

## **Data Privacy & Security Team** **Leaders in Data Privacy & Security**

**Proactive, Rapid Response to Your Data Privacy and Security Needs**

### **Who We Are**

We are a 125-year-old law firm of nearly 500 lawyers with 11 offices throughout the United States, in Chicago, Milwaukee, Madison, Indianapolis, Minneapolis, Phoenix, Tucson, Scottsdale, Washington D.C., Tampa and Naples.

Data privacy and security matters affect all organizations, including technology, financial, manufacturing, and health care enterprises. Because of our national scope and multiple practice areas the Quarles & Brady Data Privacy & Security Team is able to handle both routine and complex data privacy and security matters. This full-service approach ensures that all your needs are met.

### **How We Practice**

We offer four main services, described in detail below. We provide these services in a proactive, cost-efficient manner.

### **Compliance and Risk Counseling**

For many clients, the first step in becoming familiar with data privacy and security matters is to identify which laws apply to them and the data they hold. This process flushes out the risks they may face. We can assist you by:

- Ensuring that you have legally compliant (or industry-standard) policies and procedures to safeguard your data (e.g., HIPAA, state laws, Gramm-Leach-Bliley, FTC, TCPA, CAN-SPAM, FINRA SEC, FFIEC, NIST)
- Developing privacy and cybersecurity programs
- Conducting training on the privacy and security laws relevant to your business
- Preparing website and mobile app privacy policies as well as notices of privacy practices
- Counseling on how data can be gathered, used, disclosed, and transferred (e.g., big data, internet of things (IoT), data monetization, medical research, marketing uses, transfer of data across jurisdictions)
- Advising you on strategic risks, including advice to Boards of Directors on how to oversee cybersecurity risks
- Advising on cyber-insurance policies
- Assisting with implementation of vendor management programs
- Conducting gap assessments

### **Quarles & Brady in Action**

Our attorneys have assisted hundreds of clients with HIPAA privacy and security matters. We maintain model policies and procedures and related forms, such as business associate agreements. We have also trained clients on these rules. For example, in 2015 we conducted an in-person training session for a client with operations throughout the country that needed to train personnel in those locations. We took the customized, in-person training program and recorded a webinar of the program. As a result, the client could train both current and future employees throughout the country.



Our team advised a Midwestern dairy cooperative in connection with the development and implementation of its "Bring Your Own Device" technology policy and with implementation of a data retention and destruction program.

### **Data Breach Preparation and Response**

The key is to be proactive, not reactive. We can help you develop your incident response plans, and identify gaps and weaknesses in your cybersecurity program. When you experience a security incident or possible breach, we can help by:

- Hiring outside forensic and other consultants directly in order to enhance attorney-client privilege protection
- Verifying whether an incident or breach occurred
- Leading the investigation as a data breach coach, including reviewing forensic reports, applicable law, managing the data breach response team/plan, and advising on communication strategy and notification requirements
- Preparing and supporting communications regarding the breach to regulators, affected individuals, the media, and others, as required by applicable law and best practices
- Identifying and minimizing the risks related to a breach, such as the risk of a lawsuit and implementing litigation holds

- Preparing summaries of the event and other relevant legal requirements
- Reviewing applicable contractual requirements
- Handling responses from customers, potential litigants, and government agencies, including negotiating with regulators to minimize penalties they may impose

We also work in harmony with strategic partners in forensics and investigation, IT technical and physical security compliance and management, cybersecurity, data classification, data analytics, public relations, and crisis management.



### Quarles & Brady in Action

One of our clients, a specialty grocery store chain, experienced an attack on its point of sale system that resulted in a theft of customer payment card information. Our team worked with the client from the moment the breach was discovered to

investigate the incident, engage forensic experts and auditors, notify law enforcement authorities, negotiate with affected payment card companies, and develop position statements and press releases. We helped the client handle every aspect of the breach, advising on how to proceed and ensuring that the negative impact of the breach on our client's business was minimized as a result of a prompt, thorough response.

Our client, a vendor for the State of Wisconsin, was involved in the inadvertent disclosure of the Social Security numbers of more than 700,000 Wisconsin taxpayers. Our team worked with the client during the highly publicized incident to negotiate and address corrective measures with the state. We drafted and coordinated a notice to the affected taxpayers, as well as helped the client put credit monitoring services in place for those affected. We also counseled the client in connection with the legal and business ramifications of the publicity associated with the event.



Our team assisted a large health care system with a security incident involving malware attacking its computer systems. We helped the client obtain outside experts for its investigation using our contacts in the industry and developed a security incident response plan. We analyzed and advised on whether the

incident rose to the level of a breach of unsecured protected health information under the HIPAA Breach Notification Rule. We also analyzed the applicable state breach notification laws and aided in the drafting of the required notifications to affected individuals and covered entities, the media, and regulatory bodies. We also assisted in the development of fact sheets and other materials that were used for internal and external communications regarding the incident.

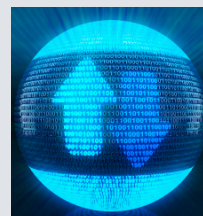
## Transactional Assistance

Recent advances in technology have enabled businesses of all sizes to amass, share and analyze data in ways never before possible. As a result, data is now more than ever an integral part of your business and essential to your business transactions. We can assist you by:

- Drafting and negotiating data privacy and security related terms for vendor and customer contracts, including business associate agreements
- Supporting you when merging with or acquiring another entity by conducting due diligence to make sure that you understand what data you are acquiring, how you can transfer and use that data, and advising on representations and warranties that should be part of the purchase agreement
- Drafting and negotiating agreements for all types of technology services, such as cloud, software licensing, data licensing, dark web monitoring, or security
- Preparing agreements necessary for the transfer of data
- Advising about the use of data in the bankruptcy context

### Quarles & Brady in Action

Our team assisted a client purchasing a business with U.S. and overseas locations with the handling of employee data transfers and with a transition services agreement through which data would be processed.



Our team assisted in the development of several health information exchanges for integrated delivery systems and affiliated providers. We performed an analysis of federal and state privacy laws to determine the use and disclosure restrictions on the sharing of data in health information exchanges and related consent,

authorization, notice, and opt-in requirements.

Our team guided a client establishing U.S. and European e-commerce websites by preparing the necessary privacy policy, terms of use, and terms of sale with appropriate protection for personally identifiable information being gathered.

## Government Investigations and Litigation

Oversight is continuing to increase in the data privacy and security space. Whether the challenge comes from a government investigator or a private plaintiff, we can assist by:

- Developing a strategy and appropriate response to inquiries or subpoenas from government agencies
- Supporting internal investigations to identify risks faced because of a breach or legal violation

- Supporting internal investigations in response to data privacy or security complaints
- Resolving claims made against you

### Quarles & Brady in Action



The federal Office for Civil Rights (OCR) investigates possible HIPAA violations. In 2015, a health care client received an OCR investigation request regarding a patient complaint. We assisted the client by reviewing the alleged incident, the client's policies and procedures, and by proposing a response to OCR. The matter was then closed by OCR, without further action.

### Proactive, Efficient Approach

We understand your need to control legal costs. Our clients look to us for efficiency and practical advice that allows them to conduct their business as needed. We do this by:

- Providing, at no charge, a summary of the data breach laws in all 50 states
- Providing model HIPAA policies and procedures, along with related forms (such as a business associate agreement)
- Offering frequent seminars, to keep you up-to-date on the latest data privacy and security topics
- Regularly posting to our Safe & Sound Blog to inform you of the latest legal developments in this area
- Providing a website compliance review

### Who to Contact:

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