June 2nd, 2026

The Honorable Carl Heastie
NYS Assembly Speaker
New York State Capitol
Albany, NY 12224

The Honorable Andrea Stewart-Cousins
NYS Senate Majority Leader
New York State Capitol
Albany, NY 12224

Re: <u>Memo of opposition- S.9269/A.10357 (NY Health Information Privacy Act)</u>

Dear Speaker Heastie & Majority Leader Stewart-Cousins:

We write on behalf of a broad cross-sector coalition of organizations across New York's technology, healthcare, retail, automobile, telecom, insurance, financial services, media, nonprofit, philanthropic, and consumer-facing sectors. Our members share the Legislature's goal of safeguarding sensitive health information, especially in light of increasing

threats to reproductive and LGBTQ+ rights. ***However, we oppose S.9269/A.10357, the New York Health Information Privacy Act ("NY HIPA"), as currently written.*** The bill has expanded far beyond its original purpose and would impose sweeping and economy-wide consequences that will increase costs for New Yorkers and disrupt essential services relied upon every day.

Unfortunately, regardless of the changes that have been made from last year's version of this legislation, many of the significant concerns that we have expressed throughout the legislative and chapter amendment process have not been addressed. Although the legislation was originally conceived to prevent the misuse of reproductive and gender-affirming care data, it has evolved into a comprehensive and unprecedented data privacy regime unlike any in the nation. As drafted, NY HIPA would reclassify routine transactions, standard consumer interactions, and basic product development practices as regulated health information. As a result, the bill would subject a vast range of New York businesses and nonprofits to complex new obligations that go beyond the frameworks adopted in Connecticut, Washington, and every other state with consumer health privacy protections. The operational impact could raise compliance costs across industries, create new affordability challenges for New Yorkers, and undermine service continuity at a time when many sectors are already operating under tight margins.

Over the past 3 ½ years, many of our organizations have submitted detailed analyses and redlines, yet our core concerns remain unresolved. We highlight below several issues, all of which demonstrate why NY HIPA, in its current form, is not workable. While attempts to address *some* issues have been proposed, they do not address the fundamental flaws in the legislation. Without making substantial amendments, the enactment of NY HIPA will put New York businesses, nonprofits, and consumers at a significant disadvantage and further harm our state's competitiveness and affordability crisis.

Overbroad Definition of "Regulated Health Information": The bill defines regulated health information to include any data that may bear only a theoretical connection with someone's health, even when the data is not actually used to identify, analyze, or evaluate a person's health status. As drafted, "regulated health information" captures information that is "reasonably linkable, directly or indirectly" to one or more individuals and "is collected *in connection* with" an individual's past, present or future physical or mental health status. The ambiguity around the definition of "in connection with" could lead to interpretations of this definition to cover IP addresses, biometric data, location indicators, and could capture everyday purchases such as deodorant, shampoo, toilet paper, or conditioner. NY HIPA, therefore, extends far beyond traditional health data concepts and reaches routine consumer behavior (such as one-time purchase histories or website interactions) with no meaningful connection to health care. The scope also exceeds the approach used in Connecticut and Nevada[1], where protections apply to data that is used to actually identify an individual's health status. By defining "regulated health information" so broadly, the bill creates ongoing, substantial compliance uncertainty and would force organizations to evaluate vast amounts of ordinary data as sensitive health information (ironically increasing privacy exposure). For many businesses that process high volumes of transactions, this would require building sophisticated real-time systems just to separate such

routine activity from spending or behavior that might relate to a physical or mental health condition.

Overexpansive and Privacy-Degrading Scope: In addition to "regulated entities," the legislation put the entirety of the regulations imposed under this new article in General Business Law on service providers. This would require service providers to obtain consent from consumers they never interact with and to take on obligations that no comprehensive privacy or consumer health data statute in the country places on service providers. Imposing regulated entity-level duties on service providers contradicts how these relationships function in practice and cannot be implemented at scale. The expansion also places a heavier burden on New York-based organizations, which would have to apply NY HIPA requirements to every user interaction, including those involving individuals outside the state, creating a competitive disadvantage not faced by companies headquartered elsewhere.

This definition also places obligations on organizations in all states that also have anti-privacy consequences, in addition to creating significant - if not impossible - compliance challenges. By defining "regulated entity" to include entities who process the regulated information of individuals physically present in New York while they are in New York, the bill could force organizations to collect individuals' location data information they would not otherwise collect; some organizations will need this information to know whether, and when, they are in scope of the definition.

Definition of "Sell" Fails to Exempt Service-Provider Transfers: The bill does not exempt transfers to service providers from the definition of "sell". That omission conflicts with every comprehensive privacy and health data statute in the country and places New York out of alignment with neighboring jurisdictions. Both Connecticut and New Jersey, for example, expressly exclude disclosures to processors from their definitions of "sell."[2] Providers that operate in multiple states would need to treat the same service-provider relationship as routine and permitted in Connecticut and New Jersey but as a regulated "sale" in New York. That inconsistency would force organizations to manage conflicting obligations, renegotiate contracts, and shoulder a disproportionate compliance burden in New York, which increases the cost of doing business and will negatively impact consumer affordability. Further, a broad definition of "sell" that sweeps in routine business practices and goes beyond what consumers understand as a sale will only confuse consumers, flooding ordinary user-directed transactions with unnecessary and alarming authorizations and notices.

Definition of "Individual" Creates Cross-Border Compliance Problems: The bill defines "individual" without any residency limitation, which means the law applies to anyone physically present in New York at any moment, including daily commuters from New Jersey and Connecticut. Providers serving users across state lines would need to determine when a person is in New York and when they are in a state with its own and different privacy law. That structure - coupled with the overbroad definition of "regulated entity," discussed above - encourages increased location tracking simply to identify which legal obligations apply, creating an intrusive and burdensome compliance model that does not align with common-sense privacy protections.

"Strictly Necessary" Data Minimization Standard: The vast majority of state privacy and consumer health data laws do not use a strict necessity standard because it could prevent organizations from performing routine functions that modern services depend on.[3] Requiring

individual authorization for nearly every internal purpose would limit low risk and widely expected processing such as developing new services, improving existing products, conducting first-party advertising, performing security monitoring and fraud prevention, and carrying out the research/development and quality assurance work needed to maintain safe and reliable products. These restrictions would slow service delivery, disrupt core operations, and block practices allowed under every other state privacy and consumer health data framework.

Overly Burdensome Consent Authorization Requirements: The bill's authorization requirements go far beyond any existing privacy or consumer health data statute and would impose obligations that are not operationally realistic. The mandate that refusing authorization "will not affect the individual's experience of using the regulated entity's products or services" conflicts with how consent systems work and would be impossible to implement in practice. Because NY HIPA defines "regulated health information" so broadly, organizations would need to present detailed, multi-element authorization notices constantly, covering disclosures, purposes, categories of recipients, monetary consideration, expiration dates, revocation procedures, and access and deletion mechanisms. That frequency would desensitize consumers to genuinely sensitive data uses, undermine the value of meaningful consent, and create significant friction across routine interactions that do not involve health-related data in any conventional sense.

This problem is exacerbated by the bill's requirement that each request for authorization must be made separate from any other "transaction"—a term that is not defined or understood—regardless of whether the two "transactions" may be related. This could have the effect of forcing organizations to show consumers multiple related, yet slightly different, authorization requests for related kinds of data processing, increasing consent fatigue and confusing consumers.

Insufficient Exemptions for Federally Regulated Sectors: The bill exempts any information that is subject to any other privacy laws "that are as or more protective of individual privacy than this chapter." The bill does not offer any guidance on how to interpret that standard and does not provide clear exemptions for organizations already heavily governed by federal privacy and security laws such as GLBA, SEC regulations, and other sector-specific frameworks. Without those clear and specific exemptions, which are found in nearly all other states' comprehensive and consumer health data privacy laws, entities subject to federal oversight would face overlapping and potentially conflicting obligations, creating parallel compliance regimes that cannot be reconciled in practice. The lack of clarity will force institutions to choose between violating federal requirements or violating NY HIPA, an outcome that makes legal compliance nearly impossible and exposes regulated sectors to significant operational and enforcement risks.

We fully support protecting New Yorkers, including those seeking reproductive and gender-affirming care, from misuse of sensitive health information. ***As stated above, our concerns are about workability, not the underlying goal.*** NY HIPA's scope reaches far beyond the risks it intends to address and would impose broad, costly, and unworkable obligations that ultimately fall on consumers, nonprofits, and businesses across the state. Targeted protections are needed, but the framework established in S.9269/A.10357 is unlike any practice adopted in other states and is not the right mechanism.

We welcome the opportunity to work with the Legislature to craft a focused, effective, and enforceable approach that protects consumer health data in purposeful ways without disrupting essential services, significantly impacting affordability, or creating statewide operational burdens for businesses, and ensures New Yorkers receive meaningful and durable protections without the unintended consequences that the current text would create.

For these reasons, we respectfully oppose S.9269/A.10357 as currently written.

Thank you for your consideration.

Respectfully Submitted,

Alliance for Automotive Innovation
American Property Casualty Insurance Association
Association for Competitive Technology
Association of National Advertisers
American Telemedicine Association Action
Bronx Chamber of Commerce
Brooklyn Chamber of Commerce
Buffalo Niagara Partnership
Business Council of NYS
Business Council of Westchester
Computer & Communications Industry Association
CenterState CEO
Community Pharmacy Association of NYS
Connected Commerce Council
Connected Health Initiative
Food Industry Alliance of NY
Greater Rochester Chamber
Independent Bankers Association of NYS
Life Insurance Council of NYS
Life Sciences NY
Long Island Association
Net Choice
New York Bankers Association
New York Credit Union Association
New York Health Plan Association
New York Insurance Association
National Federation of Small Business
North Country Chamber
NYS Industries for the Disabled
Orange County Chamber
Partnership for New York City
Progress Chamber
Retail Council of NY
Receivables Management Association International

Rockland Business Association
Securities Industry and Financial Markets Association
Software Information Industry Association
State Privacy & Security Coalition
TechNet
Tech:NYC