MPL | MEDICAL PROFESSIONAL LIABILITY ASSOCIATION

ANALYSIS | INSIGHT | ADVOCACY

Principles for Enacting Effective Cybersecurity Legislation

Advancements in technology have also brought advanced threats to individuals' personal information. In response, 48 states have passed legislation requiring the private sector to adopt varying degrees of cybersecurity and/or breach notification standards. Additionally, the National Association of Insurance Commissioners (NAIC) recently approved a model cybersecurity law exclusively for the insurance industry. The patchwork of state cybersecurity laws across America poses a significant burden to medical professional liability (MPL) insurers that sell insurance products in multiple states. As Congress continues to explore ways to address this growing problem on the national level, the MPL Association urges Congress to incorporate the following principles into federal cybersecurity legislation. These principles aim to balance the need for appropriate levels of security for consumers' personal information with the need to adopt flexible data security and breach response measures:

- Adopt security and breach notification standards that allow for flexibility based on the resources of the entity and the type of data it collects;
- Establish a *safe harbor* exemption for entities, such as MPL insurers, that are already required to establish and maintain safeguards for personal health information pursuant to the Health Insurance Portability and Accountability Act (HIPAA);
- Provide flexibility to allow entities to utilize either in-house or third-party vendors to develop and manage the entities' information security program;
- Adopt a *harm trigger* that limits consumer breach notification requirements to data breaches that could result in identity theft, fraudulent transactions on financial accounts, and other types of substantial harm.

Adopt Effective and Flexible Cybersecurity Policies

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