

YOUR DATA MY HEADACHE

An Overview of New State Health Data Laws

**Ballard
Spahr**
LLP

YOUR PRESENTERS



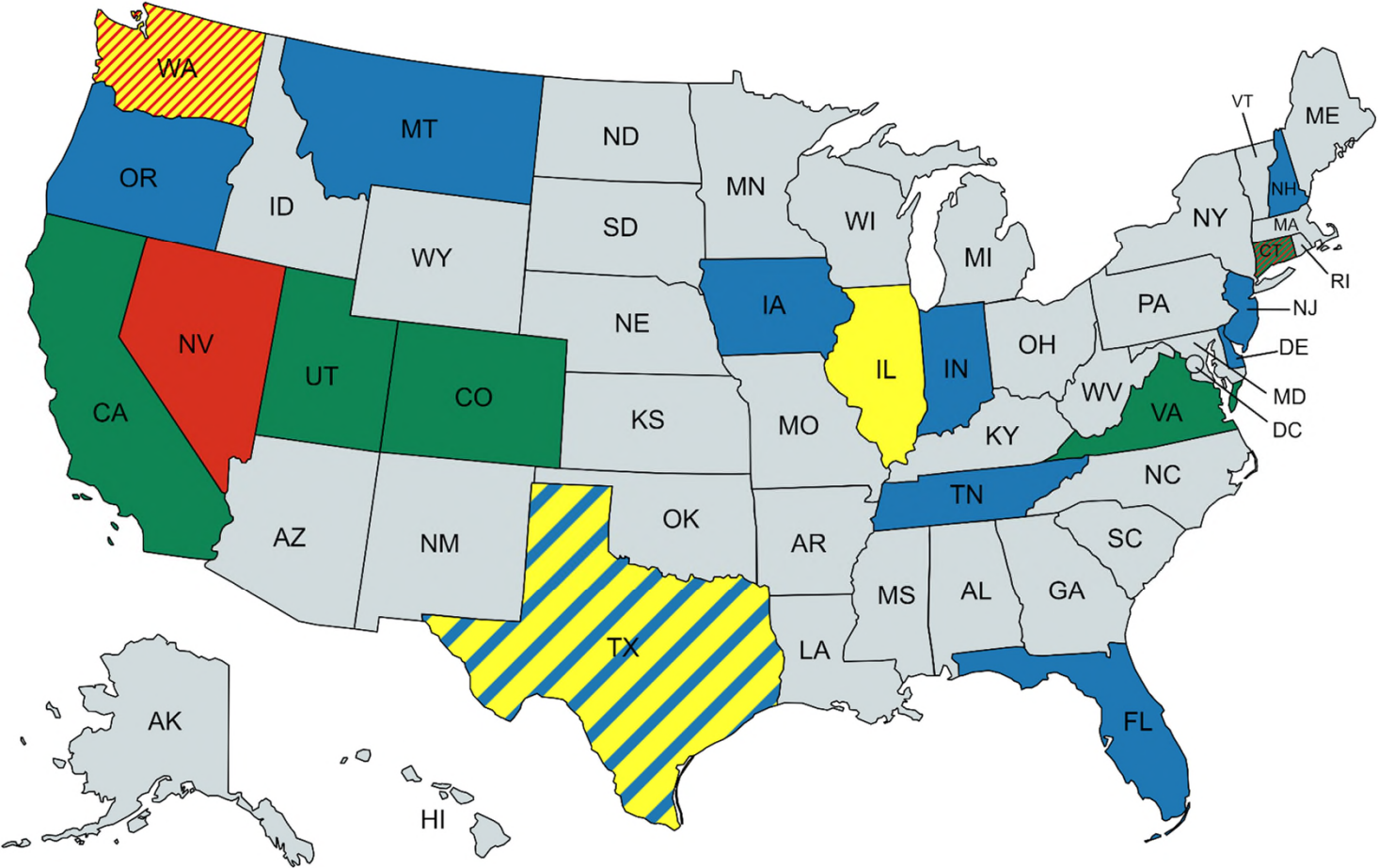
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STATE OF PRIVACY LAWS

State	Effective Date
Connecticut	October 1, 2023
Nevada	March 31, 2024
Washington	March 31 or June 30, 2024



SCOPE

- Regulated Entities:
 - Controller of Consumer Health Data; *and*
 - Conducts business or provides goods/services targeted to consumers
- **“Consumer Health Data”**
 - PII related to consumer’s health condition or status
 - Biometric data and precise geolocation information
- No volume or revenue threshold for WA or NV

OBLIGATIONS

SEPARATE AND DISTINCT PRIVACY POLICY

- Categories of:
 - Consumer health data
 - Sources
 - Information regarding sharing
- Rights and how to exercise
- Third-party collections through website
- Process for material changes

OBLIGATIONS

Consent to collect or share consumer health data

- Must be separate consents
- Exceptions in some instances

Authorization to sell consumer health data

- Separate from consent
- Specific content requirements
- Retention requirements

OBLIGATIONS

Geofencing prohibited within 1,750 feet of any person or entity providing in-person health care services.

- No consent exceptions
- Purposes for which geofencing is prohibited:
 - Identifying or tracking consumers seeking health services or products
 - Collecting consumer health data
 - Notifying or sending messages/ads to consumers related to consumer health data



OBLIGATIONS

Processor contracts required

- Processing instructions
- Assist with processing consumer rights requests

Employee access to consumer health data only as needed

- For consented purposes; or
- To provide specifically-request products or services

Security measures required

- Minimum reasonable standard of care
- Administrative, technical and physical security of consumer health data

ENFORCEMENT

State	Regulatory	Private Right of Action
Connecticut	\$5,000 per violation	N
Nevada	\$10,000 per violation	N
Washington	\$7,500 per violation	Actual damages (treble), attorneys' fees, costs

THANK YOU FOR JOINING US

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