ADVOCACY AND TECHNOLOGY TIPS WHEN WORKING FROM HOME
DURING COVID-19 AND BEYOND

Privacy and Cybersecurity Considerations
By: Steven Blickensderfer
Carlton Fields

April 30, 2020

1. **Privacy & Cybersecurity Considerations When Working From Home**

   a. Ethics

      i. Florida Bar Ethics Opinion 10-2 (link)

         1. RPC 4-1.1 (competence), 4-1.6 (confidentiality)

      ii. Florida Bar Ethics Opinion 12-3 (link)

         1. RPC 4-1.6 (confidentiality)

      iii. ABA Formal Opinion 483 (link)

         1. 1.1 (competence); 1.15 (safekeeping property); 1.4 (communication); 1.6 (confidentiality); 5.1 (lawyer oversight); 5.3 (non-lawyer oversight)

   b. Cybersecurity best practices when working from home

      i. Make sure your system is properly patched and event logs are turned on.

      ii. Remind your employees to remain vigilant for malware, ransomware, and phishing attacks.

      iii. Monitor system use and shut down system compromises as quickly as possible.

      iv. Review your insurance policies

      v. Have an incident response plan ready and in place

   c. Privacy best practices when working from home

      i. Review your privacy practices and procedures.

      ii. Ensure only invited participants are able to join your meeting.

      iii. Enable video camera privacy settings.

      iv. Check to see if your video conference is being recorded.

      v. Be careful before sharing your screen.

      vi. Don't open unexpected video conference invitations or click on links.

      vii. If confidentiality is crucial, video conferencing may not be the best option.

viii. Review key provisions in the service's privacy policy to understand how your information will be handled.

1. What information does the conferencing service collect about you?

2. Does the privacy policy limit the company from using your information for purposes other than providing their conferencing service?

3. Does the conferencing service share your information with advertisers or other third parties?

ix. Update your video conferencing software.

1. Use the improved version, and only accept updates directly from the service's website or through the app's program.

x. Establish preferred video conferencing practices at your business.

1. Establish company-wide video conferencing dos and don'ts, and emphasize the need to select the more secure options when hosting or joining video conferences.

d. Best practices when contracting with WFH vendors

i. Understand what data is being collected with a particular vendor, how is it being used, and what is the nature of the relationship.

ii. Consider whether you need to update your business's privacy policy following the execution of the contract to detail a new category or type of personal information being collected, or sharing taking place with a new class of vendors.

iii. Certain vendor contracts require the business using the service to make certain disclosures of its own in its privacy policy, including that the business is using the vendor and a disclosure and link to the vendor's own privacy policy.

iv. Understand what happens in the event of a cybersecurity incident.