

# HIPAA vs. FIPA

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# HIPAA vs. FIPA; The Health Insurance Portability and Accountability Act and the Florida Information Protection Act

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# Florida Information Protection Act of 2014 or FIPA

- Effective July 1, 2014
  - Law requires specified entities to:
    - Take reasonable measures to protect and secure personal information in electronic form
    - Notify DLA of certain data security breaches
    - Provide notice to effected individuals
    - Properly dispose of consumer records
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# FIPA Overview

- FIPA protects consumers by requiring certain entities to take reasonable measures to protect and secure data in electronic format that contains personal information
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# Who Must Adhere to FIPA

- Businesses and government agencies that acquire, maintain, store or use the personal information of a consumer
    - Term personal information is broader
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# FIPA Breach v. HIPAA Breach

- HIPAA breach definition is more specific than FIPA definition







# Responding to an Audit

- FIPA – Data Security
  - Covered entities, government entities, third-party agents shall take reasonable measures to protect and secure data in electronic form containing personal information


# FIPA V. HIPAA Requirements

- HIPAA – Data Security
    - Covered entities and business associates must ensure confidentiality, integrity and availability all EPHI created, received, maintained or transmitted
    - Protect against reasonably anticipated threats, uses and disclosures
    - Ensure compliance
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# FIPA V. HIPAA Requirements

- FIPA – If personal information was accessed as a result of breach:
    - Notice must be provided to consumers within 30 days unless good cause is shown for a 15-day delay
    - Notice must be provided to the DLA for a breach affecting 500 or more individuals
    - Defines what information must be included in a proper notice
    - Expands the data breach statute to include state governmental entities and their instrumentalities
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# FIPA V. HIPAA Requirements

- HIPAA – Notice to individual
    - Shall notify each individual whose unsecured PHI has or is believed to have been accessed, acquired, used or disclosed as a result of a breach
    - Notice is to be provided no later than 60 days after the breach
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# Risk of Harm and Notice

- FIPA and HIPAA use different risk of harm methodologies for determining whether a breach requires notices to the individual
  - FIPA focuses on a risk assessment related to the harm of the individual, whereas HIPAA focuses its risk assessment on whether or not PHI has been compromised
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# FIPA Consequences

- Civil penalties could be imposed in the amount of \$1,000 per day for the first 30 days
  - \$50,000 for each subsequent 30-day period
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# FIPA Compliance Recommendations

- HIPAA-covered entities need to update breach policies and procedures
  - Entities that have PHI but are not HIPAA-covered entities will now have security compliance standards to follow
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