



April 3, 2023

State Senate
Washington State Capitol
416 Sid Snyder Avenue SW
Olympia, WA 98504

RE: Support if amended: Engrossed Substitute - ESHB 1155

Dear Members of the Washington State Senate:

Chamber of Progress, a tech industry coalition promoting technology's progressive future, writes to support, if amended, Engrossed Substitute - ESHB 1155, which would provide heightened protections for Washingtonians' health data. One of Chamber of Progress's top priorities is protecting online privacy. We support robust protections for consumers such as reasonable data security, data minimization, and purpose limitation.

In the wake of the *Dobbs v. Jackson* decision, it is crucial that Washingtonians be able to access health services and information without fear of surveillance.

We commend both chambers for their leadership and thoughtfulness by advancing this legislation to protect people from harm by safeguarding health data. This legislation can further prevent bad actors from exploiting private health data and causing consumers' harm. While Chamber of Progress supports the intent of ESHB 1155 to protect consumers, there remain two technical changes that would prevent unintended consequences, which risk diluting the efficacy of this bill.

We believe it is necessary to amend the bill's language to improve clarity for both regulated entities and consumers; align legislation with other state privacy regulations; and reduce some unnecessary or counterproductive administrative burdens on entities.

We respectfully propose that the Washington State Senate take into consideration two reasonable technical ameliorations to the bill:

Consumer health data. This definition of health data should specifically refer to physical or health data, condition or diagnosis generated by the consumer so that it is not overly broad to include socio-economic data and not too narrow to not include consumer reported menstruation data. We propose amending the language to include any information a consumer offers regarding health history (including menstrual cycles), lifestyle choices, or treatment history.

“Consumer health data” means personal information that is linked or reasonably linkable to a consumer and that a Regulated Entity uses to identify a consumer’s past, present, or future physical or mental health including, but not limited to... 2. “...(xii) Any information described in (a)(i) through (xi) of this subsection extrapolated from nonhealthy information (such as proxy, derivative, inferred, or emergent data by any means, including algorithms or machine learning.”

Solve customer problems with a cure period. This bill would expand protections of health data by empowering consumers with the right to have their health data deleted. To support the timely deletion of data, and safeguard consumer’s health data, we propose an amendment to provide a regulated entity an opportunity to fix errors or “cure” an issue where a company has implemented strong processes to detect and mitigate harms.

By providing a cure period and removing a private right of action, this bill would incentivize regulated entities to address any harms before legal action can be taken. This amendment can facilitate a more timely process for data to be deleted and eliminate lengthy court battles for consumers seeking to exercise their rights. Further, the lack of a cure period or pre-suit notice penalizes good actors that may have made an unknowing or technical violation.

We are committed to working with you on this issue to advance our shared goals and support legislation that increases health data privacy protections.

Respectfully,



Tepring Piquado, PhD

Senior Director of Government Relations, Western US
Chamber of Progress