

**NOTIFY**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION 2284CV02448

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

AVEANNA HEALTHCARE, LLC,

Defendant.

~~Proposed~~ FINAL JUDGMENT BY CONSENT

The Court has reviewed the Complaint in this matter filed by the Commonwealth of Massachusetts through the Attorney General's Office ("Commonwealth"), the Joint Motion for Entry of Final Judgment by Consent, and the attached Consent to Judgment. The Court finds that it has subject matter jurisdiction over this matter, and that the defendant Aveanna Healthcare, LLC ("Aveanna") has consented to specific personal jurisdiction in Massachusetts for purposes of this matter. The Court further finds that the entry of this Final Judgment by Consent ("Final Judgment") is in the interests of justice.

WHEREAS, Aveanna is a limited liability company organized under the laws of Delaware with a principal place of business in Atlanta, Georgia at 400 Interstate North Parkway, SE, Suite 1600 Atlanta, GA 30339. Aveanna has nine offices in Massachusetts and serves thousands of Massachusetts residents.

WHEREAS, Aveanna experienced a series of cyberattacks that took place in July and August of 2019, whereby unauthorized parties gained access to systems containing some of

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JUDGMENT ENTERED ON DOCKET NOV 3 2022  
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 63  
AND NOTICE SEND TO PARTIES PURSUANT TO THE PRO-  
VISIONS OF MASS. R. CIV. P. 77(c) AS FOLLOWS

Aveanna's customer data. These cyberattacks were perpetrated through "phishing" emails, a practice where attackers send email messages from fake accounts, frequently impersonating company employees, to gain access to an organization's computer network or to commit fraud. Through those emails, attackers had the opportunity to access both "personal information" ("PI"), as that term is defined in G.L. c. 93H, § 1, and personal health information ("PHI"), as that term is defined in 45 C.F.R. § 160.103 (the "Data Breach").

WHEREAS, the Commonwealth conducted and concluded an investigation into the circumstances surrounding the Data Breach and Aveanna's policies, procedures, and practices regarding the security of PI and PHI. In particular, the Commonwealth investigated Aveanna's compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, the Massachusetts Consumer Protection Act, G.L. c. 93A, the Massachusetts Data Security Law, G.L. c. 93H, and the Massachusetts Data Security Regulations, 201 C.M.R. 17.00-17.05.

WHEREAS, the HITECH Act § 13410(e) (codified at 42 U.S.C. § § 1320d-5(d)), gives State Attorneys General the authority to bring civil actions on behalf of state residents for violations of the HIPAA Privacy and Security Rules, 45 C.F.R. Part 164, Subparts A, C, and E, to obtain damages on behalf of state residents and to enjoin further violations of these Rules.

WHEREAS, the Commonwealth filed a Complaint against Aveanna, alleging that Aveanna violated various standards of the HIPAA Privacy and Security Rules, found at 45 C.F.R. Part 164, Subparts A, C, and E.

WHEREAS, the Commonwealth, in the Complaint, also alleges that Aveanna violated G.L. c. 93H, G.L. c. 93A, and the Massachusetts Data Security Regulations, 201 CMR 17.00-17.05.

WHEREAS, Aveanna denies the allegations in the Complaint, including any allegation that Aveanna violated various standards of the HIPAA Privacy and Security Rules, found at 45 C.F.R. Part 164, Subparts A, C, and E or that Aveanna violated G.L. c. 93H, G.L. c. 93A, or the Massachusetts Data Security Regulations, 201 CMR 17.00-17.05.

WHEREAS, the Commonwealth acknowledges Aveanna's cooperation with the Commonwealth's investigation of this matter, including with respect to the negotiation of this Final Judgment.

WHEREAS, the Attorney General is authorized to bring an action in this Court under G. L. c. 93H, § 6, and G. L. c. 93A, § 4.

WHEREAS, without acknowledging liability or culpability, and in order to resolve their differences concerning this case, and in order to avoid the cost and uncertainty of litigation, the parties have agreed to entry of this Final Judgment.

WHEREAS, the parties have filed a joint motion seeking entry of this Final Judgment.

Accordingly, **IT IS HEREBY ORDERED AND ADJUDGED THAT:**

**I. DEFINITIONS**

1. **"Effective Date"** shall mean the date of entry of this judgment.
2. **"Personal Information"** or **"PI"** shall have the same meaning as that term is defined in 201 C.M.R. 17.02.
3. **"Personal Health Information"** or **"PHI"** shall mean that term as it is defined in 45 C.F.R. § 160.103.
4. The **"Aveanna Network"** shall include all devices owned or operated by Aveanna that collect, process, store, or have access to PI or PHI of Massachusetts residents.

5. “WISP” shall mean “a comprehensive information security program that is written in one or more readily accessible parts” as referred to by 201 C.M.R. 17.03.

## II. INJUNCTIVE RELIEF

6. Aveanna shall comply with G.L. c. 93H and 201 C.M.R. 17.00-17.05, including, without limitation, by developing, implementing, and maintaining a WISP containing all of the elements required by 201 C.M.R. 17.03 and 17.04 and this Final Judgment. To the extent this Final Judgment imposes obligations on Aveanna distinct from the requirements of G.L. c. 93H and 201 C.M.R. 17.00-17.05, those obligations shall continue for a term of five (5) years from the Effective Date of this Order.
7. Aveanna’s WISP shall include the development, implementation, and maintenance of the following specific safeguards:
  - a. **Phishing.** Aveanna shall develop, implement, and maintain commercially available email protection and filtering solutions for all Aveanna email accounts, to detect, prevent, and respond to email SPAM, phishing attacks, and malware or a reasonably equivalent technology that could compromise the security or confidentiality of the Aveanna Network.
  - b. **Vulnerability Management.** Aveanna shall develop, implement, and maintain a vulnerability management program and necessary technologies to continually scan for, identify, and remediate security vulnerabilities within the Aveanna Network.
  - c. **Multi-factor Authentication.** Aveanna shall develop, implement, and maintain multi-factor authentication for any employee accessing the Aveanna Network. Multi-factor authentication shall mean authentication through verification of at

least two of the following authentication factors: (i) knowledge factors, such as a password; (ii) possession factors, such as a token, connection through a known authenticated source, or a text message on a mobile phone; or (iii) inherent factors, such as biometric characteristics. If Aveanna is unable to implement, due to legitimate technical constraints, multi-factor authentication for specific devices that have a legitimate business need to access the Aveanna Network, Aveanna shall develop, implement, and maintain alternative controls sufficient to compensate for the additional risk imposed by being unable to implement multi-factor authentication.

- d. **Asset Inventory.** Aveanna shall develop, implement, and maintain a reasonably up-to-date inventory of the assets that primarily comprise the Aveanna Network and assign criticality ratings to such assets, as feasible.
8. Aveanna shall develop, implement, and maintain the following systems, or systems with equivalent functions:
- a. **Intrusion Detection System.** Aveanna shall develop, implement, and maintain a system composed of software and/or devices designed to assist in detecting unauthorized access to, or malicious activity on, the Aveanna Network.
  - b. **Intrusion Prevention System.** Aveanna shall develop, implement, and maintain a system composed of software and/or devices designed to assist in preventing unauthorized access to, or malicious activity on, the Aveanna Network.
  - c. **Security Incident and Event Management Platform.** Aveanna shall develop, implement, and maintain a system composed of software and/or devices that is

designed to centralize, analyze, and respond to potential unauthorized access to, or malicious activity on, the Aveanna Network.

- d. **Endpoint Security.** Aveanna shall develop, implement, and maintain a system composed of software and/or devices that is designed to provide real-time notification of malicious system modifications and anomalous activity on endpoints on the Aveanna Network.
  - e. **Data Loss Prevention.** Aveanna shall develop, implement, and maintain a system composed of software and/or devices designed to detect and prevent unauthorized data exfiltration from the Aveanna Network.
9. Aveanna shall provide to each new employee, within thirty (30) days of beginning employment, mandatory training concerning compliance with Aveanna's WISP and other policies and procedures concerning the security of PI and PHI. After such time, Aveanna shall not permit any new employee who has not completed such training access to PI or PHI in performance of their job duties. Aveanna shall document employees' attendance at such trainings and retain such documentation for a minimum of five years following the training.
10. Aveanna shall provide mandatory training to all employees who have access to PI and PHI, on at least an annual basis, concerning:
- a. Compliance with Aveanna's WISP and other policies and procedures concerning the security of PI and PHI;
  - b. Current potential security threats; and
  - c. Phishing and spear phishing attacks.

Aveanna shall document employees' attendance at such trainings and retain such documentation for a minimum of five years following the training. Aveanna shall not permit any employee access to PI or PHI in performance of their job duties for the regular period corresponding to the training unless and until that employee has completed such training, except that new employees shall be subject to the timeframe set forth in Paragraph 9.

11. Within one hundred and eighty (180) days following the Effective Date, Aveanna shall engage an independent third-party assessor that has not previously examined Aveanna's systems to review and assess Aveanna's compliance with 201 CMR 17:00-17.05 and the terms of this Final Judgment. The third-party assessor must be an organization that employs at least one individual to perform the assessment that is: (a) qualified as a Certified Information System Security Professional ("CISSP") or as a Certified Information Systems Auditor ("CISA"), or a similar qualification; and (b) has at least five (5) years of experience evaluating the effectiveness of computer systems or information system security.
12. Within sixty (60) days of the completion of the review and assessment described in paragraph 11, Aveanna shall take all corrective actions that Aveanna deems in good faith are necessary to bring Aveanna into compliance with the 201 CMR 17.00, Aveanna's WISP, and the terms of this Final Judgment.
13. Within thirty (30) days of the completion of all corrective actions described in paragraph 12, Aveanna shall submit a written report to the Commonwealth that describes the process and result(s) of the review and assessment, and the corrective actions Aveanna has taken (if any) as a result of the review and assessment.

14. Aveanna shall repeat the requirements of paragraphs 11–13 annually for a period of four years from the Effective Date, resulting in four total assessments, one for each of the full years following the Effective Date. However, for assessments after the first, Aveanna may engage an independent third-party assessor that has previously examined Aveanna’s systems, but the assessor must still meet other requirements of paragraph 11.
15. Aveanna shall comply with all reasonable inquiries and requests from the Office of the Attorney General regarding implementation of the terms contained within this Final Judgment and shall provide to the Attorney General as reasonably requested, all documents and records required by this Final Judgment.
16. Within ten (10) days after the Effective Date, Aveanna shall cause a true and correct copy of this Final Judgment to be given to (1) each current member of the Board of Managers of Aveanna and (2) all officers, directors, and employees who in Aveanna’s determination are principally responsible for ensuring compliance with the terms of this Final Judgment.
17. For a period of five years following the Effective Date, Aveanna shall promptly provide a copy of this Final Judgment to any successors or assigns resulting from a merger or sale of substantially all of Aveanna’s assets, and the provisions and obligations of this Final Judgment shall be binding thereon.
18. For a period of five years following the Effective Date, Aveanna shall promptly provide a copy of this Final Judgment to any incoming officers or member of the Board of Managers, and any incoming officers or members of the Board of Managers or Board of Directors of any present or future subsidiaries of Aveanna.
19. Aveanna shall not form or knowingly affiliate with a separate person, entity, or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in



this Judgment or for any other purpose which would otherwise circumvent any part of this Judgment.

### **III. PAYMENT**

20. Pursuant to G.L. c. 93A and G.L. c. 93H, judgment is entered against Aveanna in the amount of \$425,000.
21. Within forty-five (45) days of the Effective Date, Aveanna shall pay the Attorney General's Office the adjudged \$425,000 by wire transfer or by certified or cashier's check made payable to the "Commonwealth of Massachusetts" and delivered to Jared Rinehimer, Assistant Attorney General, Data Privacy and Security Division, One Ashburton Place, 18th Floor, Boston, MA 02108.
22. At her sole discretion, the Attorney General may distribute the payment described in Paragraph 22 in any amount, allocation or apportionment and for any purpose permitted by law, including but not limited to: (a) use by the Attorney General in the facilitation of this Final Judgment; (b) payments to the General Fund of the Commonwealth of Massachusetts; and/or (c) payments to the Local Consumer Aid Fund established pursuant to G.L. c. 12, § 11G.

### **IV. NOTICES**

23. All notices and documents required by this Final Judgment shall be provided in writing to the parties as follows:

If to the Attorney General:

Jared Rinehimer  
Assistant Attorney General  
Consumer Protection Division  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
617-727-2200 x 2594  
jared.rinehimer@mass.gov

If to Aveanna:

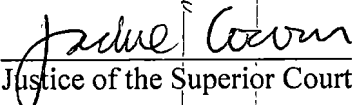
Shannon L. Drake  
Chief Legal Officer  
Aveanna Healthcare  
400 Interstate North Parkway, SE  
Suite 1600  
Atlanta, GA 30339  
678-385-4005  
sdrake@aveanna.com

V. MISCELLANEOUS

24. Aveanna waives the requirement of G.L. c. 93A, § 4 requiring five days written notice to the defendant prior to the Commonwealth commencing an action under G. L. c. 93A with respect to this matter and this Final Judgment.
25. Aveanna waives all rights of appeal with respect to this Final Judgment.
26. Aveanna waives all requirements of Rule 52 of the Massachusetts Rules of Civil Procedure with respect to the entry of this Final Judgment.
27. No part of this Final Judgment shall be construed to relieve Aveanna of its obligations to comply with all applicable federal, state, and local laws, regulations, and rules.
28. Consent to this Final Judgment does not constitute an approval by the Commonwealth of any of Aveanna's business acts or practices.

29. Any intentional violation of this Final Judgment, which is not cured within ninety (90) days written notice of the violation from the Attorney General, may be punishable by civil contempt proceedings, or as otherwise provided by law.
30. This Final Judgment becomes effective upon entry by the Court.

APPROVED AND ORDERED:

  
Justice of the Superior Court

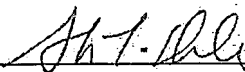
DATED: 11-1-22

**CONSENT TO JUDGMENT BY AVEANNA HEALTHCARE, LLC**

1. The Defendant, Aveanna Healthcare, LLC (Aveanna), consents to the continuing subject matter jurisdiction, specific personal jurisdiction over Aveanna, and venue of the Suffolk Superior Court, and hereby consents to the entry of the Final Judgment in the form attached hereto. In so consenting, Aveanna certifies that it has read and understands each of the sections, paragraphs, and subparagraphs in the Final Judgment.
2. The parties waive the entry of findings of fact and conclusions of law under Rule 52 of the Massachusetts Rules of Civil Procedure.
3. Aveanna understands that the obligations set forth in the Final Judgment apply, to Aveanna and its predecessors, successors, and assigns and shall constitute a continuing obligation.
4. Aveanna understands that any intentional violation of this Final Judgment, which is not cured within ninety (90) days written notice of the violation from the Attorney General, may result in sanctions against it under G. L. c. 93A, § 4, and/or a finding of contempt of court.
5. Aveanna states that it is represented by legal counsel, Mullen Coughlin LLC, and that Aveanna's representative, Shannon L. Drake, has personally read and understands each numbered paragraph in the Final Judgment by Consent.
6. The undersigned, Shannon L. Drake, represents that he is duly authorized to execute this Consent to Judgment on behalf of Aveanna and to bind Aveanna to all of its provisions, and that on behalf of Aveanna he voluntarily enters into this Final Judgment by Consent.

7. Except for purposes of its enforcement, this Consent to Judgment shall not constitute evidence against Aveanna.

**ASSENTED TO, WAIVING ALL RIGHTS OF APPEAL**

BY:   
Shannon Drake  
Chief Legal Officer

Dated: 10/21/2022