



**MEDICAL PROFESSIONAL  
LIABILITY ASSOCIATION**

June 7, 2022

Chair Katie Johnson (VA); Co-Vice Chairs Cynthia Amann (MO) and Chris Aufenthie (ND)  
Privacy Protections (H) Working Group  
National Association of Insurance Commissioners  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-2197

**Subject: Proposed Data Ownership & Use Survey**

Dear Ms. Johnson, Ms. Amann, and Mr. Aufenthie:

On behalf of the Medical Professional Liability (MPL) Association and its more than 50 medical professional liability insurer members, we would like to thank you for the opportunity to share our feedback on the working group's proposed survey relating to data ownership and use rights.

The Medical Professional Liability Association is the leading trade association representing insurance organizations with a substantial commitment to the MPL line. MPL Association members insure more than one million healthcare professionals in the U.S.— physicians, nurses, dentists, oral surgeons, nurse practitioners, and other healthcare providers. MPL Association members also insure nearly 2,000 hospitals and 7,500 medical facilities throughout the United States.

The MPL Association supports the adoption of consumer data privacy policies that reflect the need to protect consumers from the unauthorized sharing of their personal information while recognizing the legitimate need for companies to use consumer data for appropriate insurance purposes. Such purposes include the provision of a full range of insurance services to meet its contractual obligations, the analysis of data to enhance future business practices, and compliance with all legal requirements. How to balance these purposes with consumers' desire to maintain the privacy of their personal information is not a simple task, and we appreciate the working group's efforts to obtain stakeholder input via a survey.

With this in mind, we respectfully submit the following feedback with the understanding that additional modifications may be necessary depending on what changes are made to the survey following this initial comment period.

**Questions 1, 3, 4, 5, and 6 –**

Questions 1, 3, 4, 5, and 6 attempt to address the question of data ownership. However, addressing data ownership merely raises additional questions about what *rights* are associated with personal information ownership and whether data ownership is an absolute right. For example, what is the scope of an insurer's ability to use a policyholder's personal information if the policyholder still owns that information after giving it to the insurer to perform legitimate business activities? Therefore, we would recommend deleting these questions and instead focusing the survey on what rights policyholders and insurers have with respect to personal information that policyholders transmit to insurers, what data is appropriate for collection by the insurer (including data obtained by third parties), and at what point data should be removed from an insurer's system.

**Question 2 –**

To help determine what rights insurers have with respect to their policyholders' personal information, we would recommend converting Question #2 into the following two-part question:

2. What types of personal information:
  - a. are necessary to perform an insurance transaction?
  - b. are not necessary to perform an insurance transaction?

**Questions 7 – 19 –**

Questions 7 through 19 appropriately aim to define the legal duties and rights that insurers and policyholders have regarding policyholders' personal information once that information has been submitted to execute an insurance transaction. By doing so, the survey will help state government entities determine the most appropriate ways to regulate how consumer information is utilized.

In closing, the MPL Association appreciates this opportunity to provide constructive input to support sound, fair, and effective public policy as the working group refines this survey. Please do not hesitate to contact our Government Relations Department at 301.947.9000 or via email at [governmentrelations@mplassociation.org](mailto:governmentrelations@mplassociation.org) should you need any further information.

Sincerely,



Brian K. Atchinson  
President & CEO