Fourth Annual Connecticut Privacy Forum
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Office of Consumer Affairs & Business Regulation

Massachusetts Office of Consumer Affairs and Business Regulation And Data Security Law

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Better businesses. Smarter consumers.

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This Presentation Covers:

- The Notification Requirement
- Defining “Personal Information”
- The Regulation: An Overview
- Required Safeguards
- How to Safeguard
- Recent Actions
- Top 10 Issues in Data Security Law

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Massachusetts Data Security Law

Data Breach Notifications Law

Data Security Regulations

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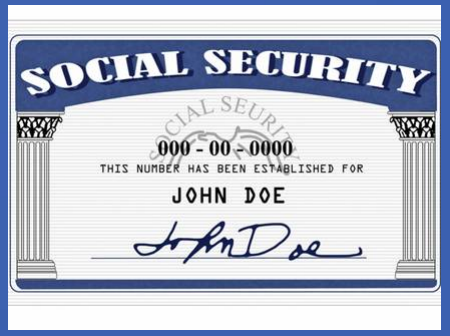
The Massachusetts Notification Law

- M.G.L. c. 93H § 3
- A person who owns or licenses a resident's personal information (PI) must notify:
  - The resident affected
  - The Attorney General
  - OCABR



- When the person knows or has reason to know of
  - A security breach or
  - An unauthorized use

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The Massachusetts Notification Law

- The notice to the MA state offices must include
  - nature of the breach
  - number of residents affected
  - steps taken or to be taken in response
- The notice to the MA resident must include
  - information about the right to obtain a police report
  - how to request a security freeze
  - fees to be paid to a consumer reporting agency
  - *NO* information about the nature of the breach
  - *NO* information about the number of residents impacted.

Defining "Personal Information"

Last Name, First Name or Initial

PLUS

1.		2.		3.
Social Security Number	**OR**	Driver's license (or state-issued ID)	**OR**	Financial account or credit/debit card number (with or without pin)

Note: PI Includes Employee Information

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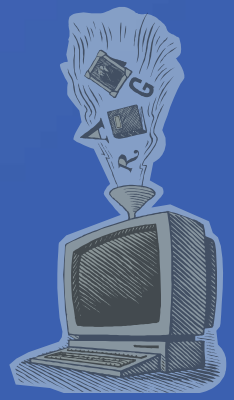
The Regulation: An Overview

- The regulation applies to
  - Entities that own or license PI
- What is covered
  - A MA resident's PI
- It requires encryption of PI that is
  - Transmitted over public networks
  - Transmitted wirelessly
  - On laptops & portable devices

Required Safeguards

All organizations must have a Written Information Security Program (WISP)



The WISP must contain

- Evaluation of reasonably foreseeable risks to PI
- Evaluation of current safeguards
- Employee training and compliance
- Policies/procedures for storage, access, and transportation
- Documentation of responses to a security breach

Third-Party Service Providers

- Due Diligence
  - Select a service provider capable of protecting PI
- Contract Requirements
  - Require, by contract, that the service provider implement and maintain data security protections
  - Grace period for contracts signed before March 1, 2010 expired March 1, 2012

How to Safeguard PI

System Security Methods

- Control Access
- Encrypt
- Monitor

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Data Security Enforcement in Mass.

The Attorney General

- Applicable Authority
  - M.G.L. c. 93H § 6
  - M.G.L. c. 93A § 4
- MGL Ch. 93A § 4 allows for
  - Injunctive relief
  - Restitution
  - Civil penalties up to $5,000 for each violation
  - Investigation costs and attorneys' fees