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2024 Mid-Year Review: State AGs Shaping Regulatory Landscapes

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In 2024, the landscape of state attorneys general (AGs) is poised for significant change, with numerous elections and regulatory actions reshaping priorities and enforcement strategies. This dynamic environment reflects the critical role AGs play in addressing key issues across various sectors, from environmental regulations and consumer protection to health care and privacy. As state AGs continue to influence policy and legal frameworks, their actions will have far-reaching implications for businesses and consumers alike. Troutman Pepper's State AG team is pleased to provide you with this mid-year review summarizing the activities in this regulatory space over the past six months.

2024 STATE AG ELECTION

Of the 43 elected state AGs, 10 states will hold elections in 2024. At least six of those states — North Carolina, Oregon, Pennsylvania, Utah, Washington, and West Virginia — will have new AGs due to incumbents pursuing other offices or opting out.

The potential for new faces in the highest state law enforcement offices across the U.S., shifting views on the important role that each AG plays, and new regulatory priorities will present a changing regulatory landscape for companies in 2024 and beyond.

To date, seven of these states have held primaries or conventions for their respective AG races. Missouri, Washington, and Vermont still have remaining primaries to be held in August.

State	Democratic Candidate	Republican Candidate
Indiana	• Destiny Scott Wells	• ***Todd Rokita – (Incumbent)***
Missouri(Primary: August 6)	• Elad Gross	• ***Andrew Bailey – (Incumbent)*** • Will Scharf
Montana	• Ben Alke	• ***Austin Knudsen – (Incumbent)***
North Carolina	• Jeff Jackson	• Dan Bishop
Oregon	• Dan Rayfield	• Will Lathrop
Pennsylvania	• Eugene DePasquale	• Dave Sunday
Utah	• Rudy Bautista	• Derek Brown
Vermont(Primary: August 13)	• ***Charity Clark – (Incumbent)***	• H. Brooke Paige
Washington(Nonpartisan Primary: August 6)	• Nick Brown • Manka Dhingra	• Pete Serrano

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West Virginia	• Teresa Toriseva	• John “JB” McCuskey

The evolving dynamics of 2024 are poised to significantly impact the broader political landscape for years to come. For more information on the 2024 state AG elections, please visit our 2024 State Attorneys General Election Tracker.

AI

State AGs are increasingly focusing on regulating artificial intelligence (AI) as the technology proliferates. While there are few state laws currently that address AI, state AGs have indicated that they can utilize privacy and consumer protection laws to regulate it. The AGs have focused on how AI systems utilize personal identifying information, facilitate fraud using deepfakes, and perpetrate bias and discrimination in decision-making processes.

A bipartisan group of AGs sent a letter to the Federal Communications Commission warning of potential fraud where AI is used to imitate human voices in telemarketing campaigns.

Massachusetts AG Andrea Joy Campbell issued an advisory detailing how companies can potentially violate the Massachusetts Consumer Protection Act by misrepresenting the reliability of an AI system or falsely advertising the quality of AI systems. The advisory also warns that anti-discrimination laws may be implicated if AI makes decisions based on legally protected characteristics.

Colorado became the first state to enact a law regulating the use of AI by requiring AI developers to use “reasonable care” to protect consumers from any known or foreseeable risks of “algorithmic discrimination.” The Colorado AG will have exclusive enforcement authority with the ability to seek up to $20,000 in civil penalties when the law takes effect on February 1, 2026.

CONSUMER FINANCIAL SERVICES

From Connecticut to California, AGs have taken diverse and impactful actions to regulate financial practices. Connecticut expanded its AG’s authority to enforce Dodd-Frank provisions, granting independent subpoena power over out-of-state banks. This move aligns Connecticut with other states and may influence national banking trends.

Minnesota passed key provisions of the Debt Fairness Act. The bill bans automatic transfer of medical debt to spouses, prohibits reporting medical debt to consumer reporting agencies, and caps garnishment levels based on income.

New York AG Letitia James has been particularly active, filing a lawsuit against Yellowstone Capital for alleged predatory lending practices targeting small businesses. In a separate case, James secured a $77 million judgment against three merchant cash advance companies for alleged exploitative lending practices.

Massachusetts reached a $1.8 million settlement with student loan servicer Nelnet over alleged faulty notices regarding income-driven repayment plans.

These actions demonstrate state AGs’ continued focus on consumer protection in financial services, with

particular emphasis on predatory lending, debt collection practices, and student loan servicing.

ENVIRONMENTAL AND ENERGY

Developments in the environmental and energy sectors have focused on emissions, electric vehicle regulation, plastics, and climate change.

Vermont became the first state to pass a law requiring fossil fuel companies to pay for climate change damages. The law, modeled after the federal Superfund program, targets companies responsible for more than one billion metric tons of greenhouse gas emissions.

California issued petitions to enforce subpoenas against a lobbying group and a trade association connected with the plastics industry. The state sought documents related to the feasibility of plastic recyclability and a trade association-funded study. Both organizations filed lawsuits, claiming that the subpoenas violated their First Amendment rights. Further, after the U.S. General Services Administration proposed an amendment to reduce single-use plastic packaging in federal procurements, 11 AGs supported the rule in a letter, while also suggesting modifications to enhance its impact.

Republican AGs have been aggressive in taking action against administrative rulemaking. For instance, Republican AGs sued the U.S. Environmental Protection Agency (EPA) to block a Biden-Harris administration rule requiring fossil fuel-fired power plants to reduce greenhouse gas emissions by 90% by 2032, arguing that the rule exceeded the EPA's statutory authority. Democratic AGs intervened to defend the EPA rule, arguing that blocking it would harm the environment and public health. Concurrently, 17 states sought to block California's Advanced Clean Fleets regulations, which mandate the phase-out of internal-combustion trucks in favor of electric trucks.

In June, Virginia Governor Glenn Youngkin announced that Virginia would no longer comply with California's electric vehicle mandate, opting instead for less stringent federal guidelines. The EPA's new federal emissions guidelines for model years 2027 and beyond are less stringent than California's and do not completely phase out gas-powered vehicles.

MARKETING AND ADVERTISING

The first half of 2024 saw significant regulatory action on junk fees, telemarketing, and social media.

Regarding alleged junk fees, California's Senate Bill 478, effective July 1, mandates transparent pricing by prohibiting advertisements that exclude mandatory fees, exempting only taxes, postage, and legally required fees. At least 10 other states are advancing similar regulations to empower state AGs with enforcement authority.

Similarly, a coalition of 19 state AGs supported the Federal Trade Commission's (FTC) proposed rule to curb unfair or deceptive fees, emphasizing the need for businesses to present clear total costs upfront. The focus on transparency seeks to prevent allegedly misleading low-price advertisements that later reveal hidden charges.

New telemarketing regulations have emerged in several states. Maryland's "Stop the Spam Calls Act of 2023," effective January 1, requires prior express written consent for autodialed calls, along with other restrictions. Maine's amendment, effective July 16, mandates scrubbing call lists against the Federal Communication

Commission's reassigned number database. Georgia and Mississippi have also updated their laws, allegedly enhancing consumer protection against unsolicited calls.

State AGs are increasingly focusing on the impact of social media on youth. Florida's AG urged Congress to hold Big Tech accountable for child safety, while California introduced bills aimed at protecting youth from social media addiction and ensuring data privacy. Nevada filed a lawsuit against social media platforms for allegedly designing features to addict children, reflecting a growing trend of state-level actions to safeguard children online.

Finally, state AGs continue to actively enforce against deceptive advertising. Notably, James sued JBS USA Food Company for allegedly making false sustainability claims of "Net Zero by 2040" when it had no viable plan to meet the commitment. Additionally, a coalition of 22 state AGs supported an FTC order against Intuit, alleging deceptive advertising practices related to its free TurboTax software.

PRIVACY

This year, states have significantly enhanced privacy protections and enforcement, emphasizing data privacy across the U.S. Several states, including Kentucky, Maryland, Minnesota, Nebraska, New Hampshire, New Jersey, and Rhode Island, enacted comprehensive privacy laws, granting consumers greater control over their personal data and imposing stringent requirements on businesses.

State AGs have been at the forefront of enforcing these laws, often imposing substantial penalties for noncompliance. For example, the California AG reached a significant California Consumer Privacy Act settlement with DoorDash, highlighting the importance of regular compliance reviews.

In May, a coalition of 14 state AGs sent a letter to congressional leadership opposing provisions of the proposed federal American Privacy Rights Act, advocating for federal laws that set a baseline for privacy protections while allowing states to enforce stricter standards. This tension underscores the complexity of the privacy regulatory landscape.

Some states, like Texas, have established dedicated teams within their AG offices to focus solely on privacy enforcement, indicating a shift toward more aggressive and specialized enforcement.

Overall, 2024 demonstrates a robust and evolving state-level approach to privacy regulation. Businesses must remain vigilant and proactive to ensure their compliance with these diverse and stringent state laws.

PHARMACEUTICALS AND HEALTH SCIENCES

Over the past six months, the pharmaceutical and health care sectors have experienced significant legal and regulatory actions, primarily driven by state AGs and federal agencies. These actions reflect a concerted effort to address antitrust violations, enforce false claims acts, and shape national health care policy.

One notable case involved Martin Shkreli, CEO of Vyera Pharmaceuticals, who faced a judgment upheld by the Second Circuit for violating federal and state antitrust laws related to the distribution of Daraprim, a drug used to treat toxoplasmosis. This case, brought by the FTC and a coalition of state AGs, underscores the ongoing collaboration between state and federal authorities in tackling drug pricing issues.

In California, AG Rob Bonta and Assembly Speaker Pro Tempore Jim Wood introduced a bill granting the AG oversight over private equity and hedge fund acquisitions of health care facilities. This legislation mandates pre-acquisition notice and authorizes the AG to impose conditions or deny transactions that may have anticompetitive effects or significantly impact health care access.

State AGs have also been active in enforcing false claims acts. North Carolina AG Josh Stein secured a $2.1 million settlement with Mako Medical Laboratories for submitting false claims to the state Medicaid program. Similarly, Connecticut AG William Tong's office pursued $44.5 million in damages against Assured Rx for alleged violations of the Connecticut False Claims Act and anti-kickback statute. These cases highlight the increasing enforcement of state false claims acts.

In another significant development, James reached a settlement with Northwell Health the state's largest health care network, related to allegations of misleading billing practices involving COVID-19 testing in which Northwell Health agreed to issue $400,000 in refunds to more than 2,000 affected patients and to pay $650,000 in penalties to the state.

Reflecting state AGs' interest in shaping national health care policy, Tennessee and Mississippi AGs led a coalition of 13 state AGs in a federal lawsuit challenging a new U.S. Department of Health and Human Services rule under Section 1557 of the Affordable Care Act. The rule re-establishes nondiscrimination protections based on gender identity. The AGs seek to vacate the rule, arguing it imposes undue requirements on covered entities regarding gender transition interventions.

Stephanie Kozol, Senior Government Relations Manager – State Attorneys General, also contributed to this newsletter.

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