



KEVIN PETERSEN

STATE REPRESENTATIVE

Chairman Quinn and honorable members of the Assembly Committee on Science and Technology;

Thank you for the opportunity to testify on Assembly Bill 819 – 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 2nd best market in the entire nation employing almost 82,000 people. Without Assembly Bill 819, 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 5, 2020
RE: Testimony on Assembly Bill 819
TO: The Assembly Committee on Science and Technology
FROM: Senator Patrick Testin

I would like to thank Chairman Romaine Quinn and members of the committee for accepting my testimony on Assembly Bill 819.

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?" Assembly Bill 819 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 AB 819. Thank you for your attention.



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor
Mark V. Afable, Commissioner

Wisconsin.gov

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Date: February 05, 2020

To: Representative, Romaine Quinn, Chair
Representative, Kevin Petersen, Vice Chair
Members of the Assembly Committee on Science and Technology

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

Subject: Testimony regarding AB 819 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 AB 819 before the Assembly Committee on Science and Technology on February 5, 2020:

Thank you, Chair Quinn, Vice-Chair Peterson, and members of the committee for considering AB 819 related to insurance cybersecurity protections.

AB 819 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 AB 819

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.

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.

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February 5, 2020

To: Chairman Romaine Quinn, Assembly Committee on Science and Technology
From: Pete Hanson, PIAW Executive Director
RE: **PIAW Support for Assembly Bill 819, Insurance Data Cybersecurity**

Dear Chairman Quinn and Members of the Assembly Committee on Science and Technology:

I am writing on behalf of the members of the Professional Insurance Agents of Wisconsin (PIAW) to express our **support** for Assembly Bill 819, which creates requirements related to the protection of private data in the context of the insurance industry. Unfortunately, our annual PIAW Winter Getaway meeting is February 5-7 in northern Wisconsin so our agents and staff are unable to attend and speak at the public hearing on Assembly Bill 819. Accordingly, we are filing these written comments.

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 AB 819 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.

AB 819 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 AB 819.



Independent Insurance Agents of Wisconsin

TO: Members of the Assembly Committee on Science and Technology
FROM: Matt Banaszynski, Chief Executive Officer
DATE: February 5, 2020
RE: **Support For Assembly Bill 819 (AB-819)**

On behalf of the Independent Insurance Agents of Wisconsin (IIAW) representing over 5,500 insurance agents across Wisconsin, we respectfully ask that you support Assembly Bill 819 (AB-819) relating to standards for insurance data cybersecurity. The IIAW would especially like to thank Representative Petersen for his willingness to author this important piece of legislation.

Data breaches are an all too common occurrence today in the US. In 2005 alone, 157 data breaches were reported. In 2014, that number increased to 783. More than 4,500 data breaches nationwide have been made public since 2005 with more than 816 million individual records breached.

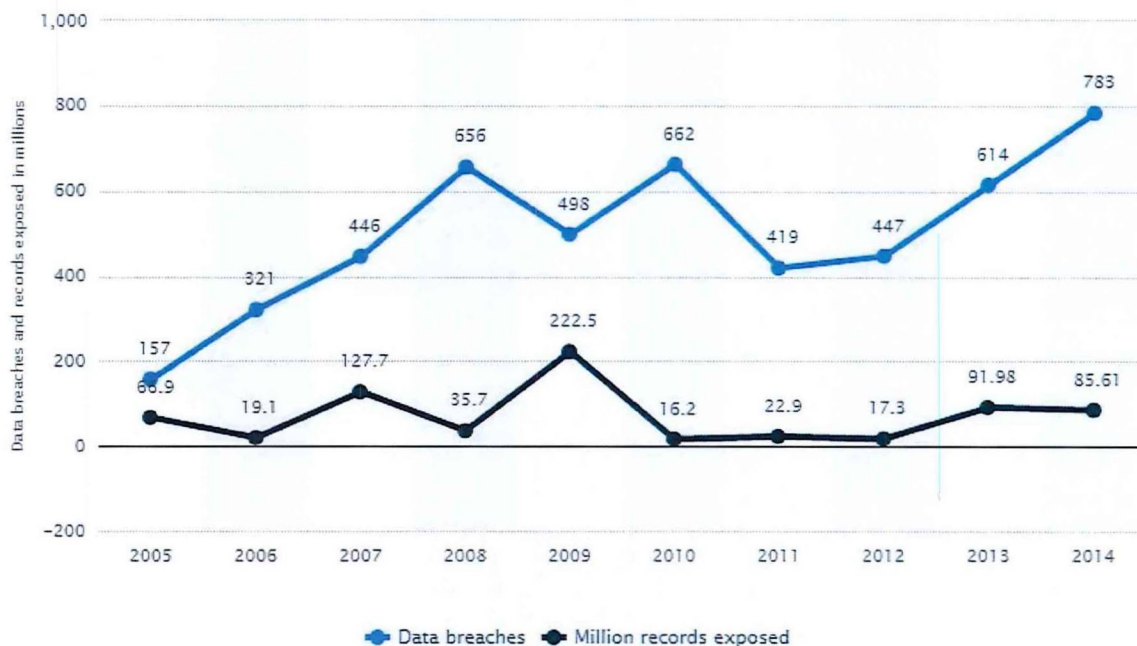


Image via Statista.com.

Since 2014, the number of data breaches reported in the US has been steadily rising. 1,093 data breaches reported in 2016 and 1,579 data breaches reported in 2017.

While the insurance industry has responded proactively by taking preventive security measures and by offering cyber liability or data breach coverage to help businesses and individuals recover and remedy these breaches, the need to update and modernize Wisconsin law is important to protect consumers in the event an insurance company, intermediary or third party suffers a breach.

The IIAW has been working with the Office of Commissioner of Insurance (OCI) and other industry stakeholders over the last several years on helping to develop language for cyber security legislation. Under the previous administration, I served on an OCI working group charged with reviewing the National Association of Insurance Commissioner's (NAIC) draft model legislation and evaluating ways to improve it. Under the current administration, we have also worked with the OCI on the legislation before you for consideration. We greatly appreciate the efforts by the OCI and Rep. Petersen in addressing our concerns with the NAIC model law. We believe AB-819 largely addresses the concerns that were raised directly by my members, as well as the insurance industry as a whole and strikes a reasonable and thoughtful balance. AB-819 is consistent with what several other state legislatures have enacted and/or are currently considering. Currently, 8 states have enacted versions of the NAIC model law while many others are currently deliberating passage of similar legislation.

In our opinion, AB-819 imposes certain requirements on the insurance industry that are necessary to protect the modern consumer, while not creating an onerous burden on those it seeks to regulate. For example, the limited exemption would apply to any licensee that (1) has less than \$10,000,000 in year-end total assets; (2) has less than \$5,000,000 in gross annual revenue; or (3) has fewer than 25 employees, including independent contractors who work at least 30 hours a week for the licensee. This limited exemption specifically addressed concerns raised by some of our smaller agencies in Wisconsin as they have a much more limited exposure to a data breach and in some cases a limited means to respond in a manner consistent with larger companies.

One of our larger concerns that OCI addressed in the legislation before you, pertained to third party service providers and the manner in which the NAIC model law imposed unrealistic burdens and duties on licensees in relation to their engagement with third party service providers. For example, the draft language put the agent in a precarious, no-win position as it required an agency to investigate a breach that occurred within an agency management system or cloud vendor, and confirm that such a vendor took appropriate, remedial steps. This bill addresses that by compelling a licensee to make reasonable efforts to confirm and document that the third-party service provider has completed the appropriate steps or has failed to cooperate.

Finally, it is important that Wisconsin work expeditiously to enact this model legislation rather than cede authority to the federal government in order to protect the strong, state-based regulatory system that we have here in our state.

Thank you for your time and consideration. We appreciate the opportunity to appear before you today in support of AB 819.