



February 22, 2023

The Honorable Jessica Rosenworcel
Chair
Federal Communications Commission
45 L Street NE
Washington, DC 20554

RE: Data Breach Reporting Requirements (WC Docket No. 22-21)

Dear Chair Rosenworcel,

The Confidentiality Coalition appreciates the opportunity to submit comments to the Federal Communications Commission (FCC) on their proposal to update data breach reporting requirements.

The Confidentiality Coalition is composed of a broad group of hospitals, medical teaching colleges, health plans, pharmaceutical companies, medical device manufacturers, vendors of electronic health records, biotech firms, employers, health product distributors, pharmacies, pharmacy benefit managers, health information and research organizations, and others, committed to advancing effective health information privacy and security protections. Our mission is to advocate policies and practices that safeguard the privacy and security of patients and healthcare consumers while, at the same time, enabling the essential flow of patient information that is critical to the timely and effective delivery of healthcare, improvements in quality and safety, and the development of new lifesaving and life-enhancing medical interventions.

Cybersecurity incidents are a significant challenge for businesses. From 2020 to 2021, publicly traded companies reported a 118% increase in unauthorized access incidents and a 44% increase in ransomware attacks.¹ These attacks can be harmful to citizens and organizations in terms of financial cost² and the unauthorized release of sensitive information. Healthcare organizations are particularly at risk of cybersecurity incidents. In 2021, over 45 million individuals were impacted by cyberattacks on healthcare entities, a record amount,³ and of the

¹ Chris Gaetano, *Cybersecurity incidents soar at public companies*, Accounting Today (April 6, 2022), <https://www.accountingtoday.com/news/cybersecurity-incidents-soar-at-public-companies-says-audit-analytics-report>.

² Heather Landi, *Average cost of healthcare data breach rises to \$7.1M, according to IBM report*, Fierce Healthcare (July 29, 2020), <https://www.fiercehealthcare.com/tech/average-cost-healthcare-data-breach-rises-to-7-1m-according-to-ibm-report>.

³ Heather Landi, *Healthcare data breaches hit all-time high in 2021, impacting 45M people*, Fierce Healthcare (February 1, 2022), <https://www.fiercehealthcare.com/health-tech/healthcare-data-breaches-hit-all-time-high-2021-impacting-45m-people>.

16 sectors categorized as “critical infrastructure,” healthcare companies reported the most ransomware attacks.⁴

HLC encourages the FCC to coordinate any reporting requirements with other federal agencies, such as the Department of Health and Human Services (HHS), the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Trade Commission (FTC), in order to avoid duplicate incident reporting. The healthcare industry must already comply with an extensive array of state and federal cyber, security and privacy data breach reporting requirements. Federal requirements, for example, include regulations implementing the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH Act), including reporting certain data breaches to the HHS Office for Civil Rights’ (OCR) pursuant to the HIPAA Breach Notification Rule and to the FTC pursuant to the FTC Breach Notification Rule. These rules have been in place for several years and have been successful in ensuring that the government is apprised of all material data breaches in the health care industry. We ask that the FCC consider the extent to which its reporting requirements may be harmonized with those of HHS’ OCR, CISA and the FTC such that a given incident need only be reported to a single federal agency. In addition to federal requirements, currently 21 states have cybersecurity breach reporting laws and all states have data breach reporting laws. To the extent that the FCC can leverage existing federal and state cyber incident and data breach reporting requirements for consistency and to reduce the burden on covered entities, we urge it to do so.

The Confidentiality Coalition looks forward to working with the FCC on ensure sensitive information remains secure while reducing unnecessary burdens. Please contact me at tgrande@hlc.org or 202-449-3433 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Tina O. Grande". The signature is written in a cursive, flowing style.

Tina O. Grande
Chair, Confidentiality Coalition and
Executive VP, Policy, Healthcare Leadership Council

⁴ *Internet Crime Report 2021*, Federal Bureau of Investigation Internet Crime Complaint Center (March 23, 2022), https://www.ic3.gov/Media/PDF/AnnualReport/2021_IC3Report.pdf.