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Did You Know...

NYS businesses, including employers that have an IT security breach are required to notify affected individuals?

Employer Risks and Exposures

In December 2005, New York State enacted a regulation requiring “any person or business in New York State,... which owns or licenses computerized data which includes private information” to notify all NYS residents whose private information was, or is reasonably believed to have been, acquired by an unauthorized person.

"Private information" is considered an individual's personal information, such as a social security number, driver's license number, or financial account number in combination with any required password that would permit access to the account, when such information is not encrypted, or if encrypted, when the encryption key has been acquired by an unauthorized person. Private information does not include publicly available information that may be obtained from federal, NYS, or local government records.

The regulation states that disclosure to affected individuals must be made in the “most expedient time possible and without unreasonable delay” after the organization discovers or is notified of a breach in its IT security system. However, notification may be delayed if the police determine notification could impede their criminal investigation or if the organization needs to take any necessary measures to determine the scope of the breach and to restore the reasonable integrity of the system. Notification can be made via a written letter, e-mail (so long as the individual has expressly consented to receiving notice in electronic form), or telephone. When notice is made by e-mail or telephone, the organization must maintain a log of each individual notified.

Failure to provide prompt notice to affected individuals can result in an organization being subject to injunctive relief and liability for actual losses suffered by anyone who was not properly notified. If a court determines that an organization knowingly or recklessly failed to provide the required notice, it can impose a civil penalty of up to \$150,000.

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- Implement sound policies and procedures for collecting, maintaining, transmitting, and disposing of computer records containing private information on employees and customers;
- Conduct criminal and/or credit checks, as appropriate, on final applicants who will have computer access to confidential employee and customer information;
- Limit access to confidential IT information;
- Make access to confidential computer files password-protected and require employees to change their passwords frequently;
- Keep the amount of private information maintained on employees and customers to a minimum;
- Consider alternatives to using social security numbers and other personal identifiers;
- Disable employee access to computer files immediately upon separation;
- Install firewall protection;
- Consider using encryption software, especially before transmitting or physically moving sensitive records to another location;
- Do not store confidential information on a computer that is connected to the Internet; and
- Limit the confidential computer information that employees can remove from the premises.

If you have questions or for more information about protecting your organization from identity theft, call AMTEK's Human Resource Hot Line at 1.800.457.8829.

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