



Post-*Dobbs* Considerations for Digital Health and Other Companies Maintaining Personal and Health Information

- **Digital health platforms and other companies maintaining reproductive health-related information, including fertility and period trackers, should consider the potential implications on their operations of the use and disclosure of that information.**
 - Consider how and for what purpose reproductive health-related information is collected, used, and disclosed.
 - Assess the extent to which information you maintain may be sought as evidence of allegedly illegal abortion-related activity.
 - Review the content of your website terms and conditions and privacy policies in light of any changes in data collection and management.
 - Consider ways to afford consumers added privacy protections and security safeguards with respect to what data is collected and maintained in a digital platform.
 - Analyze whether your websites and/or mobile apps have any unknown tracking technologies that disclose your users' data to third parties for analytics, marketing, or other purposes.
 - Evaluate the extent to which federal and state privacy and consumer protection laws and regulations (e.g., HIPAA, the FTC Act, the Health Breach Notification Rule, and others) limit the gathering of information by those making claims of illegal actions/involvement.
 - Consider additional measures you can take to manage your information gathering, maintenance, and use to avoid liability and involvement in civil and criminal matters.
 - Evaluate internal policies and procedures with respect to when and how to respond to law enforcement requests for personal information maintained by the company.
 - Evaluate contracts with partners to determine appropriate responsibilities and risk allocation with respect to responding to law enforcement requests and related claims.

This document has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal law and the applicable state or local laws that may impose additional obligations on you and your company.

If you are a health care provider or life sciences organization with questions about how the decision affects your business, please contact Amy Dow at adow@ebglaw.com.
If you are an employer with questions about your workplace policies or benefits offerings, please contact Susan Gross Sholinsky at sgross@ebglaw.com.