

UH Law center professors urge tighter controls on data held by health tech companies

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In an article published today in *Science* magazine, University of Houston Law Center Professors Jim Hawkins and Jessica L. Roberts call for stronger consumer safeguards to protect the privacy of personal information collected online by health-related companies.

The article, "When health tech companies change their [terms of service](#), [consumers](#) may have limited control over their data," explains that because most health-related apps and websites are not operated by [health care providers](#), they are largely unregulated in the tracking and use of intimate digital data. Consumers and companies enter into an agreement that outlines their rights and obligations in the use and protection of data. Many companies, however, reserve the right to unilaterally change terms of service agreements as to what they can do with [user data](#), such as share it or sell it to other companies.

The authors write that most users of health-related apps and online sites do not read the fine print of the agreements and are unaware when the terms are changed. Consumers who assumed their data was confidential are vulnerable to loss of privacy as personal information, including genetic data, details about [mental health](#), and medical history and even doctor appointments could be shared with other companies. Courts have generally sided with the companies, leaving consumers little recourse.

Hawkins and Roberts suggest several options Congress could take to protect consumers, including: require mandatory notice to users that changes are being made to the terms of service; allow users to opt out of any changes and revert to the original terms; and require user consent for significant changes as is the case with all other contracts.

"Health tech companies can change minor things that don't affect the consumers' experience with the product in substantial ways," Hawkins concluded. "They can fix small bugs in their terms of service, but for things that really matter to the consumer, we argue for the old fashioned

way—get the person to agree to them."

Hawkins, the Alumnae College Professor in Law, conducts research and teaches in the areas of commercial and business law, the fringe banking industry and the fertility business.

Roberts, the Leonard Childs Professor in Law Roberts and director of the Health Law & Policy Institute, specializes in genetics and the law, health law and disability law. Her research operates at the intersection of health law, ethics and social justice.

More information: Jessica L. Roberts et al. When health tech companies change their terms of service, *Science* (2020). [DOI: 10.1126/science.aaz6732](https://doi.org/10.1126/science.aaz6732)

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