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HB 333 – Cybersecurity – Healthcare Ecosystem
House Health and Government Operations Committee
March 10, 2025
Favorable with Amendment

Dear Chair Pena-Melnyk and Members of the House and Government Operations Committee,

My name is Tasha Cornish, and I am writing on behalf of the Cybersecurity Association, Inc. (CA), a nonprofit 501(c)(6) organization dedicated to strengthening Maryland's cybersecurity industry. Our association represents over 600 businesses ranging from small enterprises to large corporations employing nearly 100,000 Marylanders. We appreciate the opportunity to offer testimony on House Bill 333, which seeks to enhance cybersecurity standards for healthcare ecosystem entities.

The Cybersecurity Association supports HB 333 with amendments to ensure the legislation aligns with best practices in cybersecurity law while balancing security requirements with reasonable compliance expectations for healthcare facilities. We commend the bill's incorporation of national cybersecurity frameworks, such as those outlined by the National Institute of Standards and Technology (NIST) and the Cybersecurity and Infrastructure Security Agency (CISA). However, we suggest two key improvements to enhance its effectiveness:

Ensuring Alignment with Federal Standards and Regular Updates

The legislation correctly references federal cybersecurity standards, including those set forth by HIPAA. However, cybersecurity is an evolving field, and federal guidelines are subject to change. To maintain consistency with federal regulations, we recommend an amendment requiring periodic review and updates to Maryland's cybersecurity requirements to reflect changes in federal standards. This approach will ensure that Maryland healthcare facilities remain in compliance without unnecessary disruptions or inconsistencies in security practices.

Safe Harbor Protection for Healthcare Facilities

HB 333 should include a safe harbor provision similar to the **Oklahoma Hospital Cybersecurity Protection Act of 2023 (HB 2790)**. The Oklahoma law grants affirmative defense in tort actions for healthcare entities that implement and maintain reasonable cybersecurity measures based on recognized industry standards. This approach incentivizes compliance while protecting hospitals and other covered entities from undue liability when they make good-faith efforts to secure sensitive information.

To incorporate this principle into HB 333, we propose the following amendment:

Proposed Amendment Language – Safe Harbor Provision

Article – Health – General

19–113.1. Safe Harbor for Cybersecurity Compliance

(A) A healthcare ecosystem entity that implements and maintains a cybersecurity program that reasonably conforms to one or more recognized cybersecurity frameworks, including but not limited to:

1. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Security Rule (45 CFR Part 164 Subpart C);
2. The Health Information Technology for Economic and Clinical Health (HITECH) Act;
3. The National Institute of Standards and Technology (NIST) Cybersecurity Framework; or
4. Any successor regulations or frameworks recognized by the Maryland Health Care Commission.

shall be entitled to an affirmative defense in any cause of action sounding in tort alleging that a failure to implement reasonable information security controls resulted in a data breach concerning personal or restricted healthcare information.

(B) If any framework referenced in subsection (A) is updated or amended, a healthcare ecosystem entity shall conform to the updated framework within one (1) year of its effective date to maintain safe harbor protections.

(C) The Maryland Health Care Commission shall adopt regulations governing the verification and certification of compliance with this safe harbor provision.

Conclusion

By incorporating these amendments, HB 333 will create a cybersecurity framework that is both robust and practical. Aligning with federal standards ensures consistency and compliance while adopting a safe harbor provision will encourage healthcare providers to enhance their security posture without fear of excessive liability.

We urge the committee to issue a favorable report on HB 333 with these proposed amendments. Thank you for your time and consideration. I am happy to answer any questions the committee may have.

Sincerely,

Tasha Cornish
Executive Director
Cybersecurity Association, Inc.