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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George F. Indest III, J.D., M.P.A., LL.M.
Board Certified by the Florida Bar in the Legal Specialty of Health Law

Website: www.TheHealthLawFirm.com
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
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
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
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
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
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
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.
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
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.
Main Office:
1101 Douglas Avenue
Altamonte Springs, FL 32714

Phone: (407) 331-6620
Fax: (407) 331-3030

Website: www.TheHealthLawFirm.com
Orlando Office (By Appointment):

37 North Orange Avenue, Suite 500
Orlando, Florida 32801

Phone: (407) 331-6620
Fax: (407) 331-3030

Website: www.TheHealthLawFirm.com
Pensacola Office (By Appointment):

201 East Government Street
Pensacola, Florida 32502

Phone: (850) 439-1001
Fax: (407) 331-3030

Website: www.TheHealthLawFirm.com
Denver, Colorado Office (By Appointment):

155 East Boardwalk Drive, Suite 424
Fort Collins, Colorado 80525

Phone: (970) 416-7454
Fax: (866) 203-1464

Website: www.TheHealthLawFirm.com