

## Report on Patient Privacy Volume 22, Number 11. November 10, 2022 In Wake of Dobbs, Meta Scandal, 'FemTech' Needs Extra Scrutiny, Warnings to Patients

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By Theresa Defino

Quick one-question (two-part) quiz:

1. What is “FemTech?”

1. a. Why should you care?

Ida Tin is credited with coining the phrase “FemTech” at a tech conference in 2016. Tin is co-founder and CEO of a Berlin-based firm that offers an app called Clue to help women track their periods, as well as related symptoms, pregnancies and postpartum experiences. Although Tin launched Clue in 2013 and the app claims some 11 million monthly users and is just one of thousands of health care apps available, FemTech is just now slowly creeping into the lexicon of health care providers.

And privacy and security officials should care because, broadly speaking, app developers are not covered entities (CEs) or business associates (BAs); yet they handle what arguably constitutes protected health information (PHI), said Bethany Corbin, FemTech practice lead and senior counsel at Nixon Gwilt Law.

Concerns about privacy and security of health apps aren't new; however, they have taken on added significance with their growing popularity and ability (in some instances) to interface with patient portals. The data breach scandal involving a tracker made by Facebook parent company Meta has fed tech fears more broadly.<sup>[1]</sup>

Meanwhile, the need for protections has become more urgent in the wake of the U.S. Supreme Court decision *Dobbs vs. Jackson Women's Health Organization*, which overturned *Roe vs. Wade*.

This summer, the HHS Office for Civil Rights reminded CEs and BAs that HIPAA is intended to give “individuals confidence that their protected health information (PHI), including information relating to abortion and other sexual and reproductive health care, will be kept private.”<sup>[2]</sup>

As Corbin put it, FemTech is the “intersection of digital health technology and women's health,” which “recognized the need for solutions to be tailored to women's health.” She noted that “until the 1990s, women weren't even allowed to participate in clinical trials,” meaning data about women “hasn't existed in mainstream medicine and science until very recently.”

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