

Congress of the United States
Washington, DC 20515

August 1, 2023

Andy Jassy
CEO
Amazon
410 Terry Avenue
North Seattle, WA 98109-5210

Dear Mr. Jassy:

We are writing to express our concerns regarding the data privacy and security of the health information of consumers using Amazon Clinic. On April 27th, we held a hearing in the Innovation, Data, and Commerce Subcommittee addressing data privacy shortfalls and the regulatory gaps that fail to protect Americans.¹ We are concerned that Amazon's use and transfer of American's sensitive health data gathered from consumers who use Amazon Clinic, and its provider partners, falls into one of these privacy gaps. While we support increasing access to healthcare, it should never come at the price of sacrificing privacy.

You advertise Amazon Clinic as a low-price health service, targeted to adults not enrolled in Medicare, to find treatment online for many common conditions.² Despite marketing itself as a 'clinic', Amazon Clinic does not provide health care services directly. Instead, Amazon Clinic connects consumers to health care providers that partner with Amazon. This business associate arrangement limits Amazon Clinic's allowable uses and disclosures of patient data pursuant to the Health Information Portability and Accountability Act (HIPAA). Pursuant to HIPAA, absent patient authorization, Amazon.com Services LLC, and other Amazon affiliates are prohibited from accessing, using, and disclosing the patient health records created by Amazon Clinic's partner health care providers.

Apparently to circumvent these data limitations, Amazon has taken the unprecedented and questionable step of requiring consumers of Amazon Clinic to authorize the "use and disclosure of protected health information" to Amazon.com Services LLC and its affiliates to obtain treatment through this service.³ The 'HIPAA Authorization' allows Amazon.com Services LLC and its affiliates to obtain a consumer's "complete patient file" from Amazon Clinic's health care provider partners and specifies that the information "may be re-disclosed" by Amazon.com Services LLC and its affiliates to other entities, after which it "will no longer be protected by HIPAA."^{4,5} Thus, by requiring prospective patients to sign the proffered HIPAA Authorization to

¹ <https://energycommerce.house.gov/events/innovation-data-and-commerce-subcommittee-hearing-addressing-america-s-data-privacy-shortfalls-how-a-national-standard-fills-gaps-to-protect-americans-personal-information>

² https://clinic.amazon.com/help?ref=sf_nav_help

³ A consumer may decline the authorization but is warned this will limit their interaction with Amazon Clinic.

⁴ <https://clinic.amazon.com/privacy>

⁵ This language is compliant with required statements for consumer transparency that must be part of a patient authorization allowing disclosure of data protected by HIPAA pursuant to 45 CFR 164.508(c)(2).

obtain treatment through this service, Amazon and its affiliates are able to exploit, for any purpose, the medical records, of consumers who use Amazon Clinic to obtain treatment services.

To help protect against the misuse of patient's sensitive health information, HIPAA dictates that treatment cannot be conditioned on whether a consumer signs an authorization,⁶ yet this is exactly what Amazon Clinic is doing. According to Amazon Clinic, "[r]efusing to sign this Authorization"...requires consumers to "reach[] out to an HCP [health care provider] directly"⁷ and therefore not obtain services through Amazon Clinic. Therefore, to use Amazon Clinic to be treated, a consumer must agree to Amazon Clinic's 'HIPAA Authorization' which forfeits the consumer's federal data privacy protections under HIPAA.

Federal law does not currently provide sufficiently robust protections for health information that is collected, processed, or transferred by most apps, websites and consumer devices. By requiring consumers to agree that their health treatment data can be used and disclosed by Amazon.com Services LLC and its affiliates for any purpose, including "to facilitate services from other providers," Amazon and its affiliates seek to exploit patient medical records in the same way that Amazon has exploited the lack of protections on consumer health information including using patient health records for upselling services to consumers, for targeted marketing, to develop artificial intelligence, and more. Considering Amazon's history of exploiting consumers' data even after making privacy assurances,⁸ this practice as well as the vague statement describing use and disclosure of consumer information is unacceptable. A software storefront should not need unrestricted use of patients' health treatment data.

Whether seeking care for a sexually transmitted disease, a cold, or any other illness, patients want relief and affordable care, not to be tricked into signing away the privacy protections afforded medical records by HIPAA. To better understand Amazon Clinic and its affiliates' use of consumers' medical information, we request your timely response, in as much detail as possible, to the following questions by August 21, 2023:

1. Could you explain how requiring your 'HIPAA Authorization' as a condition of use of Amazon Clinic to receive treatment complies with HIPAA?
 1. Amazon has two affiliates that are covered entities under HIPAA, Amazon Pharmacy and One Medical. Does Amazon require consumers who use these services to complete a similar HIPAA Authorization form as a condition of use?
 2. Even if this is not current practice, do you believe Amazon Pharmacy and One Medical can require consumers to complete such authorization form as a condition of use?
2. The Amazon Clinic's 'HIPAA Authorization' states Amazon.com Services LLC and its affiliates, including Amazon VHS, LLC, will use and disclose patient health data "to facilitate services from other providers" and to "coordinat[e] health services on my

⁶ <https://www.hhs.gov/hipaa/for-individuals/faq/index.html>

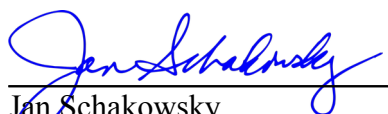
⁷ <https://clinic.amazon.com/privacy>

⁸ <https://www.bloomberg.com/news/articles/2019-04-10/is-anyone-listening-to-you-on-alexa-a-global-team-reviews-audio?leadSource=uverify%20wall>

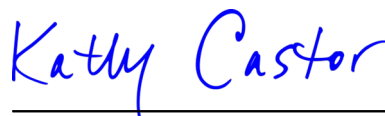
behalf.” It also states that consumer health data “may be re-disclosed,” after which it “will no longer be protected by HIPAA.” Beyond disclosures to healthcare providers:

- a) To what internal business units or third parties has Amazon.com Services LLC and its affiliates disclosed or re-disclosed consumer health data obtained from Amazon Clinic’s health care provider partners?
 - b) For what purposes has this consumer health data been disclosed or re-disclosed? Do those purposes include advertising?
 - c) Has this consumer health data been used in the training or re-training of any algorithms or artificial intelligence systems? If yes, what data and what is the intended purpose of the algorithms or artificial intelligence systems?
 - d) What categories of this consumer health data have been disclosed or re-disclosed?
 - e) How many users’ data from this consumer health data has been disclosed or re-disclosed?
 - f) Has Amazon.com Services LLC or its affiliates sold disclosed or re-disclosed consumer health data from Amazon Clinic or its healthcare provider partners? If yes, to whom and for what purposes?
3. Will Amazon Clinic update the ‘Terms of Use’ and ‘HIPAA Authorization’ to explicitly limit any use, disclosure, and re-disclosure of health data solely to medical providers, in line with “facilitate[ing] services from other providers” and “coordinating health services on my behalf?”
 4. What happens to consumer health data collected through the Amazon Clinic and the Amazon Clinic HIPAA Authorization after a user deletes their account? How long is it retained by Amazon.com Services LLC and its affiliates if a user does not delete their account?
 5. Will Amazon.com Services LLC commit to:
 - a) Not sell consumer health data collected from customers who use the Amazon Clinic and HIPAA Authorization?
 - b) Not use or share health data collected from customers of Amazon Clinic who are under the age of 17 for targeted marketing?
 - c) Delete consumer health data as requested at the end of the provision of services?

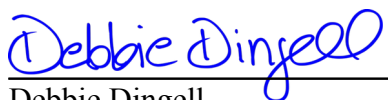
Sincerely,



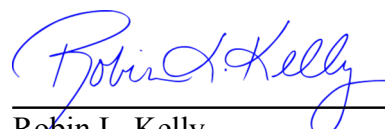
Jan Schakowsky
Member of Congress
Ranking Member,
Subcommittee on Innovation,
Data, and Commerce



Kathy Castor
Member of Congress



Debbie Dingell
Member of Congress



Robin L. Kelly
Member of Congress



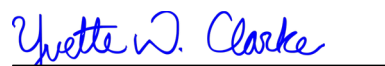
Lisa Blunt Rochester
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