

**America's Health
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September 21, 2016

The Honorable Fred Upton
Chairman
House Energy and Commerce Committee
2125 Rayburn Building
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
House Energy and Commerce Committee
2322A Rayburn Building
Washington, D.C. 20515

The Honorable Greg Walden
Chairman
House Energy and Commerce Subcommittee
on Communications and Technology
2185 Rayburn Building
Washington, D.C. 20515

The Honorable Anna Eshoo
Ranking Member
House Energy and Commerce Subcommittee
on Communications and Technology
241 Cannon Building
Washington, D.C. 20515

Dear Chairmen Upton and Walden and Ranking Members Pallone and Eshoo:

On behalf of America's Health Insurance Plans (AHIP), I am submitting the attached letter for the official record of your September 22 hearing on "Modernizing the Telephone Consumer Protection Act."

Our letter urges the Federal Communications Commission (FCC) to align the Telephone Consumer Protection Act (TCPA) with HIPAA regulations applicable to all covered entities (providers, health plans, and clearinghouses) and their business associates. This would recognize that all HIPAA covered entities and their business associates could make non-marketing, health care-related telephone calls without prior consent.

Our letter also discusses the use and importance of non-marketing telephonic communications by health plans in fostering quality of care and improving health outcomes for enrollees. Our comments support a joint petition filed by various parties, including Anthem and WellCare, requesting that the FCC clarify and modify its prior 2015 TCPA Omnibus Declaratory Ruling and Order to: (1) clarify that the provision of a phone number to a "covered entity" or "business associate" (as those terms are defined under HIPAA) constitutes prior express consent for non-telemarketing calls allowed under HIPAA for the purposes of treatment, payment, or health care operations; and (2) modify the prior express consent clarification and the non-telemarketing health care message exemption in its 2015 Order to include HIPAA "covered entities" and "business associates."

Thank you for considering our views on these important issues.

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Julie Miller
General Counsel

Enclosure