

Chapter 103

(Senate Bill 30)

AN ACT concerning

Insurance – Breach of Security of a Computer System – Notification Requirement

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

BY adding to

Article – Health – General
 Section 19–706(m)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY adding to

Article – Insurance
 Section 4–406
 Annotated Code of Maryland
 (2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance
 Section 14–102(g)
 Annotated Code of Maryland
 (2017 Replacement Volume and 2018 Supplement)

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

Article – Health – General

19–706.

(M) THE PROVISIONS OF § 4–406 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

4-406.

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

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

~~(II) “BREACH OF THE SECURITY OF A SYSTEM” DOES NOT INCLUDE THE GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A CARRIER FOR THE PURPOSES OF THE BUSINESS, PROVIDED THAT THE PERSONAL INFORMATION IS NOT USED OR SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE~~ HAS THE MEANING STATED IN § 14-3504 OF THE COMMERCIAL LAW ARTICLE.

(3) “CARRIER” MEANS:

- (I) AN INSURER;
- (II) A NONPROFIT HEALTH SERVICE PLAN;
- (III) A HEALTH MAINTENANCE ORGANIZATION;
- (IV) A DENTAL ORGANIZATION;
- (V) A MANAGED CARE ORGANIZATION;
- (VI) A MANAGED GENERAL AGENT; AND
- (VII) A THIRD PARTY ADMINISTRATOR.

(4) “PERSONAL INFORMATION” HAS THE MEANING STATED IN § 14-3501 OF THE COMMERCIAL LAW ARTICLE.

(B) (1) A CARRIER SHALL NOTIFY THE COMMISSIONER ON A FORM AND IN A MANNER APPROVED BY THE COMMISSIONER THAT A BREACH OF THE SECURITY OF A SYSTEM HAS OCCURRED IF THE CARRIER:

(I) CONDUCTS AN INVESTIGATION REQUIRED UNDER § 14-3504(B) OR (C) OF THE COMMERCIAL LAW ARTICLE; AND

(II) DETERMINES THAT THE BREACH OF THE SECURITY OF THE SYSTEM CREATES A LIKELIHOOD THAT PERSONAL INFORMATION HAS BEEN OR WILL BE MISUSED.

~~(2) THE CARRIER SHALL PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AT THE SAME TIME THE CARRIER PROVIDES NOTICE TO THE OFFICE OF THE ATTORNEY GENERAL UNDER § 14-3504(H) OF THE COMMERCIAL LAW ARTICLE AS PROMPTLY AS POSSIBLE BUT IN NO EVENT LATER THAN 72 HOURS AFTER A DETERMINATION BY THE CARRIER THAT A BREACH OF THE SECURITY OF A SYSTEM HAS OCCURRED.~~

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

14-102.

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

- (1) this subtitle;
- (2) Title 2, Subtitle 2 of this article and §§ 1-206, 3-127, and 12-210 of this article;
- (3) Title 2, Subtitle 5 of this article;
- (4) §§ 4-113 [and], 4-114, AND 4-406 of this article;
- (5) Title 5, Subtitles 1, 2, 3, 4, and 5 of this article;
- (6) Title 7 of this article, except for § 7-706 and Subtitle 2 of Title 7;
- (7) Title 9, Subtitles 1, 2, and 4 of this article;
- (8) Title 10, Subtitle 1 of this article;
- (9) Title 27 of this article; and

- (10) any other provision of this article that:
 - (i) is expressly referred to in this subtitle;
 - (ii) expressly refers to this subtitle; or
 - (iii) expressly refers to nonprofit health service plans or persons subject to this subtitle.

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

Approved by the Governor, April 18, 2019.