



KEVIN PETERSEN

STATE REPRESENTATIVE

Chair - Summerfield and honorable members of the Committee on Science, Technology and Broadband;

Thank you for the opportunity to testify on Assembly Bill 147 – relating to: imposing requirements related to insurance data cybersecurity and granting rule-making authority.

One of the biggest cyber threats Americans face this year or any year is with their health information.

The health-care sector fell victim to hackers multiple times in 2015, and the targets included some of the biggest companies. Anthem (78.8 million), Premera Blue Cross, and CareFirst Blue Cross Blue Shield were all hacked last year. In all a total of nearly 95 million patient records were exposed.

According to the Protenus Breach Barometer the healthcare sector saw a whopping 41.4 million patient records breached in 2019, fueled by a 49 percent increase in hacking. And despite the COVID-19 crisis, the pace of healthcare data breaches in 2020 nearly 2.5 million continue to highlight some of the sector's biggest vulnerabilities.

The end of 2019 saw a host of ransomware attacks and vendor-related breaches that outpaced previous years in the healthcare sector. For comparison, the industry saw just 15 million records breached in 2018.

As a result, state insurance regulators and providers began reevaluating the regulations around cybersecurity and consumer data protection, making it 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 2nd best market in the entire nation employing almost 82,000 people. Without Assembly Bill 147, we cede writing data cybersecurity for the insurance industry to the federal government instead of where it belongs, right here in Wisconsin.



PATRICK TESTIN

STATE SENATOR

DATE: May 27, 2021

RE: Testimony on Assembly Bill 147

TO: The Senate Committee on Science, Technology and Broadband

FROM: Senator Patrick Testin

I would like to thank Chairman Summerfield and members of the committee for accepting my testimony on Assembly Bill 147 (AB 147).

We have all heard the news stories about large insurance companies that have been hit by data breaches. Our first impulse, after wondering if our or our family's information has been affected is to ask how this could have been stopped. I authored AB 147 in an effort to mitigate damage from future data breaches.

This bill creates security standards for regulators and insurers. It 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 the Commissioner of Insurance of that event.

This legislation is based on the NAIC Insurance Data Security Model Law that has already been adopted in 11 states: AL, CT, DE, IN, LA, MI, MS, NH, OH, SC and VA. I hope we will follow the lead of these states and support AB 147.

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



Wisconsin Office of the
**COMMISSIONER
OF INSURANCE**

Tony Evers, Governor of Wisconsin
Mark Afable, Commissioner of Insurance

Date: May 27, 2021

To: Representative Rob Summerfield, Chair
Representative Michael Schraa, Vice Chair
Members of the Assembly Committee on Science, Technology, and Broadband

From: Sarah Smith, Director of Public Affairs
Richard Wicka, Chief Legal Counsel
Office of the Commissioner of Insurance

Subject: Testimony regarding Assembly Bill 147 Relating to imposing requirements related to insurance data cybersecurity and granting rule-making authority.

The following is the written testimony of Wisconsin Office of the Commissioner of Insurance (OCI) relating to AB 147 before the Assembly Committee on Science, Technology, and Broadband on May 27, 2021:

Thank you, Chair Summerfield, Vice-Chair Schraa, and members of the committee for considering AB 147 related to insurance cybersecurity protections.

AB 147 was derived from model legislation developed by the National Association of Insurance Commissioners (NAIC) following a number of high-profile insurance data breaches. This bill was previously introduced in the last session. It passed unanimously in the Assembly and was supported unanimously by the Senate Committee that considered the bill.

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 AB 147

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.

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 parallels 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.

Amendments

We would also like to note that OCI has reviewed Substitute Amendment 1 and its additional amendments and OCI has no objections to the changes that are being proposed.

Conclusion

The NAIC model law has been adopted in ten 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.



National Association of Insurance and Financial Advisors – Wisconsin

Testimony in Support of Assembly Bill 147

Insurance Industry Cybersecurity Regulation

Thank you for the opportunity to provide testimony on Assembly Bill 147. This bill by Representative Petersen and Senator Testin is based on a national model bill. It establishes regulations for the insurance industry to help prevent cybersecurity events and to establish procedures to follow when they do.

NAIFA – the National Association of Insurance and Financial Advisors – strongly supports the adoption of this model bill in order to provide regulatory consistency across state lines and to provide appropriate protections for the personal information of consumers.

We want to thank Chairman Summerfield and committee members for scheduling this hearing to help ensure this bill can get timely action in the Legislature. We appreciate the various changes that have been made during the drafting process, especially those relating to the definitions of small business.

We also ask that the committee adopt **Assembly Amendment 2 to ASA 1**. Some NAIFA members were concerned that securities brokers are already subject to the cybersecurity requirements of the Securities and Exchange Commission (SEC), as enforced by the Financial Industry Regulatory Authority (FINRA). To prevent them from being subject to regulation by multiple agencies, the amendment would provide that compliance with FINRA regulations will satisfy the state requirements if appropriate documentation is provided to the Wisconsin Office of the Insurance Commissioner.

We want to thank the authors for their willingness to support and draft this amendment, as well as their work to move this bill forward.

Again, we appreciate the opportunity to offer our support for the bill and the amendments.

Bill McClenahan
Schreiber GR Group

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May 27th, 2021

To: Chairman Summerfield, Members of the Assembly Committee on Science, Technology and
Broadband

From: Tracy Oestreich CIC, CPIA, AU, CPIW

RE: PIAW Support for Assembly Bill 147, Insurance Data Cybersecurity

Chairman Summerfield and members of the Assembly Committee on Science, Technology and
Broadband,

Thank you for allowing me the opportunity to testify today on Assembly Bill 147, relating to imposing requirements related to insurance data security. My name is Tracy Oestreich, and I am a former President of the Professional Insurance Agents of Wisconsin currently serving as a board member and the co-chair of our legislative committee. The Professional Insurance Agents of Wisconsin is a longstanding Wisconsin organization representing thousands of independent insurance agents from across the state.

Our organization and members recognize the serious threat that cyber-attacks pose to the insurance industry, as well as to our clients. With the events of the past year creating an even greater dependence on technology, we understand the necessity of setting up standards for cybersecurity practices in the industry.

Assembly Bill 147 has been formulated for Wisconsin based off of NAIC model language and is an important next step for a few reasons. First of all, it establishes the Office of the Commissioner of Insurance as the regulating entity for cybersecurity in the insurance industry. OCI is the only state agency with a deep understanding of the insurance industry, and therefore it is imperative that they are established as the overseeing entity regulating this. This legislation also solidifies this oversight within the state, rather than allowing the federal government to intercede in our state-based regulatory system.

Next, this bill includes exemptions that are important for small businesses. This will save many of our members the significant expenses of hiring outside IT staffs and consultants to comply, while at the same time establishing a strong regulatory structure of cybersecurity policies and best practices.

PIA recognizes the importance of data security and will encourage our members to conduct risk assessments and implement best practices. The insurance industry relies on many different data sets in order to write insurance policies for our insureds. This unique data is valuable, and we

understand the importance of safeguarding it as well as the danger that current and future cyber threats pose.

Therefore, PIA respectfully requests your support of Assembly Bill 147. Thank you again Chairman Summerfield and committee members for having a hearing on this legislation and for allowing me the opportunity to testify today.



TO: Members of the Assembly Committee on Science, Technology and Broadband

FROM: Matt Banaszynski, CEO

DATE: Thursday, May 27, 2021

RE: **Support of Assembly Bill 147 (AB 147) - Insurance Data Cybersecurity**

On behalf of the Independent Insurance Agents of Wisconsin (IIAW), a statewide trade association representing the interests of over 6,000 independent insurance agents in Wisconsin, we ask that you support Assembly Bill 147 (AB 147) relating to insurance data cybersecurity. AB 147 closely follows model legislation from the National Association of Insurance Commissioners (NAIC) that attempts to prioritize and gain uniformity with state regulations related to cybersecurity and the protection of consumer data.

Cybersecurity and protecting consumer data has increasingly become one of the insurance industry's biggest challenges in the face of recent major data breaches involving large insurers and sensitive information of millions of insurance consumers. IIAW believes data security is an issue of significant importance to our members, as well as your constituents. We commend the Legislature and the Office of the Commissioner of Insurance (OCI) for working to address this issue. Failure of any business to reasonably protect sensitive personal information can result in consumer harm and we believe this legislation seeks to address this issue with a meaningful and balanced approach. Further, the bill helps Wisconsin consumers and our state's industry avoid unnecessary overreach from the federal government by reinforcing the importance of having efficient and effective state insurance regulation.

AB 147 establishes new regulatory requirements supported widely by the insurance industry that contains several key elements:

- First, it would require non-exempt licensed entities to establish an information security program that is commensurate with the size and complexity of the entity, the nature and scope of its activities, and the sensitivity of the information being guarded. The requirements are flexible and risk-based and a licensee's security program must respond to and mitigate the risks identified in the entity's risk assessment.
- Second, the bill would require licensees to promptly investigate suspected data breaches and restore security if there has been a compromise.
- Third, licensees that suffer data breaches would be required to notify the Office of the Commissioner of Insurance (OCI) within three business days of discovering the event. There is no current statutory requirement for insurance licensees to notify the commissioner when they suffer a data breach, and this bill would address a clear regulatory gap.

Thank you for the opportunity to comment on this important consumer and industry initiative. We hope you will join in supporting AB 147 when it comes time for you to cast your vote.



TO: Assembly Committee on Science, Technology and Broadband

FROM: Jordan Lamb and Wes Webendorfer, Legislative Counsel,
Wisconsin Farm Credit Services

DATE: May 27, 2021

RE: **Testimony on Assembly Bill 147, relating to insurance data security**

On behalf of Wisconsin Farm Credit Services and its constituent credit service agencies serving Wisconsin—Compeer Financial, GreenStone Farm Credit Services, and AgCountry Farm Credit Services—we write to **support** Assembly Substitute Amendment 1 (ASA1) to Assembly Bill 147 (AB 147).

Farm Credit Services is a federally created network of customer-owned financial institutions that are organized as cooperatives and that serve rural communities and Wisconsin agriculture. Farm Credit institutions are regulated under the federal Farm Credit Administration.

Banks and certain other depository institutions are expressly exempt from the requirements of AB 147 because those entities are subject to data privacy requirements under current law. As originally drafted, Farm Credit institutions were not included in AB 147's exemption language even though they too are subject to existing data security and privacy law.

ASA1 to AB 147 corrects this discrepancy so that Farm Credit institutions, just like banks, are exempt from the requirements of AB 147. (*See* ASA1, Section 4, s. 601.951(2)(c)).

Farm Credit Services appreciates the work of the authors, Representative Petersen and Senator Testin to maintain a level playing field for all financial institutions and including Farm Credit institutions within the bill's list of exempt entities.

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