

Daily Privacy & Consumer Regulatory Alert

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FEDERAL DEVELOPMENTS

FTC Comment to HHS

On June 6th, the Federal Trade Commission (FTC) submitted a [comment](#) to the Department of Health and Human Services Office of the National Coordinator for Health Information Technology (ONC) regarding the proposed rule on electronic health systems (EHS) interoperability. Under the 21st Century Cures Act, ONC proposed a rule to improve interoperability within EHS systems. The FTC comment recommended that ONC amend the proposed rule to:

- Clarify permissible conduct for safe harbors that does not harm consumer welfare;
- Narrow the definition of “Electronic Health Information” to only information needed for patient treatment;
- Clarify when market pricing is not deemed information blocking; and
- Narrow the definition of “developers of certified Health Information Technology.”

STATE DEVELOPMENTS

CCPA Amendments

On June 4th, the Future of Privacy Forum (FPF) published a [summary](#) of the proposed amendments to the California Consumer Privacy Act (CCPA). May 31st was the crossover deadlines for bills to move out of the Assembly to the Senate for committee consideration. The last day for the state Senate to pass bills is September 13th and the last day for the Governor to sign or veto bills to be enacted before the CCPA takes effect is October 13th. Twelve CCPA amendment bills passed the Assembly and are currently under consideration by the Senate, including:

- [AB 25](#) – Exempts employees and contractors from the definition of “consumer;”
- [AB 846](#) – Permits loyalty programs with consumer’s affirmative consent and voluntary participation;
- [AB 873](#) – Revises the definition of personal information as being “reasonably linkable” to a consumer;
- [AB 874](#) – Excludes “publicly available information” from the definition of personal information;
- [AB 981](#) – Removes the consumer’s right to delete or not sell personal information if it is necessary to perform an insurance transaction;
- [AB 1138](#) – Requires parental or guardian consent for children under 13 to create an account with a social media website; and
- [AB 1202](#) – Defines “data broker” and requires data brokers to register with the state Attorney General.

ACMA Data Breach

On June 3rd, Michigan Attorney General (AG) Dana Nessel [announced](#) that she will send letters to the American Medical Collection Agency (AMCA), Quest Diagnostics, and Optum360 requesting more information about the recent data breach of 20 million patients’ personally identifiable information and financial information. The state AGs of New York, Minnesota, and North Carolina also announced that they plan to investigate the data breach. AMCA provides medical debt collection services to health care providers, including Quest Diagnostics, which contracts to Optum360; LabCorp, and BioReference Laboratories.

Background Screening Legislation

Recent state legislation regarding background screening includes:

- On June 5th, the Maine Legislature passed [H.P. 968](#), which requires all prospective employees of the Office of the State Auditor to complete a fingerprint-based criminal background check;
- On June 4th, the New York Senate passed [S. 03335](#), which would require prospective employees of nonpublic and private elementary and secondary schools to complete a fingerprint-based criminal background check; and
- On May 16th, South Carolina enacted [S. 595](#), which requires background checks for employees of child care facilities.

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