows to minimize the labor required to complete standardized, repetitive tasks. This increases productivity, reduces risks, minimizes queue time, and increases visibility and reporting during this stage. By applying rules-based logic, KPMG moves key decision-points to the front of the process, thereby reducing the need for human judgment downstream.

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