



March 22, 2023

The Honorable Tommy Gregory
Chair, House Judiciary Committee
Florida House of Representatives
417 House Office Bldg
402 S Monroe St
Tallahassee, FL 32399-1300

The Honorable Tobin Rogers Overdorf
Vice Chair, House Judiciary Committee
Florida House of Representatives
417 House Office Bldg
402 S Monroe St
Tallahassee, FL 32399-1300

RE: ATA ACTION REQUEST FOR AMENDMENT ON HOUSE BILL 1355

Dear Chair Gregory, Vice Chair Overdorf, and members of the House Judiciary Committee:

On behalf of ATA Action, I am writing to express our concerns regarding and request for amendment to House Bill 1355.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

ATA Action is concerned about the impact House Bill 1355 would have on telehealth companies that operate in Florida as well as nationally and globally. In particular, section 8 of the bill includes provisions regarding the "Security and Storage of Personal Medical Information" stating therein that all patient information stored using "cloud computing services" must be "physically maintained in the continental United States."

This appears to ATA Action to be an unnecessary over restriction on data storage, as it would, for example, not even allow a domestically located telehealth company to store Florida patient information on servers located in Alaska or Hawaii. Furthermore, many telehealth companies also operate in countries that are close trading partners with the United States, like Canada, Mexico, and the United Kingdom. Currently, it is possible for these companies to store Florida

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patient information securely in these countries, sometimes at lower cost, while meeting all requirements that are mandated by both federal and fifty-state laws.

Furthermore, House Bill 1355's proposed data storage rules are far more burdensome than the *Health Insurance Portability and Accountability Act* ("HIPAA") provisions on cloud storage security. HIPAA rules allow covered entities to enter into a business associate agreement with Cloud Storage Providers (CSPs) that store data on servers located outside of the United States, so long as those business associate storage providers follow any other applicable requirements of the HIPAA rules.¹ ATA Action suggests that Florida law should not greatly exceed what is already required by federal law.

However, ATA Action does recognize that there are valid security concerns related to data storage in certain nations, particularly those described by House Bill 1355's definition of "Foreign country of concern." ATA Action therefore suggests the following amendment to section 8's restriction on cloud data storage:

(3) SECURITY AND STORAGE OF PERSONAL MEDICAL INFORMATION.-- In addition to the requirements in 45 C.F.R. part 160 and subparts A and C of part 164, a health care provider that utilizes certified electronic health record technology must ensure that all patient information stored in an offsite physical or virtual environment, including through a third-party or subcontracted computing facility or an entity providing cloud computing services, is not physically maintained in ~~the continental United States~~ Foreign country of concern pursuant to s. 287.138. This subsection applies to all qualified electronic health records that are stored using any technology that can allow information to be electronically retrieved, accessed, or transmitted.

We appreciate your consideration of this suggested amending language. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in Florida. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", written in a cursive style.

Kyle Zebley
Executive Director
ATA Action

¹ See U.S. Department of Health and Human Services, *Guidance on HIPAA & Cloud Computing* (accessed March 22, 2023), <https://www.hhs.gov/hipaa/for-professionals/special-topics/health-information-technology/cloud-computing/index.html>.