

# The Intersection of Data Privacy and Employment Issues

*ACC NCR Maryland Mixer*

# Maryland Personal Information Protection Act (PIPA)

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- Went into effect in October 2022.
- Still not a “comprehensive privacy law” like California, Connecticut and Virginia– but moving closer
- Notable Changes:
  - Security procedures
  - Definition of personal information
  - Risk of harm analysis
  - Notification requirements/timing
  - AG Notice content requirements

# Employee Data Breach Litigation

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- Office of Personnel Management Data Breach - \$63MM total settlement – employee payouts of \$700 - \$10,000
  - **Standing** – compromise of information by bad actors creates substantial risk of injury, even absent proof of actual identity theft
- UPMC - \$3 MM total settlement – employee payouts of \$10-20
  - **Duty** - recognizes employer duty of care to safeguard payroll information employees are required to provide, even where only loss is economic
- State privacy laws may allow for statutory damages
  - California Consumer Privacy Act - \$750 per individual

## Accidental Disclosure

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An employee just moved from Virginia to Maryland and requests her company send her W-2 via email, rather than mailing a physical copy to her home address. A member of the payroll department emails the employee her W-2 but does not realize that he also included W-2s for 50 other employees.

# Email Compromise- Fraudulent Wire Transfer

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- An insurance agency noticed a policy premium payment it was expecting was late. The agency contacted the customer regarding the late payment.
- The customer advised the premium was already paid to the account provided in the wiring instructions sent via email.
- The customer provided a copy of the emailed wiring instructions, and they were sent from the actual insurance agency employee's account.
- A forensic investigation determined the insurance agency employee's email account was compromised and an unauthorized third party manipulated the invoicing instructions to reroute the payment to another account.

# Ransomware with Data Exfiltration

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- A manufacturing and shipping company is hit with ransomware. In the ransom note, the threat actor claims to have stolen data.
- Company leadership tells employees to stay home and wait for more information. They should not bring their computers to the office and should not log into the network. Employees are not told the outage is due to ransomware.
- Through its forensic investigation, the company confirms employee data was saved locally to transmit to its health benefits provider, and that file was stolen.
- The forensic investigation also confirmed that the company's head of IT had not implemented all of the security tools budgeted for the prior year.

# Thank You

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