



**MEDICAL PROFESSIONAL  
LIABILITY ASSOCIATION**

February 25, 2020

The Honorable Xavier Becerra  
California Office of the Attorney General  
300 South Spring Street, First Floor  
Los Angeles, CA 90013

**ATTN: Privacy Regulations Coordinator**

**Subject: Comments on Proposed CA Consumer Privacy Act Regulation**

Dear Attorney General Becerra:

On behalf of the Medical Professional Liability Association and our medical professional liability (MPL) insurers that conduct business in California, we appreciate this opportunity to share our perspective on the most recent proposed California Consumer Privacy Act (CCPA) Regulations.

The Medical Professional Liability Association (“MPL Association”) is the leading trade association representing insurance companies, risk retention groups, captives, trusts, and other entities owned and/or operated by their policyholders, as well as other insurance carriers with a substantial commitment to the MPL line. MPL Association members insure more than 2 million healthcare professionals worldwide—doctors, nurses and nurse practitioners, and other healthcare providers—including more than two thirds of America’s private practice physicians. MPL Association members also insure more than 150,000 dentists and oral surgeons, 2,500 hospitals and 8,000 medical facilities around the world.

The MPL Association supports the adoption of consumer data privacy measures that enhance transparency and data protections related to consumers’ personal information without restricting its member companies’ ability to use consumer data that is necessary to conduct a full range of insurance services to its insureds. We believe the latest draft regulations are a step in the right direction, but that additional improvements could be made to protect consumers without unduly burdening businesses.

To begin, we would like to applaud you for the numerous changes made to the regulations that aim to clarify businesses’ responsibilities under the CCPA and reduce the administrative burden associated with compliance. Among the improvements are the clarification that only “materially different” uses of consumer personal information than those previously disclosed are prohibited (§ 999.305(a)(5)), providing flexibility for businesses to describe the “general” process used to verify consumer requests (§ 999.308(c)(2)c), and clarifying that businesses are not required to delete information from archived or backup systems until the data is “restored to an active system” or “used for...a commercial purpose” (§ 999.313(d)(3)). We also believe

the new guidance provided on the definition of “personal information” is a positive development (§ 999.302(a)).

The changes made to § 999.313(c)(3) are certainly helpful, however, improvements could be made to make this provision more functional. Specifically, we believe the list of circumstances under which a business is not required to search for personal information need not be entirely mutually exclusive. As such, we recommend that the provision be amended as follows:

(3) In responding to a request to know, a business is not required to search for personal information if ~~all~~ the following conditions are met:

- a. The business does not maintain the personal information in a searchable or reasonably accessible format; or
  - b. The business maintains the personal information solely for legal or compliance purposes;
- and
- c. The business does not sell the personal information and does not use it for any commercial purpose; and
  - d. The business describes to the consumer the categories of records that may contain personal information that it did not search because it meets the conditions stated above.

Such a change would clarify reasonable and recognized circumstances under which a data search would not be necessary, while still maintaining adequate consumer data protections.

The MPL Association appreciates this opportunity to provide additional input regarding the proposed California Consumer Privacy Act Regulations. Please do not hesitate to contact me at 301.947.9000 should you need any further information.

Sincerely,



Brian K. Atchinson  
President & CEO