

December 14, 2020

The Honorable Lamar Alexander
Chairman
Senate Committee on Health,
Education, Labor & Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Patty Murray
Ranking Member
Senate Committee on Health,
Education, Labor & Pensions
U.S. Senate
Washington, D.C. 20510

Dear Chairman Alexander and Ranking Member Murray:

The Healthcare and Public Health Sector Coordinating Council (HSCC) is writing to express our strong support for Section 1 of [H.R. 7898](#), passed by the House by voice vote on December 9th, which encourages the use of cybersecurity best practices. This language was also included in Section 502 of S. 1895, the Lower Health Care Costs Act, which was reported out of the HELP Committee on July 8, 2019.

The HSCC is a private sector-led critical infrastructure advisory council of large, medium and small health industry stakeholders working with government partners to identify and mitigate threats and vulnerabilities affecting the ability of the sector to deliver healthcare services to our nation's citizens. The HSCC participates in the Critical Infrastructure Partnership Advisory Council and works closely with the Department of Health and Human Services as the Sector Specific Agency for the Healthcare and Public Health Sector. A major component of the HSCC is its [Joint Cybersecurity Working Group](#), which represents 300 healthcare organizations in the subsectors of direct patient care, medical materials, health information technology, health plans and payers, laboratories, biologics and pharmaceuticals, and public health, and includes government organizations and SME advisors. Our members collaborate toward improving the cyber security and resiliency of the healthcare industry and patient safety.

H.R. 7898 recognizes increasing and dire cyber threats against the health system. At the same time, there is a perception among many in health care that regulatory enforcement actions taken under the Health Insurance Portability & Accountability Act (HIPAA) have applied severe penalties against organizations victimized by cyber-attacks in spite of their well-resourced programs that employ industry-best cybersecurity practices. The bill rebalances this inequity by directing the U.S. Department of Health & Human Services (HHS), when making determinations against HIPAA-covered entities and their business associates victimized by a cyber attack, to take into account their use of recognized security best practices during the past twelve months. More importantly, this provision serves as a positive incentive for health providers to increase

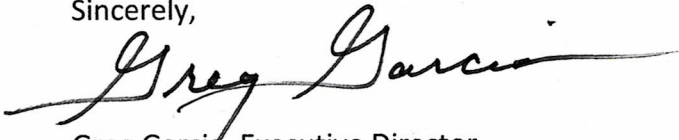
investment in cybersecurity for the benefit of regulatory compliance and, ultimately, patient safety.

Among the cybersecurity best practices recognized by the bill are those established under Section 405(d) of the Cybersecurity Act of 2015. The 405(d) provision was implemented as a joint standing task group of the HSCC Cybersecurity Working Group and HHS, composed of more than 250 volunteer clinicians and health system leaders, healthcare cybersecurity executives, and policy experts from across the HSCC membership, HHS, NIST and DHS. The result, two years in the making, was a publication called "[Healthcare Industry Cybersecurity Practices \(HICP\)](#)", which provides scalable and voluntary cybersecurity principles and practices for use by providers of any size and ability. This task group continues to collaborate and partner with HHS to develop new cybersecurity resources, tools, and products that raise awareness, provide vetted cybersecurity practices, and move organizations towards consistency in mitigating the current most pertinent cybersecurity threats to the sector.

We commend Representatives Frank Pallone (D-NJ), Greg Walden (R-OR), Michael Burgess (R-TX), and Peter Welch (D-VT) for taking this important step to acknowledge the work by covered entities and business associates who, despite working hard to fortify their systems, are nonetheless attacked and victimized by sophisticated criminal syndicates and nation states.

We urge the Senate to pass similar legislation to bring this much needed relief to our sector.

Sincerely,



Greg Garcia, Executive Director
HSCC Cybersecurity Working Group

cc:

The Honorable Frank Pallone
The Honorable Greg Walden
The Honorable Michael Burgess
The Honorable Peter Welch