

Draft Pending Adoption

Attachment A
Privacy Protections (H) Working Group
11/17/24

Draft: 8/28/24

Privacy Protection(H) Working Group
Chicago, Illinois
August 14 2024

The Privacy Protection(H) Working Group of the Innovation, Cybersecurity, and Technology Committee met in Chicago, IL Aug. 14 2024. The following Working Group members participated: Amy Beard, Chair (N); Erica Weyhenmeyer, Vice Chair (I);

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2. Heard an Update on Federal Privacy Legislation

Shana Oppenheim (NAIC) said the American Privacy Rights Act of 2024 (APRA) would establish national consumer

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could lead to class action lawsuits and is very controversial. She said in addition to individuals, the FTC or state attorney generals may also enforce the APR. Oppenheim said on-sectoral state privacy laws are preempted by the APR, which

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list of current state laws, including consumer protection laws of general applicability and laws addressing employee privacy, student privacy, and data breach notification. OppenheimAPRA would also broadly exempt "any data subject to" and in compliance with the requirements of Title V of the Gramm-Bliley Act (15 U.S.C. 6801 et seq.) (GLBA); however, APRA does not specify whether state GLBA laws would likewise be preempted. As a result, for some entities, the said APRA may create a new layer of compliance requirements, requiring those entities already subject to state implemented GLBA privacy regimes to also be subject to oversight by the FTCFTC

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in ways that protect privacy and ensure the ability to delete, modify, and account for data upon request. He said
examples of control processes are maintaining inventory of which systems (e8 (y)3.3 0.239 0 Td [(H)(W)-2.2.391 0

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will be familiar to everyone from previous drafts and conversations on third-party arrangements; right to access, correct and delete; sale of personal information; and handling of sensitive personal information. Once again, Beard said she wanted to stress that the chair draft is meant to be a starting point for discussion and none of the language has been finalized. Comments and discussion are welcomed and encouraged, as the group looks forward to seeing how the draft evolves to create consensus among Working Group members, interested regulators, and interested parties.

Commissioner Beard said the chair draft would be exposed to the public for a 30-day comment period following the Summer National Meeting. She said Lois Alexander (NAIC) would include an invitation for drafting group volunteers and guidelines for drafting group participation in the exposure draft email. Commissioner Beard said Weyhenmeyer would lead the drafting group which will be open to regulators and interested parties. She said the guidelines for drafting group participation are intended to set expectations for drafting group members and promote productive drafting conversations. She said the Working Group will continue to hold open and regulator only sessions, as needed, to determine the best privacy regime and draft a model that reflects that. She said the Working Group also wanted to ensure that everyone understands the next steps in this process and their respective roles and responsibilities. Beard said the Working Group wants to hear from all parties and encourage their participation by submitting comments and redlines during public comment periods and engaging with the drafting group.

Weyhenmeyer said comments will be requested on third-party arrangements only during the first 30-day exposure period.

Harry Ting (Healthcare Consumer Advocate) said he submitted comments prior to the Summer National Meeting and asked if they could be distributed now. Commissioner Beard said the comments would be considered with the other comments received during the exposure period. Silvia Yee (Disability Rights, Education & Defense Fund) said regulators are the heroes in the consumer data privacy arena, they have the power and authority to help humanity or not. She also said she would be happy to help the Working Group in any way she can.

Having no further business, the Privacy Protection (H) Working Group adjourned.

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