

Podcast Transcript

Risk Never Sleeps

Episode 121

Sam Khan

Ed Gaudet: Welcome to the Risk Never Sleeps Podcast, in which we talk to the folks that are on the front lines protecting patient safety and delivering patient care. I'm Ed Gaudet, the host, and today I am pleased to be joined by Sam Khan, a healthcare attorney and board advisor for HoundDog.ai. Welcome, Sam.

Sam Khan: Hey Ed, thanks so much for having me. Appreciate it. Really excited to be here and chat with you.

Ed Gaudet: Yeah, welcome. Happy Thursday.

Sam Khan: Yeah, this week certainly flew by.

Ed Gaudet: Yeah. Just terrible, terrible news today this morning with the plane crash.

Sam Khan: And you're in DC, right? I did see that.

Ed Gaudet: In DC last night, and it actually affected a local skating club in Boston, in the Boston area. So I'm, you know, our thoughts and prayers go out to the family, to the trainers, to the children, to the skaters that were affected by this terrible, horrific crash. Just awful.

Sam Khan: Yeah, absolutely. I started sending my best their way as well.

Ed Gaudet: So let's start off with telling listeners a little bit about your background, your journey into law and healthcare.

Sam Khan: Yeah, absolutely. You know, into law, just generally, I guess I'm sort of the only lawyer in my immediate family. So I'm basically a black sheep. You know, a lot of my family, they're medical professionals. So I kind of deviated there. I suppose I'm married with the health law aspect of it, you know, trying to fit in there. But yeah. So I was interested in health law from the start, you know, obviously open to other areas during law school and after. But certainly there was a pretty strong interest there from the very start.

Ed Gaudet: Yeah. And I imagine you've seen a number of interesting things from a legal perspective happen in healthcare. Any like the strangest thing you could share with listeners that you've seen?

Sam Khan: Yeah, I mean, there's a lot of developments going on right now, obviously, with, you know, in the privacy cybersecurity realm, with the recent breaches. Change Health is obviously one that comes to mind over and over again. And then with the advent of AI, right? In terms of integration, I think a lot of us, you know, in this space, a lot of other leaders I've spoken with are excited overwhelmingly, but there's certainly some caution there in terms of, you know, what adoption of AI is going to look like.

Ed Gaudet: How do you think it's going to evolve? There are a lot of legal questions, a lot of legal unknowns, a lot of technology, and ethical questions as well. How do you think it's going to evolve over the next couple of years?

Sam Khan: Yeah, that's, you know, it's a great question. There is a lot of uncertainty. Again, like I've been talking to a lot of other leaders in this space. And it's really hard to say how it's going to evolve. But, you know, in like the innovative aspect of it is going to be welcomed.

Sam Khan (cont'd): I think gradually as we're, you know, understanding what the landscape looks like with the new administration, you know, then again, there's more certainty there, but we're sort of expecting, you know, sort of a broader adoption that's likely going to happen with less, you know, regulatory hurdles that I think most are expecting with the new administration, for example. So yeah, there's a lot of moving pieces, you know, and I'm happy to get into them. But yeah, there's no straight answer here unfortunately.

Ed Gaudet: Yeah. So I assume you've been studying HIPAA recently. It was opened up. You know, what have you learned so far? You know, have you actually prepared any comments? Are you going to send comments in?

Sam Khan: Yeah, that's great. I had a feeling you'd ask. I was going to bring it up regardless. But of course you've done your homework. Unsurprisingly, Ed. HIPAA for the first time has mentioned its proposed security rule AI regulations. Yeah, certainly. I know, the ABA health Law section is working to you know, come up with some comments. Probably will try to contribute in some way there as well as on behalf of some clients that I'm advising. Yeah. It's a lot going on there, right? One of the things I will mention is you while the mention AI and the new proposed rules there are, it's not comprehensive. So it doesn't necessarily go into, you know, important aspects like AI governance and that sort of thing, which is obviously crucial for, you know, organizations.

Ed Gaudet: Yeah. And how do you think, have you thought about AI governance and how it may differ from other areas of governance? It is fairly unique in many ways.

Sam Khan: Yeah, absolutely. It's, unique is a good way to put it. I think there are commonalities, right? Like for example, obviously you want to include AI in your regular risk assessment. Right? But then there will be some differences based off of specific risks, right, or vulnerabilities that AI poses, like data poisoning or adversarial, you know, threats of that sort or specific privacy concerns related to AI. But, you know, again, I think they're, with respect to governance, we're, you know, even seeing, you know, talk about AI officers, for example. So a new C-suite role. You know, it is a specialized area. And I think lots of organizations are thinking about, you know, an oversight committee providing training to staff on AI.



Sam Khan (cont'd): So all of the sort of things that you would be doing in all other respects with, with privacy and cybersecurity, but specific to AI, really.

Ed Gaudet: Yeah. Really good. And you know, as you dig deep into the HIPAA rule, there's a mention of protected health information in a different way. Have you looked into that? Have you really thought through how that could affect small providers, large providers, you know, again, if they were to, if that requirement is to hold firm throughout the rulemaking process?

Sam Khan: Yeah. So could you be a little more specific?

Ed Gaudet: Yeah. Sure, sure. So there's this notion that we've got to be able to identify and track PHI everywhere.

Sam Khan: I see. Yeah. So you know, the new proposed security rule talks about performing a comprehensive risk assessment and articulates, so HHS basically says, We've been telling you this all along guys. But now we're going to make it very clear, you know, for the avoidance of any doubt. You need to have a comprehensive inventory of all your technology assets, including those related to AI, and do some mapping, right? So network mapping, map it all out. And really I think, I mean that's logical. But obviously it can be resource intensive. But yeah, I think you know, in terms of the, again, the amount of investment that organizations will need to put into to, you know, to this endeavor would be, I think, a pretty high, you know, costly one rather. But I think, again, it seems like a fundamental part of the risk assessment.

Ed Gaudet: And do you think that it's possible to be able to track PHI everywhere, especially as it leaves the health record and gets transferred to a patient's mobile device? Right? We have this interoperable rule, right? No info blocking. Right? So in some ways these two concepts are in conflict.

Sam Khan: Yeah. Actually that's a good point that you mentioned. I was talking to a colleague and she's a partner, you know, and dealing with HIPAA and security and all this stuff. And that's exactly what she said. So spot on. Yeah, I think that's going to have to be reconciled in some way.



Sam Khan (cont'd): It certainly is not easy to track PHI within, you know, in all, you know, in all ways within an organization. I think more or less, I mean, again, it's like mitigating risk or managing risk. It's not an all or nothing. There's no guarantee. I think the expectation is to do more and not to get it perfectly.

Ed Gaudet: Yeah. Well, I think if that's clear, then it'll be manageable. I think if they leave room for ambiguity and interpretation, that's, I think, where everyone gets into trouble, which is what we've been dealing with HIPAA for the last. Really great. So, you know, as you think about, so you come from a family of physicians, you said, right?

Sam Khan: Physicians and other providers. Yeah.

Ed Gaudet: Okay, cool. And so as you think about the security leaders that are out there that have to start really dealing with the business, especially as it relates to AI, right? They can no longer work in a silo. Cybersecurity now is cutting across all functions, all critical functions, all business processes in a health organization. What advice do you have for those IT or security leaders that want to build relationships with physicians or clinical leaders? Have you learned any family secrets?

Sam Khan: You know, I wish I could just give you, like, some kind of recipe or formula. That would be great. I mean, you know, I think number one is don't be afraid, right, to approach and to start, to take the initiative to, you know, form those relationships. I think they're, sort of starts with an understanding of the importance of building those relationships, you know. And again, there's there's a lot of value, as you know, in doing that. Right? So I think otherwise it's kind of like how do you really help out if you don't know what's going on with, you know, in terms of like boots on the ground? So I think, you know, every minute you spend with those physicians, you know, talking about the work that they're doing, you know, directly with their patient interactions and that sort of thing is incredibly valuable.

Ed Gaudet: That's good. I mean, having that empathy for the role is really important in order to understand how to communicate. Anything else, or is that pretty much the secret?



Sam Khan: Yeah. No, you know, again, I think, I mean, just physicians are, you know, humans at the end of the day. Just kind of approach them as such. Right? I think we all, like IT people, they have technical backgrounds. And if they speak in their jargon, it's going to come off very esoteric. They're not going to, you know, they can do the same the same thing. Physicians can do the same thing. But ultimately it's about understanding that common goal, right? And at the end of the day, you're in it for patient care. And so I think if you keep that commonality in mind, you can connect, you know, more easily.

Ed Gaudet: Yeah. Excellent. What are your top three priorities of the next 24 months? What are you thinking about for you personally and professionally?

Sam Khan: Yeah. You know, again, AI is obviously what really comes to mind right now. There's a lot going on there. You know, I'm working on a project to create a product for streamlining healthcare compliance, specifically with onboarding vendors. I know third-party risk management, you're quite familiar with that. So it's similar to that. You know, I think right now, we're seeing a lot of really an increased activity of folks delivering healthcare right now. So, you know, just with more actors in the equation, I think it's necessary to consider, you know, other things that we maybe haven't been necessarily considering. So that's one project I'm excited about, you know, working with a couple of AI engineers sort of automate that process, just, you know, again, and then AI compliance. Again, I'm trying to stay ahead of that. Right now there's a lot going on. People are sort of waiting around a little bit. Right? Because there's, it's kind of one of those, it's a situation where, you know, we know it's coming, but we don't know exactly what it is right now. Again, there's this HIPAA rule that we're talking about. There's a couple of other frameworks and things like that. But at the end of the day it's a rapidly evolving, you know, area. And so there's a lot there. And then kind of hand in hand with that privacy and cyber security as well. Those are, you know, there's a lot going on with the NIST 2.0 framework that, you know, came out in the last few months, as well as, you know, just for example, states, you know, proposing state level privacy regulations now, right? So, like we're seeing privacy in a different lens. And I think, you know, for good or for bad, I personally think it's overall a good, you know, a good thing; protecting, you know, people patients etc..

Sam Khan (cont'd): Yeah, it's something that everyone is becoming a stakeholder in. It's not just, we're not just waiting for or, you know, delegating that to physicians or, you know, like it's other subject matter experts. It's becoming a collective endeavor which is nice to see.

Ed Gaudet: Yeah. No, I like that, I like that. What keeps you up at night?

Sam Khan: Could I say at risk?

Ed Gaudet: You just did.

Sam Khan: Yeah. No. It's true, it's true. Risk does in certain ways. But also, on the other hand, I get very excited about where things are headed with technology. Right? So sometimes I'll be up researching something about a new AI tool or things like that. I think it's, there is so much space for innovation right now. You know, and I think, again, someone like you, I think you can, you know, appreciate the power, right, the benefit of AI and technology and how that, it has such an immense potential to affect, you know, healthcare, for example, in such a big way. Yeah, there's just, generally that I would say that's what keeps me up. I don't know if.

Ed Gaudet: I'm familiar with that technology.

Sam Khan: I'm happy to do that.

Ed Gaudet: No, it's great. No, I'm familiar with that technology rabbit hole. You blink and it's 5 a.m.. It's like, where did the time go?

Sam Khan: Exactly, exactly.

Ed Gaudet: Outside of healthcare, in the law, what are you most passionate about? What would you be doing if you weren't doing this?

Sam Khan: Yeah. You know, I think probably like a professor, I really enjoy, I was a tutor for two years, you know, in between undergrad and law school. It's something that I just, I just enjoy because I think when you teach, you also learn a lot yourself. And just like, you know, I think there obviously being, as a lawyer, you're forced to be very practical, which is necessary. But at the same time, I find it important to not let go of, you know, thinking academically about things as well. Right? Because it's easy to do that. It's easy to sort of get, you know, get lost in sort of like your day to day and, you know, servicing clients, but then, you know, not spending time on, okay, well, you know, look at the research your doing, you know, focusing on continuous learning, for example.

Ed Gaudet: Yeah, I love that. If you could go back in time, what would you tell your 20-year-old self?

Sam Khan: Yeah, that's a good one. So I think the main thing I would tell myself is, you know, things are, you sometimes want to see things pan out the way that you have visioned them, but they don't always turn out that way. So I think, I would tell myself to remain resilient, you know, and embrace that flexibility. I think again, so while having vision is important, right; having a plan a career plan, whether it's five year, ten year, what have you. I think having, you know, having an understanding that things might not work out exactly in that way. You know, you'll hopefully get to that point eventually where you want to be in some way, in one way or another. But it may not look the way that you had envisioned it. That's the main thing. You know, I think a good mentor of mine had told me once, To be successful; and this is overly simplified, but I do think it has merit. To be successful, you know, you need IQ, EQ, and then resiliency. And I think that, you know, looking back, I think I likely, you know, humbly speaking, had the first two. But resiliency, and I might have told you then that I had it, but I certainly did not. I think it comes with facing challenges and honestly overcoming adversity. And you know, that is embedded in experience. So I think yeah, certainly those are some things I would tell my 20-year-old self.

Ed Gaudet: I love that. Okay. I have to ask this question. Risk Never Sleeps Podcast. Sam, what is the riskiest thing you've ever done?

Sam Khan: Yeah, this is a great question. I started thinking about what is risk? So you asked this question to everyone, I think.

Ed Gaudet: Yeah, I do. ... Sam?

Sam Khan: Yeah. No. Absolutely. Amazing, amazing guests have come on. So it's great. You know, again, thank you for having me. But yeah, you know, I think risk is to me a very, in a very simple way calculated by likelihood and then the severity of the consequence. Right? That's how, that's what you would look at if you're doing, for example, risk assessment, you know, in healthcare. So you know, I could look at it like that and I would probably come up with a different answer. And it's not as fun. So I'm just let's just drop that. I think for me, the riskiest thing that I've done is probably oriented my career towards the, to the startup world, you know, so early on in my career too. So I think that was risky going in house, you know, being a part of organizations that are moving very quickly, their needs are not established necessarily but, you know, they're doing really cool stuff. And so while there, certainly, that's certainly the riskiest thing, it's also one of the most fun things as well.

Ed Gaudet: Agree. 100%. Yeah, there's nothing like, nothing like living in the world of a startup and being an entrepreneur. And yeah, I don't know any other way. So it's so funny. I end up doing this job and that's all associated with risk. I also love to play craps, too. Do you play craps?

Sam Khan: No, I do not.

Ed Gaudet: If you like, if you love risk and you love startups, you have to learn how to play craps because it's the purest metaphor. Craps is the purest metaphor for the startup.

Sam Khan: Yeah, well, I will do my best to, you know, create an interest there and maybe we can play together one of these days.

Ed Gaudet: It's actually not that hard. There's a book called *Against the Gods*, which is probably the the finest book on risk I've read, and Peter Bernstein, I believe, wrote it. And I read it a long time ago. But it basically takes you to the history of risk. And it's a really great book, but it ties, you know, early humans associated risk with throwing bones, which became basically the first generation of dice.

Sam Khan: It's super interesting.

Ed Gaudet: Yeah. It's really probability and risk all grew out of that. So okay, this is where we get to know you a little better, although I think I get to know you already. But you're on a desert island. You're a little younger, so hopefully you understand when I say this. You can take five albums with you, vinyl records. You could take CDs too. But most kids, you're not a kid, but most kids don't know what a CD or an album. What would they be? What would they be?

Sam Khan: Yeah. That's funny. I appreciate you improvising on that. I think the question is usually what is it? Is it records or? There you go. Adapting, right? Yeah. No. That's good. I think five. Wow. Okay. So probably something with Eminem. You know, I think like *Phenomenal* or one of those motivating Eminem songs because I gotta survive, right, I gotta, fire; do all of that. And I think, yeah. That's probably if you go to my workout playlist, you'll see, you know, come across some.

Ed Gaudet: Little Rage Against the Machine too.

Sam Khan: Yep. Absolutely. Yeah. That's a great one. So those are great. Yeah, I'd say probably a bar song. It's by Shaboozey.

Ed Gaudet: Yeah. I know, I know it.

Sam Khan: Yeah. It's a more chill song, you know. So you gotta.

Ed Gaudet: It's a great song.

Sam Khan: Relax by the fire or something.

Ed Gaudet: Yeah.

Sam Khan: The deserted island, you know. Marshmallows gone or something.

Ed Gaudet: That's right. Now you're thinking. That's right. That's good. So many people don't do that. So many people don't think about their environment and the music that they're going to bring with them.

Sam Khan: Yeah. Maybe that's like the sort of the death of being too practical in a way. Right?

Ed Gaudet: No, it's good, it's good. Because remember, it's all you got five albums, so you gotta.

Sam Khan: Yeah, I think like Thunder. So ACDC. I don't know. I think you're a big rock and roll fan, by the way. Right?

Ed Gaudet: Yeah. No, that's great. Yeah, ACDC. Yeah, yeah. Fantastic.

Sam Khan: A couple others. You know, I might, let's just change it up a little bit. Maybe like a old school, like Lil Wayne. Something there. Kind of switch it up.

Ed Gaudet: This is going to be a very cool island, so I might want to visit.

Sam Khan: Yeah. You're welcome whenever.

Ed Gaudet: Thank you.

Sam Khan: And lastly, I would say, you know, staying kind of classic. I don't know which one, but the Beatles.



Ed Gaudet: Nice. So many great ones. You can't go wrong with the Beatles. It's just. Sergeant Pepper's, Abbey road, I mean, Rubber Soul. I'm gonna go old school.

Sam Khan: Or the Red Hot Chili Peppers. That's another one that I, that would be a good.

Ed Gaudet: Damn. We're dancing. We're dancing on this island. I love it. Okay. Alright. Hardest lesson in your career?

Sam Khan: Yeah. Hardest lesson would be at the end of the day, working in-house. People, business folks really don't give a crap what you have to say unless it matters, right? So that's the lesson is, you know, as a lawyer, a lot of times, you know, we're taught to really focus on the legal analysis and that sort of thing. And sure, that's important. But I think ultimately, you know, sort of understanding the business needs, the risk tolerance, right, the budgetary constraints, like all the practicalities. That's what it is. And I think, you know, at this point in my career, I'm glad I've, you know, it's certainly a work in progress, but I've come around to that reality. Getting buy-in, for example, is, you know, it doesn't matter unless you have buy-in, right? You can come up with a, you can identify a problem and come up with a really good solution. But if you are not able to get from point A to B, then it doesn't really matter.

Ed Gaudet: Yeah, risk is a business decision. And a good lawyer understands that. And while they'll describe a conservative path a less risky path which they should they should also give you the the severity or impact of maybe taking a different path, maybe a more risky path, because that's what the business needs. So I love that last question. Advice to kids coming out of school. Interested in cyber? Interested in risk. Interested in health care? Interested in the law? What would you tell them?

Sam Khan: Yeah, yeah. You know, go for it. Right? Go for it. So for me earlier to tie it back, you know, I went, you know, I wanted to go to law school for whatever reason. It wasn't in my family. Black sheep. I did it. I'm, you know, I'm happy with it. I love being a lawyer, you know, but I didn't see myself in cyber or privacy. I chose health law. But privacy, there was a natural connection, as you can imagine, with healthcare and privacy and that sort of thing.



Sam Khan (cont'd): And so between that and leading an organization's privacy program, I, you know, I grew up pretty strong interest and just went for it. And I think you can build around it. I meet, network with people. That's very, very important, right, is to make connections with genuine connections. Right? And you don't have to, it doesn't have to be a quid pro quo type of situation. Right? One for one, tit for tat. But you know, make connections that they, you know, they go a long way. Again around your, want what you want. So if you want to go into cyber, well, you know, maybe consider some certifications. Like I, you know I did pursue a couple in healthcare, but you know like that TCB is a, you know, it's a board that certifies, you know, a couple couple of those. And there's obviously the IIAP; that's another one. So the, I think you can become marketable, right, if you kind of orient yourself in that way. So being strategic, meeting people, and all that stuff. It's you know, there's no like magical formula, right? You just go and do it.

Ed Gaudet: Yeah. It's a lot of hard work, a lot of grit, a lot of good attitude too, because you got to be able to ride the ups and downs of what they're going to throw at you, and they're going to throw out a lot at you. So any last advice or parting things to consider, Sam?

Sam Khan: No. You know, I appreciate this conversation. And let's stay in touch.

Ed Gaudet: All right, well, thank you, Sam Khan, for joining the Risk Never Sleeps Podcast. This is Ed Gaudet, the host. And remember, if you're on the front lines protecting patient safety and delivering patient care, stay vigilant, because Risk Never Sleeps.



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