



# Data Privacy When Using Wearable Health and Fitness Devices

## WHAT CONSUMERS NEED TO KNOW



During a routine wellness exam, Dan's primary care provider recommended regular exercise and a modified diet to treat his slightly elevated blood pressure. Dan began using a smartwatch to keep track of his steps, heartrate, and calories burned, which he synched with a fitness app to help him plan healthy meals and share workout routines with friends. After eight weeks, Dan was happy to report to his provider that he lost seven pounds.

### What Are Wearables?

Like Dan, more people are using wearable technology to help manage their health and wellness outside of a health care provider's office. Wearables are smart devices<sup>1</sup> that people can wear (usually close to their skin) to track, analyze, and transmit personal data, such as medical, biological, and exercise data. This includes electronic accessories like smartwatches and medical devices, such as pulse oximeters.



Wearables perform basic computing functions akin to laptops, tablets, and smartphones and offer an array of services (e.g., continuous monitoring of vital signs, sleep monitoring, weight loss coaching, fertility insights) available through online apps that can be purchased or downloaded for free.<sup>2</sup> Personal health-related information can be collected anywhere – at home, during work, and sports activities – for self-health tracking purposes or to provide more data to a health care provider or care team.



## Are Wearables Secure?

Wearables collect, process, and send personal data from users, calling to question who has access to all of this data. Before using a wearable, it's helpful to read the privacy policy for the manufacturer and any supporting online app(s) to understand the implications on data privacy.<sup>3</sup>

Some questions a privacy policy can answer include:<sup>4</sup>

1. Can my information be shared or sold without my knowledge or permission?
2. Can I delete or block access to my data?
3. If I stop using the app/device, can I transfer my data somewhere else?



If you are uncomfortable with any of the answers to these questions, consider whether you still want to use a wearable or look for another product that better fits your privacy preferences.<sup>5</sup>

It's important to note that wearables and supporting online apps are generally not required to comply with federal laws<sup>6</sup> (like HIPAA) that protect your health information<sup>7</sup> when they are used for personal, self-health tracking (like in Dan's case).<sup>8, 9</sup> HIPAA does apply when a wearable is provided directly by your health care provider and data is sent to their electronic health record<sup>10</sup> system.<sup>11</sup>



### PATIENT GENERATED HEALTH DATA

Health-related information created and recorded by or from patients, family members, or caregivers outside of a clinical setting is called patient generated health data (PGHD). Combining PGHD with other health data from your medical record (like previous illnesses and test results) gives providers a more comprehensive view of your health over time, which could potentially allow for quicker diagnosis and treatment.<sup>12</sup>



## Tips to Safeguard Your Personal Data

- ▶ Wearables and online apps may collect or access other data that is not necessary for them to operate or provide a service to you (e.g., does your nutrition app need access to your phone contacts?). You may want to check the device or app settings and turn off unnecessary permissions to things like your contact list, camera, storage, location, and microphone.<sup>13</sup>
- ▶ Wearables and online apps may push notifications through your phone that contain sensitive information; consider adjusting your phone settings to minimize other people seeing these notifications (e.g., turning on "Do Not Disturb" mode or disabling notifications).<sup>14</sup>
- ▶ Delete data that you no longer need; if you decide to give away or sell a wearable, disconnect it from synched accounts and devices (like your mobile phone) before restoring it to factory settings.<sup>15</sup>



## Additional Resources

Consumer Reports, *5 Questions to Ask About Any mHealth App*, June 2019. Available at: [www.consumerreports.org/mobile-apps/health-app-questions-to-ask/](http://www.consumerreports.org/mobile-apps/health-app-questions-to-ask/)

CNET, *Phone Security New Year's Resolutions: What the Experts Recommend*, December 2021. Available at: [www.cnet.com/tech/services-and-software/phone-security-news-years-resolutions-what-experts-recommend/](http://www.cnet.com/tech/services-and-software/phone-security-news-years-resolutions-what-experts-recommend/)

The Office of the National Coordinator for Health Information Technology (ONC), *HIPAA for Consumers*. Available at: [www.healthit.gov/topic/privacy-security-and-hipaa/hipaa-consumers](http://www.healthit.gov/topic/privacy-security-and-hipaa/hipaa-consumers)

AARP, *Free Smartphone Apps Can Have Hidden Privacy Risks*, September 2021. Available at: [www.aarp.org/home-family/personal-technology/info-2021/free-apps-and-privacy-concerns.html](http://www.aarp.org/home-family/personal-technology/info-2021/free-apps-and-privacy-concerns.html)

## Questions?

Contact: Kelly Scott, Program Manager  
[kelly.scott@maryland.gov](mailto:kelly.scott@maryland.gov)



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<sup>1</sup> Smart devices are wired or wireless and capable of connecting to other devices to exchange data.

<sup>2</sup> Business Insider, *Latest Trends in Medical Monitoring Devices and Wearable Health Technology*, January 2021. Available at: [www.businessinsider.com/wearable-technology-healthcare-medical-devices](http://www.businessinsider.com/wearable-technology-healthcare-medical-devices).

<sup>3</sup> Norton, *Smart Watches and Internet Security: Are My Wearables Secure?* Available at: [us.norton.com/internetsecurity-iot-how-to-protect-your-connected-wearables.html](http://us.norton.com/internetsecurity-iot-how-to-protect-your-connected-wearables.html).

<sup>4</sup> Jackson Care Connect, *Make Sure Your Personal Information Is Safe on Third-Party Apps*. Available at: [jacksoncareconnect.org/for-members/privacy-and-third-party-apps](http://jacksoncareconnect.org/for-members/privacy-and-third-party-apps).

<sup>5</sup> Federal Trade Commission, *Does Your Health App Protect Your Sensitive Info*, January 2021. Available at: [www.consumer.ftc.gov/blog/2021/01/does-your-health-app-protect-your-sensitive-info](http://www.consumer.ftc.gov/blog/2021/01/does-your-health-app-protect-your-sensitive-info).

<sup>6</sup> The Food and Drug Administration (FDA) regulates wearables that claim to treat or diagnose specific diseases or medical conditions. Wearables that are intended to encourage healthy habits are not regulated by the FDA. More information is available at: [www.ama-assn.org/practice-management/digital/wearables-fda-and-patient-advice-what-physicians-should-know](http://www.ama-assn.org/practice-management/digital/wearables-fda-and-patient-advice-what-physicians-should-know).

<sup>7</sup> The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security, and Breach Notification Rules are the main federal laws that protect health information. These laws protect any information in a medical record that can be used to identify an individual and that was created, used, or disclosed in the course of providing a health care service, such as a diagnosis or treatment. More information is available at: [www.hhs.gov/hipaa/for-individuals/index.html](http://www.hhs.gov/hipaa/for-individuals/index.html).

<sup>8</sup> Fierce Healthcare, *Fitbit, Apple User Data Exposed in Breach Impacting 61M Fitness Tracker Records*, September 2021. Available at: [www.fiercehealthcare.com/digital-health/fitbit-apple-user-data-exposed-breach-impacting-61m-fitness-tracker-records](http://www.fiercehealthcare.com/digital-health/fitbit-apple-user-data-exposed-breach-impacting-61m-fitness-tracker-records).

<sup>9</sup> Companies that make wearables and apps still need to comply with laws that safeguard consumer data, though these protections are not equivalent to those mandated by HIPAA. In Maryland, the Personal Information Protection Act (PIPA) mandates that businesses reasonably protect the personal identifying information of Marylanders, and that they are notified when their information has been compromised in a breach. More information is available at: [www.marylandattorneygeneral.gov/Pages/IdentityTheft/businessGL.aspx](http://www.marylandattorneygeneral.gov/Pages/IdentityTheft/businessGL.aspx).

<sup>10</sup> An electronic health record (or EHR) is a digital version of a patient's paper chart. EHRs are real-time, patient-centered records that make information available instantly and securely to an authorized user. More information is available at: [www.healthit.gov/faq/what-electronic-health-record-ehr](http://www.healthit.gov/faq/what-electronic-health-record-ehr).

<sup>11</sup> Health IT Security, *How Does HIPAA Apply to Wearable Health Technology?* July 2018. Available at: [healthitsecurity.com/news/how-does-hipaa-apply-to-wearable-health-technology](http://healthitsecurity.com/news/how-does-hipaa-apply-to-wearable-health-technology).

<sup>12</sup> Office of the National Coordinator for Health Information Technology, *What are PGHD?* Available at: [www.healthit.gov/sites/default/files/onc\\_pghd\\_final\\_white\\_paper\\_infographic.pdf](http://www.healthit.gov/sites/default/files/onc_pghd_final_white_paper_infographic.pdf).

<sup>13</sup> Federal Trade Commission, *How to Protect Your Privacy on Apps*. Available at: [www.consumer.ftc.gov/articles/how-protect-your-privacy-apps#before](http://www.consumer.ftc.gov/articles/how-protect-your-privacy-apps#before).

<sup>14</sup> USA Today, *Avoid That Embarrassing Moment! Hide Your Phone's Lock Screen Notifications*, June 2021. Available at: [www.usatoday.com/story/tech/columnist/komando/2021/06/27/how-hide-your-phones-lock-screen-notifications-others/5351667001/](http://www.usatoday.com/story/tech/columnist/komando/2021/06/27/how-hide-your-phones-lock-screen-notifications-others/5351667001/).

<sup>15</sup> Bitdefender, *Five Steps to Protect your Privacy on Wearable Devices*, September 2021. [www.bitdefender.com/blog/hotforsecurity/five-steps-to-protect-your-privacy-on-wearable-devices/](http://www.bitdefender.com/blog/hotforsecurity/five-steps-to-protect-your-privacy-on-wearable-devices/).