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The Practicing

CPA

THE NEWSLETTER OF THE AICPA ALLIANCE FOR CPA FIRMS



www.pcps.org

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October 2004

Solving Privacy Issues with a Privacy Framework: A Case Study

The recently launched AICPA/CICA Privacy Framework can help CPA firms and their clients ensure compliance with privacy laws and regulations. In the following case study, an experienced consultant describes the issues faced by one company and how it dealt with them.

The privacy of clients' and customers' information has become a top priority for many organizations as a result of privacy laws and regulations, as well as individuals' increasingly higher expectations regarding their perceived *right to privacy*. To help CPAs and their clients and employers solve the complex privacy issues they face, the AICPA and the Canadian Institute of Chartered Accountants (CICA) have joined to make available the *Privacy Framework* (www.aicpa.org/privacy).

With the advent of advanced technologies, the collection and

use of customers' personal information accelerated dramatically and is an ever-increasing concern of individuals and privacy rights advocates, who ask, What personal information is collected and used? What information is retained? Is it protected? The AICPA/CICA Privacy Framework, and additional methodology and tool resources available through the AICPA, provide guidance to craft and implement solutions to the difficult task of addressing these concerns.

As a precursor to the now-established framework, many companies wrote their own set of privacy standards, including Sunrise Medical, Inc. (www.sunmed.com) in Carlsbad, CA. As a multinational manufacturer of durable medical equipment, Sunrise conducts business around the

world. Consequently, it became imperative for the company to create policies ensuring that all divisions across the world proactively comply with a global range of applicable privacy laws. This also meant developing procedures that would protect the privacy of customers, partners, employees, and other stakeholders. Sunrise sought outside help to assess their risks and needs and develop policies and procedures.

The global environment brings diversity

A company doing business only in the United States faces far different privacy protection regulations than those that operate across the world as well as in the states. Some global companies, for example, are considered a *covered entity* under the provisions of the U.S. Health Insurance Portability & Accountability Act of 1996 (HIPAA). Similarly, global companies may also need to address the European Union (EU) Data Protection Directive, and Canada's Personal Information Protection and Electronic Documents Act (PIPEDA), to name a few.

If a company is found not in compliance with privacy laws,

the consequences can include:

- Legal liability and industry or regulatory sanctions that could result in financial penalties, such as fines starting at \$100 for each infraction and ranging as high as \$250,000 (and 10 years in prison)
- Damage to reputation, brand, and business relationships
- Loss of customer trust and loyalty
- Reduced revenue, market share, and shareholder value
- Customers' refusal to allow personal information to be used for business purposes

The ramifications of even *one* of these consequences can be monumental. To save a client financial, legal, and intangible hardships—and to provide an example—the Sunrise

By Kerry L. Shackelford, CPA, CISA

Medical project was defined by the following tasks:

- Determine the legal risks and requirements of both the United States and the EU.
- Collect and analyze all the international “rules,” and condense the findings in a format that management can efficiently access and understand.

Seven Components of Personal Health Information Licensing

Curtis Moore of Sunrise Medical developed an explanation of how the privacy laws help train company managers and staff. Laws and regulations prescribe the notice elements, but the rights of individuals and the internal compliance controls, to varying degrees, depend on the jurisdiction and the type of information collected. The terminology varies, and although the principles are organized in different ways, they can be distilled into the following seven key points:

- 1. Informed consent.** The licensee has a duty to obtain informed consent before it collects, uses, discloses, and retains personal information and also to honor requests to withdraw consent.
- 2. Collection limitations.** The licensee has a duty to collect personal information only in accordance with established limits.
- 3. Use and disclosure limitations.** The licensee has a duty to use data only as permitted and agreed.
- 4. Transfer conditions.** The licensee has a duty to ensure personal information collected is protected when transferred to others.
- 5. Protections and safeguards.** The licensee has a duty to protect personal information electronically and physically.
- 6. Opportunity to control stored information.** The licensor has a right to view and amend incomplete or inaccurate personal information.
- 7. Individual recourse.** The licensee has a duty to enforce compliance with license terms and offer recourse to individuals when alleged non-compliance occurs.

Source: Sunrise Medical

- Determine which rules apply to clients, and just as important, which ones did not.
- Develop the framework of a global privacy policy that would help Sunrise Medical create policy and shift the way it does business to conform to the policy.

“At the onset of the project, one task was very clear; all of the international rules—across the board—were organized differently,” says Curtis Moore, staff attorney for Sunrise Medical. “To develop a single privacy policy, we had to compile a comparative analysis of the different international privacy rules. Since you cannot lay them out next to each other, the most important aspect was searching for common themes.”

Sunrise Medical broke the compliance effort down into a series of projects. For example, after putting together a project team, Sunrise Medical set out to identify a vendor that would run a HIPAA review of the practices of a division that produces a line of augmentative and alternative communication devices.

“There was a wide range of complexity in the services and fees with each proposal that came in, and I didn’t have the time or the proficiency to review all of them and select which one we should go with,” says Moore. “This exercise demonstrated the value of the client-consultant relationship, in light of the guidance we received and the money we ultimately ended up not spending when we made our final vendor selection.”

Privacy is a license

After three months of heavy analysis, the framework for Sunrise Medical’s global policy began to take shape, and when the Privacy Framework was finished, it was more than 100 pages long.

“KLS Consulting helped us use the Privacy Framework to develop one single, company-wide privacy policy that all divisions across the globe could follow,” says Moore. “We also received guidance for a change-management process that served as a top-down approach to help raise the awareness of upper management and employees of the risks involved, along with the changes that had to be instituted as a result of the new global framework.”

The most profound lesson was that in privacy laws across the globe, one rule remains the same: Privacy information is licensed (see the sidebar entitled “Seven Components of Personal Health Information Licensing”). “In a patient-to-physician relationship, a patient gives his or her physician a license or informed consent to use their information. Similarly, companies will allow a user to access software if the user agrees to certain restrictions,” says Moore.

“Under privacy laws, patients continue to ‘own,’ that is, main-

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tain some rights in their personal health information, but allow their healthcare provider to use it for a specific purpose," he says. "A patient has a right under the law to go back and pursue remedial action. Basically, the patient has the right to restrict that informed consent, or license, to the personal information at any time. Before such privacy laws were passed, you had no right in court to get justice or limit the information's usage."

Because of these changes, global companies must change the way they do business, including the way they protect the private information licensed to them, the methods used by information technology departments to technically structure online security

activities, and the manner in which companies market to current and potential customers.

Kerry Shackelford is the owner of KLS Consulting LLC, Evergreen, CO. He specializes in privacy, security, and identity theft risk management, as well as internal controls evaluation and design. Prior to starting his own practice, Kerry led the worldwide privacy services practice of an international accounting firm and worked in many other areas of the firm as well. He is a member of the AICPA Privacy Task Force. Contact him at kerry@klsconsultingllc.com.

AICPA Privacy Resources

New Resource Guide on Privacy Practices

Understanding and Implementing Privacy Services: A CPA's Resource is a complete reference source of practical, results-oriented procedures, controls, methods, and tools to provide value-added privacy services for entities of all types and sizes.

This new privacy services implementation guide and Toolkit CD-Rom cover key issues related to privacy, providing a clear road map and valuable practice materials that CPAs can use to address privacy issues and risks. The implementation guide builds on material contained in the AICPA/CICA Privacy Framework for protecting personal information, which was developed by the AICPA/CICA Privacy Task Force. The implementation guide and new framework incorporate concepts from significant domestic and international privacy laws, regulations, and guidelines.

This reference source takes a comprehensive approach to establishing an entire privacy program. It also enables CPAs to select various aspects of privacy to help meet their clients' or entities' privacy needs by providing users with all the necessary tools, including background information and ready-to-use documents. *Understanding and Implementing Privacy Services: A CPA's Resource* provides a number of sample privacy documents, checklists, forms, and resource materials. The tools provided are the result of considerable research, applicable to current U.S. and international privacy laws; they also are available on the accompanying Toolkit CD-Rom so users can tailor them to their needs.

Privacy Webcast Now on CD-Rom

Privacy affects all of us, whether it involves using a credit card or outsourcing a business process. "Privacy Issues for Business ... Whose Information is it Anyway?" an AICPA Webcast held in June, is available now on CD-Rom. This Webcast provided CPAs in public practice and industry with information they need to know about privacy issues, and how these issues can have a significant impact on an organization. A panel of experts discussed the risks involved in ignoring the question of privacy and provided real-life examples of how they implemented privacy initiatives within their own and their clients' organizations.

The CD-Rom offers first-hand knowledge of the relevant business issues relating to privacy and an understanding of why it is a critical issue for all business executives. It explains the first steps to take to begin to address privacy matters in organizations, large or small.

Order information

Understanding and Implementing Privacy Services:

A CPA's Resource " Paperback with CD-Rom, AICPA

Member Price: \$139.00.

"Privacy Issues for Businesses" CD-Rom, AICPA Member Price: \$49.00.

Both are now available through <http://www.cpa2biz.com>.

Small Businesses' Biggest Problems

And how CPA firms can help to resolve them

Chamberlain are responsible for the report.

Rising insurance costs topped the list of problems of small business owners, according to the August 2004 report of a survey by the Research Foundation of the National Federation of Independent Businesses (NFIB). In survey balloting for the "single most important problem," the "cost and availability of insurance" received 26% of the votes. "Taxes" placed second at 19%. The NFIB Research Foundation has collected Small Business Economic Trends Data with quarterly surveys since 1973 and monthly surveys since 1986. The sample is drawn from the membership files of the NFIB. NFIB's Chief Economist William C. Dunkelberg and Policy Analyst Lara

Optimism despite problems

The NFIB report also offered promising news for CPA firms and their clients. In spite of the problems they face, small business owners exhibit optimism. The NFIB Small Business Optimism Index for July hit 105.9 (1986=100), continuing a 16-month string of readings at 100 or above. According to NFIB, "Comparably high readings last occurred in 1984, anticipating the start of the 1980s expansion. This string of readings above 100 is unprecedented in the 30-year history of the NFIB surveys and continues to signal that 2004 will be the best economy in twenty years." The table below shows the components of the index.

Single Most Important Problem				
July 2004				
<i>Problem</i>	<i>Current</i>	<i>One Year Ago</i>	<i>Survey High</i>	<i>Survey Low</i>
Taxes	19%	18%	32%	8%
Inflation	3%	2%	41%	0%
Poor sales	12%	18%	22%	2%
Financing and interest rates	2%	2%	37%	2%
Cost of labor	4%	5%	9%	2%
Government regulations and red tape	10%	11%	27%	4%
Competition from large businesses	10%	9%	14%	4%
Quality of labor	10%	8%	23%	3%
Cost/availability of insurance	26%	25%	29%	4%
Other	4%	2%	31%	2%

Small Business Optimism Index Components			
<i>Index Component</i>	<i>Seasonally Adjusted Level</i>	<i>Change From Last Month</i>	<i>Contribution Index Change</i>
Plans to increase employment	15%	1	3%
Plans to make capital outlays	32%	4	13%
Plans to increase inventories	5%	-4	-13%
Expect economy to improve	37%	11	34%
Expect real sales higher	35%	9	28%
Current inventory	-1%	2	-6%
Current job openings	23%	3	9%
Expected credit conditions	-6%	0	0%
Now a good time to expand	25%	4	13%
Earnings trends	-5%	6	19%
Total change		32	100%

Identifying opportunities needing solutions

The survey report provided material for a panel discussion reported by Bill Teague in "The State of Small Business," an article in the practice resources of Intuit's Professional Accounting Solutions online newsletter. The panel included August Aquila, director of practice management, The Growth Partnership, Bruce D. Phillips, senior research fellow, NFIB Research Foundation, and Steve Strauss, *USA Today* columnist.

Asked to opine on the top concerns of small business owners, Aquila cited several, including the cost of health care, exposure to litigation, and government regulations. The latter, he said, were "overwhelming" and he noted that the requirements are much the same as those for larger firms. In elaborating on the findings of the NFIB survey, Phillips cited high insurance costs, "especially liability insurance and worker's compensation insurance, and high taxes both at the state and federal levels." At the state level, Phillips said, "owners are upset about rising property taxes on both business and personal property," and rising paperwork costs at the federal level. He also said "cash flow" was a concern for small business "during the recent period of slow growth."

Providing help and support

Panelists suggested areas that CPA firms could focus on to help and support clients. Aquila described clients' lack of succession planning as "causing major headaches for those businesses founded in the 1960s and early 1970s." (See this month's "PCPS Update" on page 7.) In addition, he named financing as "one of the major reasons for small business failure. CPAs, he said, could advise clients in this area, as well as help secure financing and develop reports to support financing.

Phillips said that CPAs could help clients maximize cash flow through better use of the tax system. For example, they could help clients determine whether buying or leasing equipment offered more tax advantages. CPAs could also help clients better understand depreciation rules, inventory maintenance, and cost-effective advertising. He also recommended that CPAs help clients understand how to allocate time to company finance issues by determining what they should do themselves and what they should outsource.

To better support small business, Strauss advised, "Become their trusted business adviser. Your strengths—attention to detail, numbers, money—are usually their weaknesses." Strauss also cited the opportunities for entrepreneurs to learn how to get government contracts. He cited the Web site www.BusinessMatchmaking.com, which is cosponsored by the Small Business

Administration and Hewlett Packard. At the site are FAQs, lists of events and seminars, and other resources to match government procurement needs with small business suppliers.

Alert: SAS No. 70 Reports Issued by Non-CPAs

The requirement that public companies undergo an audit of their internal control as well as an audit of their financial statements has led to greater interest in engagements performed under Statement on Auditing Standards (SAS) No. 70, *Service Organizations*. SAS No. 70 provides guidance to service auditors who perform and report on a service auditor's engagement, and to user auditors who use a service auditor's report in an audit of financial statements.

A service organization is an entity that performs a service for user organizations that results in information to be included in the user organizations' financial statements. For example, a service organization is the trust department of a bank that holds and services securities for other entities. Information about the purchase and sale of securities, receipt of interest and dividends, and payment of fees is reported to user organizations and included in their financial statements. (For additional information about service organizations, see the AICPA May 2004 Audit Guide, *Service Organizations, Applying SAS No. 70, As Amended* (product no.012774).

It has come to the AICPA's attention that in some cases, service auditors' engagements are being performed and reported on by consulting organizations that are not licensed CPA firms. SAS No. 70, which is part of generally accepted auditing standards, is intended for use by licensed CPAs. For a user auditor to use a service auditor's report, it must be issued by a licensed CPA. CPAs may not use a report provided by an unlicensed individual or entity. User auditors should be alert to the possibility that a service auditor's report may not have been prepared by a licensed CPA and should consider contacting a representative of an unfamiliar organization to verify that the organization is properly licensed, peer reviewed, and able to provide its peer review report and letter of comments and response. If the organization is unlicensed, CPAs are advised to convey that finding to the state board of accountancy in the state in which the engagement was performed or to their own state board.

Letters to the Editor

The Practicing CPA encourages readers to write letters on practice management and on published articles. Please remember to include your name and telephone and fax numbers. Send your letters by e-mail to pcpa@aicpa.org.

Discussion Memorandum on Forensic Accounting Services

An opportunity for practitioners to weigh in on their guidance needs

The AICPA Forensic and Litigation Services (FLS) Committee has developed a discussion paper entitled *Forensic Services, Audits, and Corporate Governance: Bridging the Gap*. The paper provides the FLS Committee's initial observations and views concerning forensic accountants' services, including involvement with the independent audit team to increase financial statement audit effectiveness and execute accounting-related fraud investigations. This paper also raises important questions about what guidance, in addition to Statement of Auditing Standards (SAS) No. 99, *Consideration of Fraud in a Financial Statement Audit* (AICPA, *Professional Standards*, vol. 1, AU sec. 316), may be needed to assist forensic accountants and auditors to enhance the

validity, reliability, consistency, and transparency of audit work and related results.

A Chance to comment

The purpose of the discussion paper is to obtain comments from auditors, forensic accountants, managerial accountants, standard-setting and regulatory agencies, and other stakeholders, before guidance is developed. In addition, the FLS Committee sponsored a roundtable on September 22, 2004, at the National Press Club in Washington, D.C., to discuss the nature of additional guidance that may be needed.

An executive summary of the paper is available at http://www.aicpa.org/members/div/mcs/exec_summ_forensic_svcs.htm, with a link to the complete discussion paper. The FLS Committee is seeking questions, comments, and suggestions by October 15, 2004.

Revised Illustrative Representation Letter

The Accounting and Review Services Committee (ARSC) has issued a revised illustrative representation letter for review engagements. The illustrative representation letter has been revised to:

- Clarify the dating of the representation letter.
- Clarify the terms *identification of financial statements, dates, and periods of review* in the opening paragraph of the illustrative representation letter.
- Clarify that the representations should be made as of the date of the accountant's review report.
- Include the representations required by Statement on Standards for Accounting and Review Services (SSARS) No. 10, *Performance of Review Engagements* (AICPA, *Professional Standards*, vol. 2, AR sec.) regarding fraud.
- Include an additional representation regarding the client's acceptance of proposed adjusting journal entries, if any.

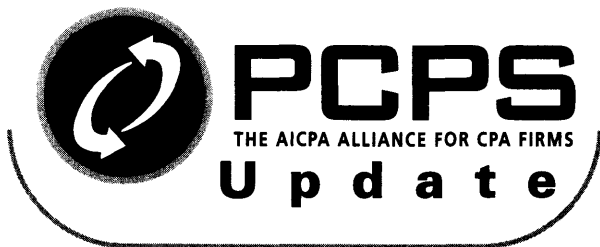
The revised illustrative representation letter is available at http://www.aicpa.org/members/div/auditstd/Revision_of_Appendix_F.htm

Women's Conference in Chicago

Inspired Solutions is the theme for the American Woman's Society of CPAs (AWSCPA) and American Society of Women Accountants (ASWA) Joint National Conference. The three-day event will take place November 10, 11, and 12, 2004 at the Hotel InterContinental in Chicago.

The program provides an opportunity to earn 21 CPE credits in Accounting and Auditing, Controllorship, Personal and Professional Development, and Tax. As well, a special two-part session on Nonprofit Governance will be offered that will address questions about your role as a board member on both nonprofit and corporate boards. You can also take advantage of post-conference CPE sessions: "Delegation Skills" and "Have Your Own Successful Accounting Service."

Take advantage of a special \$100 discount for AICPA members. The full three-day event is \$465 if you register by October 15. To register please visit www.aicpa.org/worklife and select Joint National Conference. To obtain the discount, enter AICPA in the Chapter or Affiliate line. Take advantage of this experience that will provide just the right balance of education, networking, and fun.



Critical Information for CPA Firms

PCPSS is here to help you succeed. How? We step back to look at resources and regulations and think how they will impact our members—CPA firms. We bring you up-to-date tools and information that shape your practice today and enhance your business in the future.

What can you do now to get ahead of the game? Here are the best resources, sites, information, and events available for CPA firms today. Take advantage of them. Tell us what you need. We're here to help.

- **PCPS/TSCPA National MAP Survey Results Are Available This Month!**

Is your firm on target to grow in 2004 and beyond? Do you have a plan for growth but lack concrete, achievable goals? The PCPS/TSCPA National MAP Survey can help!

For all firms that participated in the survey, results will be available this month. Results include detailed benchmarking information compiled from thousands of firms across the U.S. regarding salaries, billable hours, and service offerings. For nonparticipants, national results will be available in November.

PCPS members who participated in the survey will receive a **FREE** interactive results report that allows them to compare data tailored to their firm size, specialty, and region. This year, the report will also include detailed commentary on CPA firm "best practices"

and big picture take-aways from the survey results.

Non-PCPS members can join for \$35 per CPA in the firm (up to a maximum of \$700) to take advantage of this member benefit. Alternatively, non-PCPS members can purchase data reports for \$300 with a \$100 discount to respondents and an additional \$100 discount for AICPA members. For more information, visit www.pcps.org and click on the survey logo on the left side of the screen.

In addition, be sure to mark your calendar for a Webcast on the National MAP survey findings. The date for this exciting and interactive event is December 7. This event is your firm's opportunity to get the most value out of the data.

- **Do You Have a Succession Plan in Place for Your Firm?**

Are you assuming you will be able to sell your firm when you retire or merge it into another practice? If so, then you are one of a large number of practitioners committing one of the most common practice management mistakes.

PCPS recently conducted an extensive survey of CPA firms' plans for succession, along with a series of follow-up interviews. PCPS discovered that CPAs understand the value of succession planning, but many haven't gotten around to doing it yet or haven't taken the necessary steps to ensure a successful transition.

Are you aware of the following?

- 62% of practitioners believe that succession planning will be a significant issue for their firms in the near future.
- 30% of practitioners said they have never addressed succession.
- Only 8% of the firms surveyed have practice continuation agreements even though they are vital to establishing who will run or buy a firm in case of a sole practitioner's death or disability.

For more information and guidance on this crucial issue, look for upcoming articles in November in *The Practicing CPA* and an upcoming *Journal of Accountancy*. Also, watch for the Spring release of a book and other related products now under development based on this research.

- **The PCPS Staffing and Retention Best Practices Project is Under Way!**

PCPS knows that staffing is still a significant concern for firms, and we are working on solutions to help alleviate this problem. Earlier this year, we launched a comprehensive staffing initiative, beginning with input from hundreds of firms.

Based on findings from the interviews, the survey responses, and the PCPS Staffing Task Force's perspectives, we hope to create a number of products/offerings targeted to assisting firms in addressing critical staffing retention issues. Some areas under consideration include:

- Pay-for-performance compensation systems
- Business development programs
- Partner-in-training programs

PCPS's staffing task force will be releasing more information and tools over the year ahead. Watch this space for updates or go to www.pcps.org.

- **Technical Issues Committee to Meet With FASB**

The PCPS Technical Issues Committee (TIC) represents all non-national firms and their private company clients to standard setters and other influential bodies. One highlight of the committee's activities is its annual meeting and dialogue with the Financial Accounting Standards Board (FASB).

Practitioners are welcome to sit in as observers. TIC's annual liaison meeting with FASB and the Governmental Accounting Standards Board (GASB)

will be held on October 7 and 8, in Norwalk, CT. If you would like to attend, contact Linda Volkert, TIC Staff Liaison, at the AICPA at 1-212-596-6040.

• PCPS Managing an Accounting Practice Networking Group Meetings—Mark Your Calendar!

Network Groups are among our highest-rated member benefits. Two PCPS Managing an Accounting Practice (MAP) Networking Groups are currently planning their Fall meetings, and you may be just in time to participate! These Network Group meetings provide a forum for in-depth practice management discussions and an exchange of information on firm operations and professional issues. Each group is tailored to a specific firm size so that members can take advantage of the valuable knowledge and experience of their colleagues and share their own problems and solutions.

The Medium Firm Network Group (for firms with 10 to 24 CPAs) met September 30 and October 1 in Boston, MA. Meeting dates and locations for the Small and Large Firm Network Groups follow:

- *Small Firm Network Group.* For firms with 1 to 9 CPAs, November 4 and 5, Phoenix, AZ

- *Large Firm Network Group.* For firms with 25 to 49 CPAs, November 1, New York, NY

Please call 1-800-CPA-FIRM for more information.

• Does Your Firm Get the Most Out of Its PCPS Membership?

Are you aware of the extensive array of discounts, products, and resources that PCPS offers? If not, please visit the PCPS Web site to make sure your firm is maximizing the value of your membership.

Go to www.pcps.org, click "Membership Center" and double-click on the link in the lower right-hand corner. Or type in the following address:

www.pcps.org/pdf/7619830The%20PCPS%20Advantage.pdf

FYI

PCPS, an alliance of the AICPA, represents more than 6,000 local and regional CPA firms. The goal of PCPS is to provide member firms with up-to-date information, advocacy, and solutions to challenges facing their firms and the profession. Please call 1-800-CPA-FIRM for more information.

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