

Landmark Washington Health Data Privacy Law Creates Suit Risk

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Sheppard Mullin partner Wynter Deagle was quoted in the Bloomberg Law article, “Landmark Washington Health Data Privacy Law Creates Suit Risks,” about new health-related data security litigation and enforcement risks for businesses in Washington state as its new health privacy law takes effect.

The state’s My Health My Data Act—enacted in April 2023 in reaction to the US Supreme Court’s decision overturning a federal right to abortion—guarantees Washington residents some of the broadest health information privacy protections in the nation. It also has generated fears that companies, many of which may not have previously considered themselves as dealing in health data, will face a groundswell of costly legal action over alleged violations.

Cases brought under the new law will be likely be more challenging to litigate than actions brought under other statutes like Illinois’ BIPA that require plaintiffs prove only statutory violation and not actual injuries. That requirement may make companies less willing to pay early settlements in favor of fighting claims out in court.

Litigation may also better refine the law’s scope through court decisions, similar to how lawsuits under California’s Invasion of Privacy Act have played out, said Deagle told Bloomberg. “There is a lot of opportunity for this to be refined and defined through litigation,” including what meets the definition of consumer health data,” she said.

Read the full story here. (Subscription required.)

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