



# New Guidance Issued on Federal Antitrust Regulations

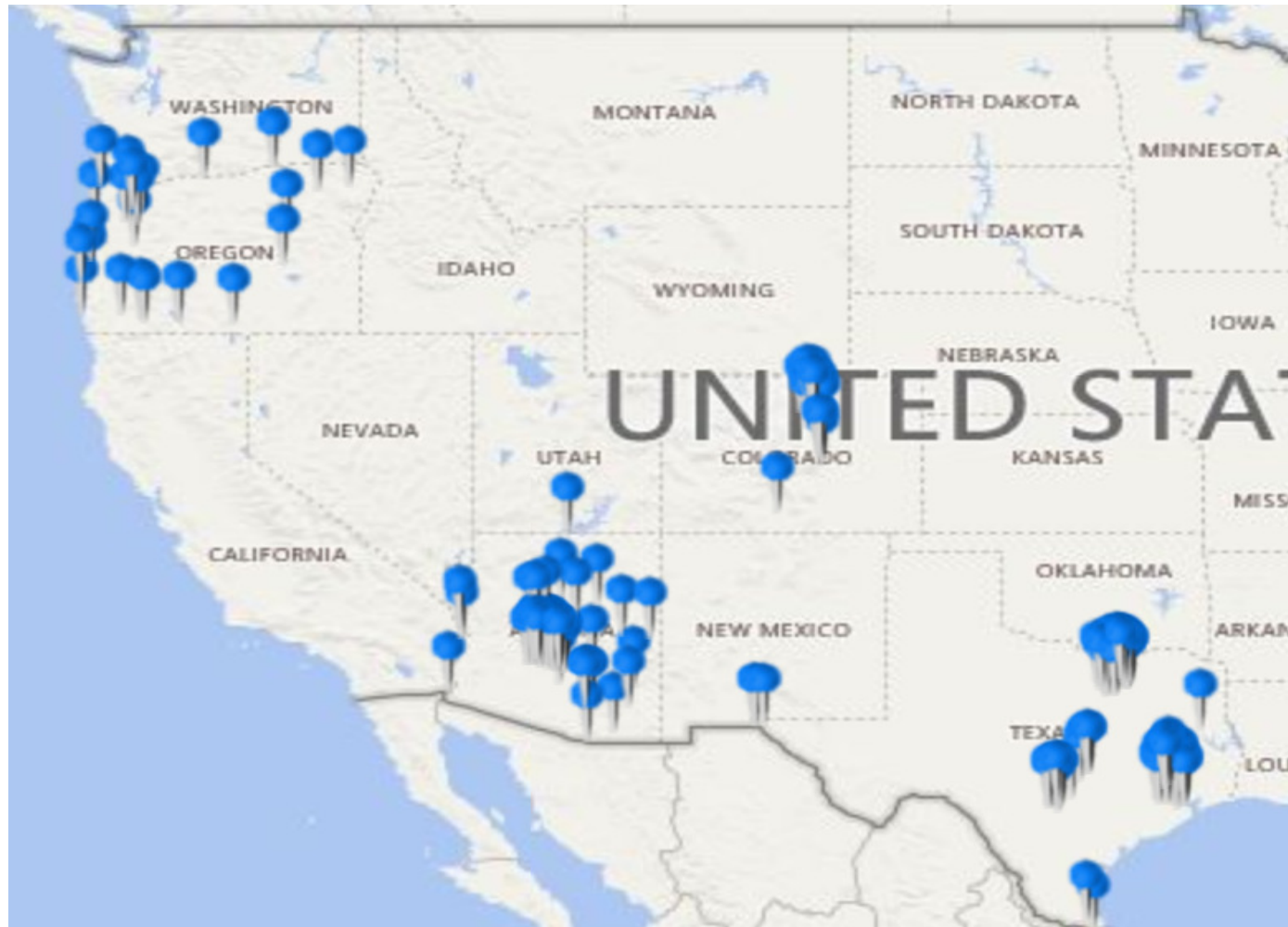
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# About WageWatch, Inc.

- Designing and conducting surveys for 16-years;
- Web-based compensation and benefits surveys;
- Unlimited customized reports during annual subscription;
- Cross Industry Report with lodging for 22 positions;
- Secure data access ensuring data privacy;
- DOJ “Safe harbor” compliance; and
- HR consultants: Knowledgeable and Experienced.

# Colorado Healthcare Salary Survey Update



## BACKGROUND

- ▶ U.S. Department of Justice (DOJ) and Federal Trade Commission (FTC) issued joint guidance on **October 20, 2016** on Antitrust Laws relating to **employee hiring and compensation**
- ▶ Guidance focused on managers and human resource (HR) professionals responsible for **regulatory compliance** who have **ability to implement safeguards**
- ▶ DOJ intends to proceed criminally against “**naked wage fixing and no-poaching**” agreements
- ▶ Agencies noted that violators could be pursued **both civilly and criminally**

# NINE ANTITRUST **RED FLAGS** FOR EMPLOYMENT PRACTICES

(List not exhaustive, nor does presence of one indicate a violation)

- ▶ Agreement with another company on **Employee salary** or other terms of **compensation**
- ▶ Agreement with another company on **Solicit or hire** other company's employees
- ▶ Agreement with another company on **Employee benefits**
- ▶ Agreement with another company on **Terms of employment**
- ▶ Express to competitors that that you should **not compete too aggressively for employees**
- ▶ Exchange company-specific information about **employee compensation or employment with another company**
- ▶ **Participate in a meeting**, e.g., trade associations, in which above topics are discussed
- ▶ Discuss above topics with other companies **at social events or non-professional settings**
- ▶ Receive documents that contain **another company's internal data on employee compensation**

# SUMMARY

- ▶ DOJ and FTC caution employers about sharing **compensation information** with competitors; industry and trade groups sharing this information could be suspicious
- ▶ Exchanges are permissible in certain circumstances, e.g., M&A due diligence
- ▶ Methods to **share compensation information** that **conform to antitrust laws** include:
  - A **neutral third party manages exchange**
  - The exchange involves **information that is aged/older**
  - The information is **aggregated to protect source identity**
  - Sufficient sources have been aggregated to **prevent linkage of individual data to a specific source**