Critical Policies for Cybersecurity Compliance

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What Types of Information do We Collect?

- **Information specific to individual**
  - Social Security Number
  - Account numbers
  - Name
  - Address
  - Specific financial information
- **Catch-all**
  - Information not publicly available

Now That You Have It, Protect It!

- **GLBA Safeguards Rule**: If you are going to accept responsibility for having someone's personal information, then protect it

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NY DFS Cybersecurity Regulation

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New York Takes the Lead

- **3/2/16** NAIC proposes Insurance Data Security Model Law (version 2 – 8/17/16)
- **9/28/16** NY Dept. Fin. Services (NYDFS) proposes its own cybersecurity regulations for all DFS-regulated entities
- **12/28/16** NYDFS releases revised cybersecurity proposal
- **2/16/17** NYDFS regulations posted to New York State Register, to take effect on 3/1/17
- **March 2017** NAIC meeting in Denver – NYDFS proposes that other states should use its cybersecurity regulations as a model for their own legislation

NY DFS Cybersecurity Regulation

- **Effective March 1, 2017**
  - Beginning February 15, 2018
    - Required to annually prepare and submit a certification of compliance pursuant to § 500.17
  - Transition Period
    - 180 days from the effective date of the final rule to comply with requirements
- **NAIC**
  - Still working on cyber rules
  - Anticipate to look similar to NY DFS regulations

Covered Entity

- **Insurers, individual brokers, agents and adjusters have a new mandate to deal with**
  - "Maintain a cybersecurity program designed to protect the confidentiality, integrity and availability of [their] Information Systems"
  - Designate a Chief Information Security Officer (CISO)
    - Responsible for overseeing and implementing the Covered Entity's cybersecurity program
    - Develop written annual report which will be reviewed internally
    - May be third-party service provider but must report to management

Program Requirements

- **Must include:**
  - ✓ Penetration Testing & Vulnerability Assessments
  - ✓ Audit Trail
  - ✓ Access Privileges
  - ✓ Written Procedures, Guidelines and Standards
  - ✓ Periodic Risk Assessment
  - ✓ Cybersecurity Personnel and Intelligence
  - ✓ Third Party Service Provider Security Policy
  - ✓ Multi-Factor Authentication
  - ✓ Limitations on Data Retention
  - ✓ Training and Monitoring
  - ✓ Encryption of Nonpublic Information
  - ✓ Incident Response Plan
  - ✓ Annual Notices to Superintendent

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Deadlines

- **March 1, 2017 –** effective date of regulation
- **August 28, 2017 –** 180 days
  - Implement & maintain program and policy § 500.02 & § 500.03
  - Limit **user access privileges** as part of program § 500.07
  - Utilize qualified **cybersecurity personnel** § 500.10
  - Notify Superintendent of **cybersecurity events** § 500.16
  - File **Notice of Exemption** with Superintendent
  - Designate Chief Information Security Officer [**CISO**]* § 500.04
  - Establish a written **incident response plan*** § 500.16

* Does NOT apply to Covered Entities that qualify for the Limited Exemption § 500.19(a)

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Deadlines

- **February 15, 2017**
  - Submit annual **certification of compliance** to Superintendent
- **March 1, 2018 –** one year
  - Conduct periodic **risk assessment**
  - CISO to provide **annual report to board** or governing body of agency* § 500.04(b)
  - Conduct annual **penetration testing** and bi-annual **vulnerability assessments*** § 500.05(a)(1) & § 500.05(a)(2)
  - **Multi-factor authentication** if needed* § 500.12
  - Regular **cybersecuirty awareness training** for all personnel

* Does NOT apply to Covered Entities that qualify for the Limited Exemption § 500.19(a)

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Deadlines

- **September 1, 2018 –** 18 months
  - Establish policies and procedures for **data retention & disposal** § 500.13
  - Establish **audit trails*** § 500.06
  - Establish procedures, guidelines and standards for development of **in-house developed applications*** § 500.13
  - Monitor **authorized users*** § 500.14(a)(1)
  - Encryption of data both in transit over external networks and at rest* § 500.15

* Does NOT apply to Covered Entities that qualify for the Limited Exemption § 500.19(a)

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Exemptions

- **Covered Entities exempt from the requirements if they**
  - Have less than the specified number of employees, gross annual revenue or year-end total assets
  - Are an employee, agent, representative or designee of a Covered Entity
  - Do not directly or indirectly operate, maintain, utilize or control any Information Systems
  - Do not directly or indirectly control, own, access, generate, receive or possess Nonpublic Information
- **Required to file a Notice of Exemption**

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Cybersecurity Programs: What Do You Need?

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Who Do You Call?

- **Regulatory compliance issue**
  - Attorney client privilege/work product
- **Due diligence v. Post-breach investigation**
  - Breaches
    - Ignorance (willful or otherwise) is not an excuse
  - FTC enforcement actions - "[An unfair act or practice] causes or is likely to cause substantial injury" (15 USC 45(n))
    - 3rd Cir. in *Wyndham* case – "Wyndham was not entitled to know with ascertainable certainty the FTC's interpretation of what cybersecurity practices are required by § 45(a). Instead, the relevant question in this appeal is whether Wyndham had fair notice that its conduct could fall within the meaning of the statute ... As a necessary consequence, Wyndham is only entitled to notice of the meaning of the statute and not to the agency's interpretation of the statute."

Cybersecurity Policy

- **Goal: Protection of Information Security Systems and NPI/PII, based on Risk Assessment**
  - Risk Assessment Policy (the foundation)
  - Data governance and classification (NPI/PII)
  - Incident Response Plan
  - Third Party Service Provider Security Policy
  - Asset inventory and device management (what do you have)
  - Access controls and identity management (PLP, restrictions)
  - Business Continuity and Disaster Recovery Policy
  - Customer Data Privacy policy
  - System availability plan (Ransomware, DDoS)
  - Physical security (not all administrative or technical)

Risk Assessment Policy

- **Written policies and procedures for satisfying objectives (23 NYCRR 500.09(b))**
- **Objectives:**
  - Identify assets
  - Identify threats/risks against assets
  - Prioritize threats
  - Mitigate threats

Risk Assessment Policy

- **Identify assets**
  - Company information and data
  - Hardware and software (servers and endpoints)
  - Organization's reputation and branding
  - Personnel
- **Identify threats/risks against assets**
  - System hacked from inside
  - System hacked from outside
  - Data Unavailable
    - Ransomware
    - Hardware failure
  - **Analyze impact**

Risk Assessment Policy

- **Prioritize threats**
  - Ransomware – healthcare and other service providers
  - Data exfiltration – confidential information (Ashley Madison)
- **Mitigation techniques**
  - Ransomware → robust backup strategy
  - DDoS → clustered servers, load balancers
  - Insider threat → Access Control Lists, Principle of Least Privilege, DLP solutions
  - Outside threat → Firewalls, IDS, IPS, encryption
  - **Residual Risk** – insurance = transferring risk

Data Governance and Classification Policy

- **Types of private/sensitive/ confidential information**
  - Financial
  - Healthcare
  - NPI/PII
- **Groups/Classes**
  - Role-based, not individual
    - HR, Accounting
  - Sensitivity
    - Top Secret → Unclassified
- **Principle of Least Privilege**

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Incident Response Plan

- **Develop policies and procedures for responding to potential breaches** (23 NYCRR 500.16)
  - "Incident" v. "Breach" v. "Cybersecurity Event"
  - Internal processes for responding (ex: flow-chart)
  - Roles, responsibilities and levels of decision-making authority
    - Coordinating communications - Law Enforc, Forensics, HR, PR
  - External and internal communications and information sharing
  - Plan for remediation of identified weaknesses
  - Documentation and reporting (forensics, chain of custody)
  - Evaluation and revision (Lessons Learned)

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Third Party Service Provider Security Policy

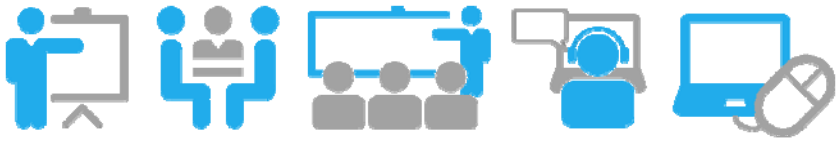
- **Develop policies and procedures for Third Party Service Providers (TPSP)** (23 NYCRR 500.11)
  - Based on the Risk Assessment
  - Risk assessment of TPSP
  - Minimum cybersecurity standards (ISO, addendum)
    - Access controls
    - Encryption
    - Notification requirements
  - Due diligence processes (auditing)
  - Periodic assessment based on risk and adequacy

Disaster Recovery Plan

- **Based on Risk Assessment (fire, flood, earthquake)**
- **Business Impact Assessment (BIA)**
  - Identify critical systems
  - Prioritize recovery time objective
- **Identify preventative controls**
  - Ex: backup data centers
- **Develop recovery strategies**
  - Ex: emergency office sharing
- **Develop IT contingency plan**
  - Ex: remote login
- **Backup strategy – 3/2/1 (copies, media, offsite)**

Training and Testing Program

- **Training – educate employees**
  - Communicate business risks and consequences
- **Tabletop Simulations – executive fire drills**
  - Helps identify SPOF
  - Policy revisions
- **Penetration Testing – periodic checkup**



Consequences of Breach

- **Damages**
  - Costs of breach
  - Notification costs
  - Monitoring costs
  - Legal costs
  - FTC fines and penalties (state and federal)
  - Insurance: loss of license
- **Privilege**: Make sure your preparation and response does not turn into the evidence against you

Have a plan!

Questions?

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Thank You!

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