COVID Data Privacy Management

ARMA BOISE VALLEY CHAPTER MONTHLY MEETING
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“Those who cannot change their minds cannot change anything.”

- GEORGE BERNARD SHAW
Highlights

Being in a WHO-declared pandemic has changed what personal data companies can and should collect.

Companies are thus permitted, and even required, to collect personal medical data that they normally cannot ask for or store.

To manage this data, we will be discussing what is permitted and why, so the current and future (post-pandemic) retention of that data can be properly managed.
What is Data Privacy?

The protection of individuals’ Personal Information from unauthorized collection, use, access, and disclosure.
What is Personal Information?

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Birthdate</th>
<th>Health Data</th>
<th>Passport No</th>
<th>Car Registration</th>
<th>Driving License</th>
<th>Gender</th>
<th>Fingerprint Scan</th>
<th>Photo</th>
<th>Nationality</th>
<th>Medical Information</th>
</tr>
</thead>
</table>
What Law(s) Apply Here*?

**Americans with Disabilities Act** as primary driver
- Prevents disability-related inquiries and requires that medical examinations be job-related and consistent with business necessity, and applied equally to all similar job categories
- Necessary medical information must be kept separate and secure

**FTC authority to enforce “unfair trade practices”** through non-transparent collection of data

**State**: state breach laws may apply if data was compromised

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What About HIPAA?
- Misconception that HIPAA applies to COVID data collected by companies
- HIPAA applies only to “covered entities”
  1. Health plans
  2. Healthcare clearing houses
  3. Healthcare providers that electronically transmit health information

*U.S.-focused.
COVID Data Guide

WHAT CAN BE COLLECTED
(WITH BUSINESS PURPOSE)

✓ Employee and visitor temperatures
✓ Employee and visitor COVID symptom check
✓ Confirmation of positive or negative COVID test
✓ Confirmation of vaccine
✓ Non-personal details of exposure risk (e.g., names of those exposed to outside the workplace)

WHAT CANNOT BE COLLECTED

✗ Names or identities of family members who have tested positive
✗ Antibody test results
✗ Any information that does not support the business purpose of COVID protection (e.g., cannot ask about non-COVID symptoms)
✗ Reasons for not getting a vaccine
How Should We Tackle This?

**Now:** work with business teams (HR, Legal, IT, safety, operations) to ensure current data collection and storage is appropriate for your business purposes.

**Now:** Log the data, its location, and its purpose

**Now:** ensure medical COVID data is kept secure and separate from other personal data

**Future:** REMEMBER THE DATA when we are on the other side of this pandemic. Set periodic check ins (every 6-9 months) with legal to review and update data log; purging what’s no longer necessary
Questions?