

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Departmental

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By: **Leave Blank (By Request – Departmental – Maryland Insurance Administration)**

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Breach of Security of a Computer System – Notification**
3 **Requirement**

4 FOR the purpose of requiring certain carriers to notify the Maryland Insurance
5 Commissioner in a certain manner that a certain breach of the security of a system
6 has occurred; requiring a carrier to provide the notice as promptly as possible but
7 not later than a certain number of hours after a certain determination; providing
8 that compliance with certain provisions of this Act does not relieve a carrier from a
9 duty to comply with certain other requirements of federal law or certain provisions
10 of State law; defining certain terms; making a conforming change; and generally
11 relating to notification requirements for carriers for breaches of security of computer
12 systems.

13 BY adding to

14 Article – Health – General

15 Section 19–706(m)

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2018 Supplement)

18 BY adding to

19 Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4-406
2 Annotated Code of Maryland
3 (2017 Replacement Volume and 2018 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Insurance
6 Section 14-102(g)
7 Annotated Code of Maryland
8 (2017 Replacement Volume and 2018 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That the Laws of Maryland read as follows:

11 **Article – Health – General**

12 19-706.

13 **(M) THE PROVISIONS OF § 4-406 OF THE INSURANCE ARTICLE APPLY TO**
14 **HEALTH MAINTENANCE ORGANIZATIONS.**

15 **Article – Insurance**

16 **4-406.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 **(2) (I) “BREACH OF THE SECURITY OF A SYSTEM” MEANS THE**
20 **UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA THAT COMPROMISES THE**
21 **SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE PERSONAL INFORMATION**
22 **MAINTAINED BY A CARRIER.**

23 **(II) “BREACH OF THE SECURITY OF A SYSTEM” DOES NOT**
24 **INCLUDE THE GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN**
25 **EMPLOYEE OR AGENT OF A CARRIER FOR THE PURPOSES OF THE BUSINESS,**
26 **PROVIDED THAT THE PERSONAL INFORMATION IS NOT USED OR SUBJECT TO**
27 **FURTHER UNAUTHORIZED DISCLOSURE.**

1 **(3) “CARRIER” MEANS:**

2 **(I) AN INSURER;**

3 **(II) A NONPROFIT HEALTH SERVICE PLAN;**

4 **(III) A HEALTH MAINTENANCE ORGANIZATION;**

5 **(IV) A DENTAL ORGANIZATION;**

6 **(V) A MANAGED CARE ORGANIZATION;**

7 **(VI) A MANAGED GENERAL AGENT; AND**

8 **(VII) A THIRD PARTY ADMINISTRATOR.**

9 **(B) (1) A CARRIER SHALL NOTIFY THE COMMISSIONER ON A FORM AND**
10 **IN A MANNER APPROVED BY THE COMMISSIONER THAT A BREACH OF THE SECURITY**
11 **OF A SYSTEM HAS OCCURRED.**

12 **(2) THE CARRIER SHALL PROVIDE THE NOTICE REQUIRED UNDER**
13 **PARAGRAPH (1) OF THIS SUBSECTION AS PROMPTLY AS POSSIBLE BUT IN NO EVENT**
14 **LATER THAN 72 HOURS AFTER A DETERMINATION BY THE CARRIER THAT A BREACH**
15 **OF THE SECURITY OF A SYSTEM HAS OCCURRED.**

16 **(C) COMPLIANCE WITH THIS SECTION DOES NOT RELIEVE A CARRIER FROM**
17 **A DUTY TO COMPLY WITH ANY OTHER REQUIREMENTS OF FEDERAL LAW OR TITLE**
18 **14 OF THE COMMERCIAL LAW ARTICLE RELATING TO THE PROTECTION AND**
19 **PRIVACY OF PERSONAL INFORMATION.**

20 14–102.

21 (g) A corporation without capital stock organized for the purpose of establishing,
22 maintaining, and operating a nonprofit health service plan through which health care
23 providers provide health care services to subscribers to the plan under contracts that entitle
24 each subscriber to certain health care services shall be governed and regulated by:

25 (1) this subtitle;

- 1 (2) Title 2, Subtitle 2 of this article and §§ 1–206, 3–127, and 12–210 of this
2 article;
- 3 (3) Title 2, Subtitle 5 of this article;
- 4 (4) §§ 4–113, [and] 4–114, **AND 4–406** of this article;
- 5 (5) Title 5, Subtitles 1, 2, 3, 4, and 5 of this article;
- 6 (6) Title 7 of this article, except for § 7–706 and Subtitle 2 of Title 7;
- 7 (7) Title 9, Subtitles 1, 2, and 4 of this article;
- 8 (8) Title 10, Subtitle 1 of this article;
- 9 (9) Title 27 of this article; and
- 10 (10) any other provision of this article that:
 - 11 (i) is expressly referred to in this subtitle;
 - 12 (ii) expressly refers to this subtitle; or
 - 13 (iii) expressly refers to nonprofit health service plans or persons
14 subject to this subtitle.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2019.