



VIEW*S* & VISIONS

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Privacy Pros at Work: Safeguarding Privacy and Information Governance

Sallie H. Milam, Chief Privacy Officer
State of West Virginia & West Virginia Health Care Authority

Sallie Milam has practiced law for over 20 years, primarily in the areas of health, HIPAA and privacy. Ms. Milam is a Certified Information Privacy Professional (CIPP/US), including a government privacy certification. Since 2003, she has served as the State of West Virginia's Chief Privacy Officer, and leads the Executive Branch's Privacy Program, which is sponsored by the West Virginia Health Care Authority (HCA), and serves as the Privacy Officer for the HCA.

Previously, she served as the Executive Director of the West Virginia Health Information Network, which is a public-private partnership charged to promote the design, implementation, operation and maintenance of a fully interoperable statewide health information exchange, and was West Virginia's Project Director for its Nationwide Health Information Network contract.

Ms. Milam has been involved in multi-stakeholder collaborative processes around electronic health records, health information exchange, HIPAA, privacy and other legal issues through her work as a member of the National Committee on Vital and Health Statistics and, previously, as the chair of the WV HISPC Legal Working Group and co-chair of the Health Information Protection Taskforce to the National Governor's Association's eHealth Alliance.

Privacy is an imperative for West Virginia state government. Last year, the number of U.S. data breaches hit a record high of 783, which is a 27.5 percent increase over 2013. The national average cost for each lost or stolen record containing personally identifiable information (PII), such as Social Security numbers and credit card numbers, increased to \$201 in 2014.

West Virginia state government is no different than private industry. We process significant volumes of PII in our role as an employer and in the delivery of services. Personal information not only has street value, but is protected by a plethora of privacy laws. For example, a home address collected by a state hospital has different laws governing its disclosure than a home address collected by the DMV or one collected by the State Division of Tourism.

Executive Order No. 6-06 directs the West Virginia Health Care Authority (HCA) to create an Executive Branch Privacy Program, maintain the Privacy Management Team (PMT),

comprised of privacy officers from departments across the Executive Branch, issue privacy policies, develop data classification schemes and conduct privacy audits. The HCA established the State Privacy Office to carry out these responsibilities. In recent years, privacy officers from other constitutional offices and higher education have also joined the team. A few of the initiatives are highlighted in this article.

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Annually, the State Privacy Office updates its Privacy Requirements document. This reviews privacy laws affecting the enterprise, as well as its HIPAA preemption analysis, which serves as a database of all health-related laws, reflecting legislative changes and ensuring analysis of more stringent West Virginia laws passed each year. The PMT is trained on changes to the law,





and policy is updated accordingly. These resources are available at www.privacy.wv.gov.

The State Privacy Office provides online awareness training that covers privacy basics, including helping employees understand their responsibilities with respect to privacy, the importance of privacy, how to safeguard PII and how to report an incident. Along with training, one of the biggest weapons in the arsenal against insider threats is execution of a strong confidentiality agreement. The West Virginia Executive Branch Confidentiality Agreement sets forth the terms and conditions required of every member of the workforce with respect to confidential data and is effective throughout the lifetime of the employee.

Periodic review of program effectiveness is essential to adequately respond to current and emerging threats. The State Privacy Office supports a privacy self-assessment program utilizing the American Institute of Certified Public Accountants Inc.'s Generally Accepted Privacy Principles (GAPP) as the audit framework.

GAPP is based upon fair information practices and contains criteria of good privacy practices found in privacy law. Additionally, the PMT is developing a web-based Privacy Impact Assessment (PIA) tool, designed to examine privacy impacts with new business processes or systems. The PIA will be used to identify

and mitigate privacy risks at the beginning and throughout the development lifecycle of a new program. The State Privacy Office plans to kick off the project in June 2015, with training for management and the PMT.

With the evolving nature of technology, threats, law and citizens' expectations, the West Virginia Executive Branch's Privacy Program is dynamic and strives to fairly balance privacy against the public's right to information. ▽