



# KEVIN PETERSEN

STATE REPRESENTATIVE

Chairman Craig and honorable members of the Senate Committee Insurance, Financial Services, Government Oversight and Courts;

Thank you for the opportunity to testify on Senate Bill 784 – relating to: imposing requirements related to insurance data cybersecurity and granting rule-making authority.

In recent years, there have been several major data breaches involving large insurers that have exposed and compromised the sensitive personal information of millions of insurance consumers.

As a result, state insurance regulators made reevaluating the regulations around cybersecurity and consumer data protection a top priority. In early 2016 the National Association of Insurance Commissioners (NAIC) began the process of drafting the Insurance Data Security Model Law.

Following almost two years of extensive deliberations and input from state insurance regulators, consumer representatives, and the insurance industry, the NAIC model was adopted in October of 2017.

State adoption of the model is critical for state insurance regulators to have the tools they need to better protect sensitive consumer information. The U.S. Treasury Department has urged prompt action by states.

The Treasury further recommended that if adoption and implementation of the model by the states does not result in uniform data security regulations within five years, then Congress needs to act by passing legislation setting forth uniform requirements for insurer data security.

We in this state know our industry best and that is why we have worked with stakeholders to ensure the Office of the Commissioner of Insurance (OCI) has the guidelines and oversight necessary to secure all of the state's insurance information.

To date, the NAIC Insurance Data Security Model Law (#668) has been adopted in 8 states: Alabama, Connecticut, Delaware, Michigan, Mississippi, New Hampshire, Ohio, and South Carolina.

1. The NAIC Insurance Data Security Model law was developed in response to high-profile data breaches of insurers and other institutions.
2. The model requires insurers and other entities licensed by OCI to develop, implement and maintain an information security program, investigate any cybersecurity events and notify the state insurance commissioner of such events.
3. The model phases in requirements for compliance with the information security program and oversight of third-party service providers.
4. The model also requires any licensees to investigate a cybersecurity breach and notify the state insurance commissioner of such event.
5. It also grants insurance commissioners the power to examine and investigate licensees to determine compliance with the law, and provides state insurance regulators the authority to remedy data security deficiencies they find during an examination.

Wisconsin's domiciled insurance companies are ranked as the 2<sup>nd</sup> best market in the entire nation employing almost 82,000 people. Without Senate Bill SB 784, we cede writing data cybersecurity for the insurance industry to the federal government instead where it belongs, right here in Wisconsin.



## PATRICK TESTIN

STATE SENATOR

DATE: February 13, 2020

RE: Testimony on Senate Bill 784

TO: The Senate Committee on Insurance, Financial Services, Government Oversight  
and Courts

FROM: Senator Patrick Testin

---

I would like to thank Chairman Craig and members of the committee for accepting my testimony on Senate Bill 784.

We have all heard the news stories: a large insurance company has been hit by a data breach. My usual first instinct is to wonder if my or my spouse's information was affected. Next comes the thoughts of, "could this have been prevented" and "is there something we can do to combat this through legislation?" Senate Bill 784 is meant to establish security standards for regulators and insurers to hopefully prevent or at least minimize the damage caused by a data breach.

This bill requires insurers to develop, implement and maintain an information security program based on its risk assessment. The proposal also calls for a licensee to use due diligence in selecting third party providers and make reasonable efforts to ensure that the third party providers can protect information. It also calls for a licensee to investigate any cybersecurity event and notify the Office of Commissioner of Insurance of that event.

This legislation is based on the NAIC Insurance Data Security Model Law that has already been adopted in eight states: AL, CT, DE, MI, MS, NH, OH and SC. I hope we will follow the lead of these states and support SB 784.

Thank you again for listening to my testimony and I hope that you will join me in supporting this bill.



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor  
Mark V. Afable, Commissioner

Wisconsin.gov

**Legal Unit**  
125 South Webster Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 267-9586 • Fax: (608) 264-6228  
oci.wi.gov

Date: February 13, 2020

To: Senator David Craig, Chair  
Senator Duey Stroebel, Vice Chair  
Members of the Senate Committee on Insurance, Financial Services, Government and Courts

From: Richard B. Wicka, Chief Legal Counsel  
Office of the Commissioner of Insurance

Subject: Testimony regarding SB 784 to impose requirements related to insurance data cybersecurity and grant rule-making authority

The following is a copy of the prepared testimony of Wisconsin Office of the Commissioner (OCI) of Insurance Chief Legal Counsel relating to SB 784 before the Senate Committee on Insurance, Financial Services, Government and Courts on February 13, 2020:

Thank you, Chair Craig, Vice-Chair Stroebel, and members of the committee for considering SB 784 related to insurance cybersecurity protections.

SB 784 was derived from model legislation developed by the National Association of Insurance Commissioners (NAIC) following a number of high-profile insurance data breaches.

The model law was drafted by the NAIC after considering input from all participating state insurance commissioners, the insurance industry, and consumer representatives.

In 2018, under Governor Walker's administration, OCI set up a working group with interested parties in Wisconsin to develop a version of the NAIC model law that best fits our state. After being appointed by Governor Evers in 2019, Commissioner Mark Afable directed OCI to continue work on this bill, including additional outreach to industry stakeholders.

OCI incorporated as much of the feedback we received as possible while ensuring the draft legislation would protect Wisconsin consumers and best meet the characteristics of our insurance industry.

At the same time, the bill maintains the overall structure of the NAIC model law in order to retain uniformity with other states that have already adopted the model.

By ensuring as much uniformity as possible between states, this bill will make it easier for Wisconsin companies that operate in other states to comply with these uniform standards.

OCI believes this bill provides strong consumer protections without imposing unreasonable burdens on the industry.

### **Bill Summary SB 784**

The bill contains three main requirements.

#### **First, the bill requires licensees to develop, implement, and maintain an information security program.**

The information security program is intended to scale with the size and complexity of the organization based on the licensee's own risk assessment.

The model is principles-based meaning that specific kinds or types of information security measures are not required. Instead, it is left to the licensee to determine what security measures best fit their needs.

For example, a licensee must utilize controls for employees accessing non-public information. That could include multi-factor authentication but the law does not require it.

Licensees who have less than \$10 million in assets, less than \$5 million in revenue, or fewer than 25 employees are exempt from this requirement.

There is also an exemption for licensees that meet the federal Health Information Portability and Accountability Act (HIPAA) data security standards for all non-public information.

#### **Second, the bill requires licensees to investigate possible cybersecurity events and notify the Insurance Commissioner if a cybersecurity event occurs.**

The required notification includes the information that was exposed, the number of consumers affected, and the efforts made to address the breach.

The information provided is held confidentially.

#### **Third, the bill requires notice to affected consumers when a cybersecurity event occurs.**

The notice requirement cross-references the reporting requirements currently in Wisconsin State law (134.98), so insurers will still have the same consumer reporting requirements that all similar entities such as financial institutions follow. Also, if those consumer reporting requirements change, this law would not need to be updated.

### **Assembly Amendment**

It is my understanding that an amendment has been introduced with regard to the assembly companion bill that provides that a licensee affiliated with a depository institution that follows security standards set by the Graham-Leach-Bliley Act is deemed to meet the requirements of this bill. OCI has no objection to this amendment and my understanding is this amendment has been included in two other states' versions of this model law.

**Conclusion**

The NAIC model law has been adopted in eight other states, and we anticipate that it will be introduced and adopted in several more.

In 2017, the U.S. Treasury Department urged states to adopt the NAIC model within five years or, the Department indicated, it will ask Congress to adopt a federal cybersecurity law that preempts the states.

OCI believes it is important to preserve state authority in this area to protect Wisconsin consumers and maintain our strong, competitive insurance industry.

OCI would appreciate the committee voting to approve the bill.



# Professional Insurance Agents of Wisconsin, Inc.



6401 Odana Rd • Madison, WI 53719  
Phone: (608) 274-8188 • (800) 261-7429  
Fax: (608) 274-8195 • (866) 203-7461  
[www.piaaw.org](http://www.piaaw.org)

February 13, 2020

To: Chairman David Craig and Members of the Senate Committee on Insurance, Financial Services,  
Government Oversight and Courts

From: Pete Hanson, PIAW Executive Director

RE: **PIAW Support for Senate Bill 784, Insurance Data Cybersecurity**

Dear Chairman Craig and Members of the Committee:

I am writing on behalf of the members of the Professional Insurance Agents of Wisconsin (PIAW) to express our **support** for Senate Bill 784, which creates requirements related to the protection of private data in the context of the insurance industry.

PIAW represents more than 600 insurance agencies of all sizes located across the State of Wisconsin. Our members are independent insurance agents and other dedicated insurance professionals, who are working to promote and improve independent insurance businesses across the state.

We support SB 784 because it will increase protections for consumers. This legislation will put mechanisms in place for insurers and insurance agents to conduct risk assessments and develop information security programs based on those assessments. The goal is to safeguard private information that our insureds share with us.

SB 784 will also protect our member businesses. The legislation establishes mechanisms that will assist our agents in their efforts to protect consumers' non-public information. We strongly support the exemptions contained in the legislation for small businesses, as businesses without their own IT staffs would face significant expense to comply. For our smallest members, those costs would be prohibitive. Even for exempted businesses, however, this legislation lays out best practices towards which they will undoubtedly strive.

PIAW will encourage the small businesses that we represent to conduct risk assessments and implement cybersecurity best practices, even though many would not be mandated to file an official plan with OCI under this bill. Our members are strongly entrenched in the business of "risk management" and would never want to be responsible for any kind of information breach.

Finally, we believe that this cybersecurity legislation will have the effect of reducing cyber-crime against Wisconsin businesses and consumers, a good result for our citizens and our economy.

Thank you for holding a public hearing on SB 784.