

The 28th National HIPAA Summit

Introduction

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Housekeeping



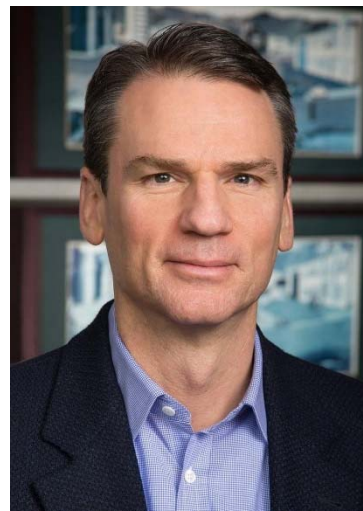
Agenda

- Introduction, Overview and Annual Health Care Privacy Update (1:00 pm to 1:30 pm)
 - Director Severino's OCR HIPAA Policy Update (1:30 pm to 2:15 pm)
 - OCR HIPAA Compliance & Enforcement Update (2:15 pm to 2:45 pm)
 - FTC Privacy Enforcement Update (2:45 pm to 3:15 pm)
 - Break (3:15 pm to 3:45 pm)
 - Update on 42 CFR Part 2, the Privacy Rule that Governs Substance Use Disorder Treatment Records (3:45 pm to 4:15 pm)
 - The Role that Privacy Policy Plays in the Initiative to Permit Patients with Complete Control of their Health Data (4:15 pm to 4:45 pm)
 - Health Care Privacy in the Context of Global Privacy Policy (4:45 pm to 5:15 pm)
 - Chief Privacy Officers Best Practices Roundtable (5:15 pm to 6:15 pm)
 - Adjournment and Networking Reception (6:15 pm)
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Privacy isn't going away ...



Barton Gellman/Getty Images



The Sacramento Bee



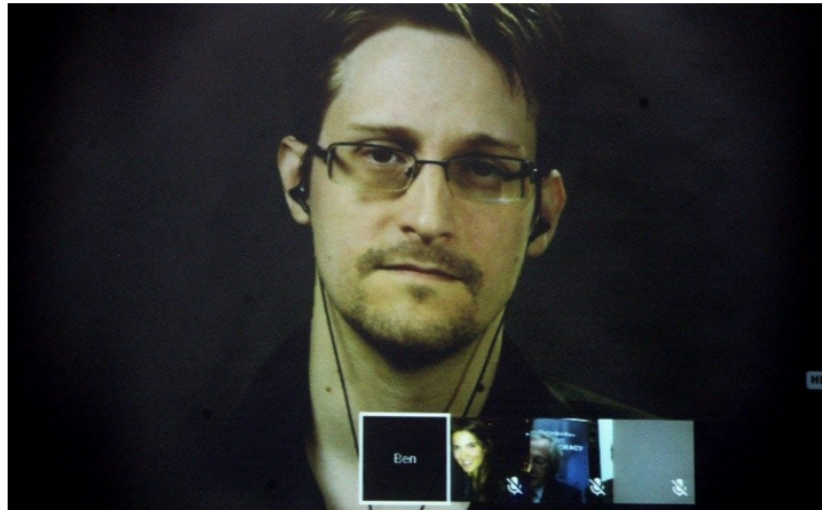
Privacy
Law
Changed
Forever

First, GDPR ...

The Washington Post
Democracy Dies in Darkness

Monkey Cage • Analysis

Today, a new E.U. law transforms privacy rights for everyone. Without Edward Snowden, it might never have happened.



Former National Security Agency contractor Edward Snowden speaks via video link during the Athens Democracy Forum at the National Library of Greece in Athens in September 2016. (European Pressphoto Agency)

By **Nikhil Kalyanpur** and **Abraham Newman**
May 25, 2018

Washingtonpost.com

GDPR

A tourist from the EU breaks her leg and is seen in your emergency room. Do you:

- Pay to medically transport her across the Atlantic and unceremoniously dump her on the shores of Ireland?
 - Handwrite all of her medical notes on the back of napkins and burn them at discharge
 - Shutdown the facility for a week while you build a GDPR compliance program
 - Treat her like a regular patient and protect her information in accordance with HIPAA and other applicable U.S. and state law
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GDPR

- GDPR does not apply simply because an EU resident is treated in the U.S.
 - Potential GDPR triggers:
 - Operating in the EU. For example, offices in the EU, or research studies in the EU.
 - Targeting the EU, such as marketing efforts specifically focused on the EU.
 - Monitoring of EU residents while they are in the EU, such as online monitoring that captures EU residents online activities while they are in the EU.
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California Consumer Privacy Act (CCPA)



The New York Times Magazine



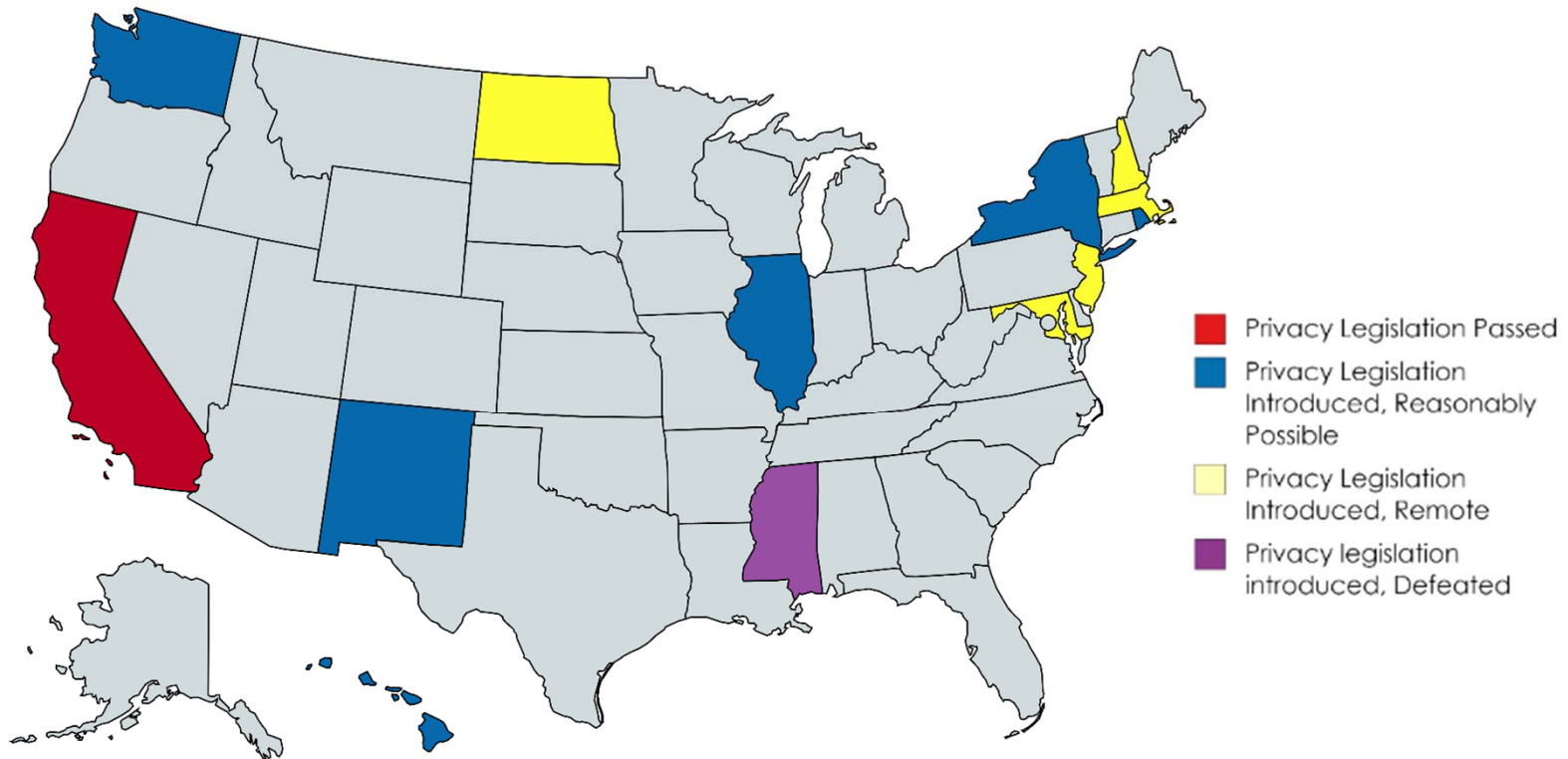
Mactaggart asked his friend, half-seriously, if he should be worried about everything Google knew about him. ...[H]is friend told him there was plenty to worry about. If people really knew what we had on them, the Google engineer said, they would flip out.

California Consumer Privacy Act (CCPA)

- The Good News [?]
 - Does not apply to non-profits
 - Does not apply to PHI of covered entities and business associates
 - Does not apply to medical information governed by the California Confidentiality of Medical Information Act
 - Does not apply to clinical trial information governed by the HHS Common Rule
 - But, if it does apply:
 - Requires significant data mapping – where information comes from, what information you have, where its going
 - Provides new notice and opt out rights
 - Increases legal risks in the event of a data breach
 - Private right of action may be coming
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California Consumer Privacy Act (CCPA)

- One conversation at a dinner led to a ballot initiative, then California legislation, and now?



Oregon SB 703

80th OREGON LEGISLATIVE ASSEMBLY--2019 Regular Session

A covered entity, business associate, subcontractor or other third party doing business in this state may not engage in the commercial sale of protected health information, health information or de-identified data without first obtaining a signed authorization from the individual.

4 privacy and security of the protected health information of an individual and honors the individual
5 the right to access, amend and obtain an accounting of disclosures of the individual's protected
6 health information; and

The Big Question

Will there be comprehensive federal privacy legislation?

Conclusion

It is a really exciting (scary?) time to be a privacy or security professional.



**KEEP
CALM
AND
CARRY
ON**