Wisconsin State Senate
24th Senate District

Serving Wood, Portage, Adams,
Waushara, Monroe, and Jackson

PATRICK TESTIN
STATE SENATOR

DATE: April 1, 2021

RE: Testimony on Senate Bill 160

TO: The Senate Committee on Insurance, Licensing and Forestry

FROM: Senator Patrick Testin

I would like to thank Chair Felzkowski and members of the committee for accepting my testimony on Senate Bill 160 (SB 160).

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 SB 160 to hopefully prevent or at least minimize the 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 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 SB 160.

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

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KEVIN PETERSEN

STATE REPRESENTATIVE

Chair - Felzkowski and honorable members of the Senate Committee on Insurance, Licensing and Forestry;

Thank you for the opportunity to testify on Senate Bill 160 – 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.

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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 breech and notify the state insurance commissioner of such event.

Wisconsin Office of the
COMMISSIONER
OF INSURANCE

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

Date: April 1, 2021

To: Senator Mary Felzkowski, Chair
Senator Rob Stafsholt, Vice Chair
Members of the Senate Committee on Insurance, Licensing and Forestry

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

Subject: Testimony regarding Senate Bill 160 Relating to imposing requirements related to insurance data cybersecurity and granting rule-making authority.

The following is the written testimony of the Wisconsin Office of the Commissioner of Insurance (OCI) relating to SB 160 before the Senate Committee on Insurance, Licensing and Forestry on April 1, 2021:

Thank you, Chair Felzkowski, Vice-Chair Stafsholt, and members of the committee for considering SB 160 related to insurance cybersecurity protections.

SB 160 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 SB 160

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.

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.

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April 1st, 2021

To: Chair Felzkowski, Members of the Senate Committee on Insurance, Licensing and Forestry
From: Julie Ulset, President PIAW

RE: PIAW Support for Senate Bill 160, Insurance Data Cybersecurity

Chair Felzkowski and members of the Senate Committee on Insurance, Licensing and Forestry,

Thank you for allowing me the opportunity to testify today on Senate Bill 160, relating to imposing requirements related to insurance data security. My name is Julie Ulset, and I am the President of the Professional Insurance Agents of Wisconsin, an 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.

Senate Bill 160 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. Since OCI is the only state agency with a deep understanding of the insurance industry, we believe it is imperative that OCI be established as the overseeing entity on insurance cybersecurity as well. This 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 and the danger that current and future cyber threats pose.

Therefore, PIA respectfully requests your support of Senate Bill 160. Thank you again Chair Felzkowski and committee members for hearing this legislation and for allowing me the opportunity to testify today.

National Association of Insurance and Financial Advisors – Wisconsin

Testimony in Support of Senate Bill 160

Insurance Industry Cybersecurity Regulation

Thank you for the opportunity to provide testimony on Senate Bill 160. This bill by Senator Testin and Representative Petersen 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 Chair Felzkowski and committee members, as well as the authors, for scheduling this hearing to help ensure this bill can get timely action in the Legislature. We also appreciate the various changes that have been made during the drafting process, especially those relating to the definitions of small business.

We would ask that the committee consider an additional potential amendment to the bill. A number of legislators have commented that they want to avoid subjecting businesses to regulation of cybersecurity practices by multiple agencies. At the same time, several NAIFA members have noted that their businesses are already subject to the cybersecurity requirements of the Securities and Exchange Commission (SEC). (Although FINRA is a self-regulatory agency, not a government agency, it does have regulatory powers.)

NAIFA-WI asks the committee and the bill authors to consider adopting an amendment similar to that included in the substitute amendment for entities subject to Farm Credit Administration cybersecurity requirements. In our case, a similar exemption would be provided for entities subject to SEC cybersecurity requirements, as determined by FINRA.

Again, we appreciate the opportunity to offer our support for the bill and your willingness to consider this potential amendment. The following excerpt from FINRA's website describes its role in ensuring compliance with the SEC regulations:

> Given the evolving nature, increasing frequency, and sophistication of cybersecurity attacks – as well as the potential for harm to investors, firms, and the markets – cybersecurity practices are a key focus for FINRA.
>
> FINRA also reviews a firm's ability to protect the confidentiality, integrity and availability of sensitive customer information. This includes reviewing each firm's compliance with SEC regulations, including:
>
> - Regulation S-P (17 CFR §248.30), which requires firms to adopt written policies and procedures to protect customer information against cyber-attacks and other forms of unauthorized access
>
> - Regulation S-ID (17 CFR §248.201-202), which outlines a firm's duties regarding the detection, prevention, and mitigation of identity theft
>
> - The Securities Exchange Act of 1934 (17 CFR §240.17a-4(f)), which requires firms to preserve electronically stored records in a non-rewriteable, non-erasable format
>
> FINRA reviews firms' approaches to cybersecurity risk management, including: technology governance, system change management, risk assessments, technical controls, incident response, vendor management, data loss prevention, and staff training.

For more information, please contact:

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TO: Wisconsin Senate Committee on Insurance, Licensing and Forestry

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

DATE: March 31, 2021

RE: **Testimony on Senate Bill 160, 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 Senate Substitute Amendment 1 (SSA1) to Senate Bill 160 (SB 160).

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 SB 160 because those entities are subject to data privacy requirements under current law. As originally drafted, Farm Credit institutions were not included in SB 160's exemption language even though they too are subject to existing data security and privacy law. SSA1 corrects this discrepancy so that Farm Credit institutions, like banks, are exempt from the requirements of SB 160. (*See* SSA1, Section 4, s. 601.951(2)(c)).

Farm Credit Services appreciates the work of the authors of SB 160 to maintain a level playing field by including Farm Credit institutions within the bill's list of exempt entities.

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