



October 19, 2023

Hon. Barry Finegold
Chair, Joint Committee on Economic Development and Emerging Technologies
Senator, District 2
24 Beacon St.
Boston, MA 02133
Barry.Finegold@masenate.gov

Hon. Jerald Parisella
Chair, Joint Committee on Economic Development and Emerging Technologies
Representative, District 6
24 Beacon St.
Room 42
Boston, MA 02133
Jerald.Parisella@mahouse.gov

RE: ATA Action comments in support of Senate Bill 227, the Information Privacy and Security Act as introduced

Dear Chair Finegold, Chair Parisella and members of the Joint Economic Development and Emerging Technologies Committee,

On behalf of the ATA Action, I am writing you to provide comments on Senate Bill 227, the Information Privacy and Security Act, in conjunction with the Committee's October 19th hearing.

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 supports efforts to ensure telehealth practices meet standards for patient safety and data privacy, while advancing access to care and awareness of telehealth practices. In light of the advancement of privacy legislation in many states across the country directly or indirectly affecting telehealth practice, the ATA recently published its [Health Data Privacy Principles](#) (attached) to aid legislators in crafting legislation that supports both secure data practices and ensures patient access to care. ATA Action encourages those interested in maintaining secure access to telehealth services to review these principles.

ATA ACTION

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In its current form, Senate Bill 227 aligns with many of the ATA's Data Privacy Principles and we support that the bill takes a comprehensive, rather than sectoral, approach to privacy. Further, SB227's exemption for HIPAA covered entities and similar provisions regarding data disclosure to the federal HIPAA privacy scheme are critical for meeting patient expectations, controlling compliance costs and maintaining regulatory equity among different types of healthcare providers. ATA Action also appreciates SB227's definition of "sensitive information," the comprehensive list of consumer rights for controlling and deleting their data, and the ability for consumers to opt-out of information processing.

We urge that the Committee reserve enforcement authority under the Act to the attorney general's office, rather than a private right of action, which could lead to a lack of clarity, result in frivolous lawsuits, and result in out-of-court settlements that exacerbate legal uncertainty.

Finally, SB227 closely resembles legislation in states that have enacted consumer data privacy laws which balance privacy interests, administrative burdens and clarity in the context of health information, including the [Virginia Consumer Data Protection Act](#)¹ and the [Connecticut Consumer Data Privacy and Online Monitoring Act](#).² As SB227 works through the legislative process, we hope this Committee and the Massachusetts legislature will strive for uniformity with these existing state regulatory frameworks and avoid burdensome requirements that would be specific to Massachusetts. Regulatory consistency is paramount to protecting consumer privacy and reduces confusion of compliance for both consumers and companies alike.

Please see the attached Privacy Principles for greater detail on ATA's data privacy policy positions and do not hesitate to let us know how we can be helpful to your efforts to advance common-sense telemedicine policy. If you have any questions or would like to discuss the telemedicine 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 over a light grey background.

Kyle Zebley
Executive Director
ATA Action

¹ Virginia Consumer Data Protection Act, VA Code Ann. § 59.1-575 *et seq.*,
<https://law.lis.virginia.gov/vacodefull/title59.1/chapter53/>.

² Connecticut Consumer Data Privacy and Online Monitoring Act, Conn. Gen. Stat. § 42-515 *et seq.*,
https://www.cga.ct.gov/current/pub/chap_743jj.htm.