Compliancy Group
Achieve.Illustrate.Maintain.
Compliance Simplified

AOA excel
ENDORSED PARTNER

Industry leading Education

Today's Webinar

- **2017's HIPAA Onsite Audits: What to Expect and How to Pass**

Webinars

- Upcoming & past webinars: http://compliancy-group.com/webinar/

HIPAA Compliance Simplified

Agenda

- HIPAA Overview
- Common misunderstandings
- HIPAA Enforcement
- What causes a Audit?
- Real World Stories
- How do I protect my practice?

HHS Wall of Shame

	Name of Covered Entity	State	Covered Entity Type	Individuals Affected	Breach Submission Date	Type of Breach	Location of Breached Information
	St. Joseph's Hospital and Medical Center	AZ	Healthcare Provider	623	02/13/2017	Unauthorized Access/Disclosure	Electronic Medical Record
	Benesch, Friedlander, Coplan & Aronoff LLP	OH	Business Associate	1134	02/10/2017	Theft	Paper/Films
	Family Medicine East, Chartered	KS	Healthcare Provider	6800	02/03/2017	Theft	Desktop Computer
	Catalina Post-Acute Care and Rehabilitation	AZ	Healthcare Provider	2953	02/02/2017	Improper Disposal	Paper/Films
	Jeffrey D. Rice, O.D., L.L.C.	OH	Healthcare Provider	1586	02/02/2017	Theft	Paper/Films
	Vertiv Co. Health & Welfare Plan	OH	Health Plan	955	01/31/2017	Unauthorized Access/Disclosure	Paper/Films
	WellCare Health Plans, Inc.	FL	Health Plan	24809	01/27/2017	Hacking/IT Incident	Network Server
	Shiel Sexton	IN	Health Plan	710	01/27/2017	Unauthorized Access/Disclosure	Other
	Synergy Specialists Medical Group, Inc / Jay S. Berenter, DPM	CA	Healthcare Provider	589	01/27/2017	Hacking/IT Incident	Email
	Princeton Pain Management	NJ	Healthcare Provider	4668	01/27/2017	Hacking/IT Incident	Desktop Computer, Electronic Medical Record
	THE R.O.A.D.S. Foundation Inc. DBA R.O.A.D.S. Community Care Clinic	CA	Healthcare Provider	670	01/26/2017	Loss	Paper/Films
	MultiCare Health System	WA	Healthcare Provider	1249	01/26/2017	Hacking/IT Incident	Email
	Roper St. Francis Healthcare	SC	Healthcare Provider	576	01/24/2017	Loss	Other Portable Electronic Device
	Stephenville Medical & Surgical Clinic	TX	Healthcare Provider	75000	01/23/2017	Unauthorized Access/Disclosure	Desktop Computer
	Multnomah County	OR	Healthcare Provider	1700	01/20/2017	Unauthorized Access/Disclosure	Email
	Wonderful Center For Health Innovation	CA	Healthcare Provider	3358	01/20/2017	Theft	Laptop
	Covenant Medical Center, Inc.	MI	Healthcare Provider	6197	01/20/2017	Unauthorized Access/Disclosure	Electronic Medical Record
	Associated Catholic Charities Incorporated	MD	Healthcare Provider	1145	01/20/2017	Unauthorized Access/Disclosure	Email
	TriHealth, Inc.	OH	Healthcare Provider	1126	01/19/2017	Unauthorized Access/Disclosure	Network Server, Paper/Films

Based on HHS Breach Portal: Breaches Affecting 500 or More Individuals, "Type of Breach" https://ocrportal.hhs.gov/ocr/breach/breach_report.jsf

HHS Wall of Shame

Name of Covered Entity	State	Covered Entity Type	Individuals Affected	Breach Submission Date	Type of Breach	Location of Breached Information
Massachusetts Eye and Ear Infirmary	MA	Healthcare Provider	1076	01/08/2010	Theft	Other
Children's Eyewear Sight	CA	Healthcare Provider	1030	01/11/2015	Theft	Desktop Computer
Eye Institute of Corpus Christi	TX	Healthcare Provider	43961	02/26/2016	Theft	Electronic Medical Record
EyeCare of Bartlesville	OK	Healthcare Provider	4000	03/13/2015	Hacking/IT Incident	Desktop Computer, Network Server
Massachusetts Eye and Ear Infirmary	MA	Healthcare Provider	3594	04/20/2010	Theft	Laptop
Oakland Vision Services, PC	MI	Healthcare Provider	3000	05/03/2012	Hacking/IT Incident	Network Server
Southeast Eye Institute, P.A. dba eye Associates of Pinellas	FL	Healthcare Provider	87314	05/05/2016	Hacking/IT Incident	Network Server
University of Houston for UH College of Optometry	TX	Healthcare Provider	7000	05/08/2012	Hacking/IT Incident, Unauthorized Access/Disclosure	Network Server
Silicon Valley Eyecare Optometry and Contact Lenses	CA	Healthcare Provider	40000	05/13/2010	Theft	Network Server
Associates in EyeCare, P.S.C.	KY	Healthcare Provider	971	05/16/2016	Theft	Laptop, Other Portable Electronic Device
Gulf Breeze Family Eyecare, Inc	FL	Healthcare Provider	9626	06/17/2013	Theft, Unauthorized Access/Disclosure	Desktop Computer, Electronic Medical Record, Email, Network Server, Paper/Films
Cefalu Eye-Tech of Green, Inc.	OH	Healthcare Provider	850	07/14/2016	Unauthorized Access/Disclosure	Electronic Medical Record
Ferris State University - MI College of Optometry	MI	Healthcare Provider	3947	10/11/2013	Hacking/IT Incident	Network Server
EnvisionRx	OH	Business Associate	540	10/23/2015	Unauthorized Access/Disclosure	Paper/Films
Indiana University School of Optometry	IN	Healthcare Provider	757	10/25/2011	Theft	Network Server
Visionworks Inc.	TX	Health Plan	74944	11/10/2014	Loss	Network Server
REEVE-WOODS EYE CENTER	CA	Healthcare Provider	30000	11/15/2014	Theft	Network Server
Visionworks Inc.	TX	Health Plan	47683	11/21/2014	Theft	Network Server
True Vision Eyecare	OH	Healthcare Provider	542	11/21/2014	Theft	Laptop
Robbins Eye Center PC	CT	Healthcare Provider	1749	11/28/2012	Theft	Desktop Computer

Based on HHS Breach Portal: Breaches Affecting 500 or More Individuals, "Type of Breach" https://ocrportal.hhs.gov/ocr/breach/breach_report.jsf

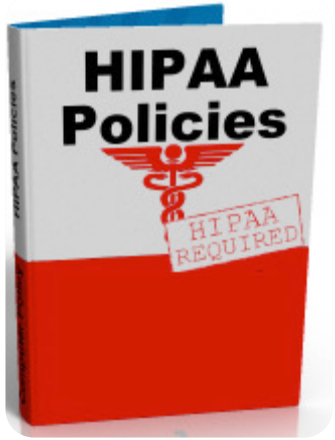
Are YOU HIPAA Compliant?

We are HIPAA compliant…

Risk Assessments

- I had an expensive Security Risk Assessment done
- Am I HIPAA compliant?

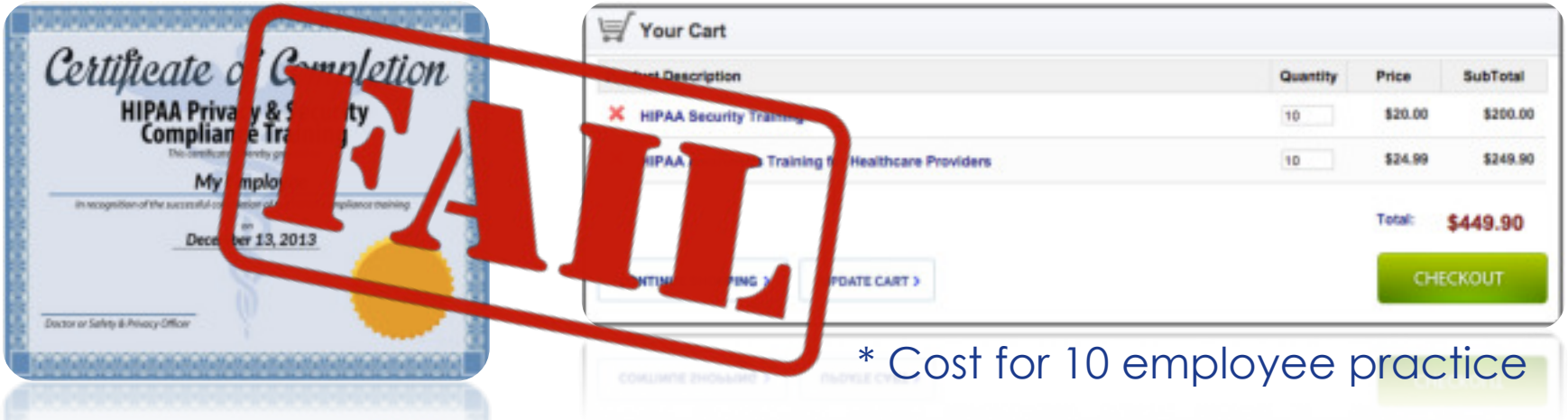
Policies & Procedures



- I have a Manual, I am compliant "right"?

Workforce Training

- I paid for my employees HIPAA training, I am compliant.



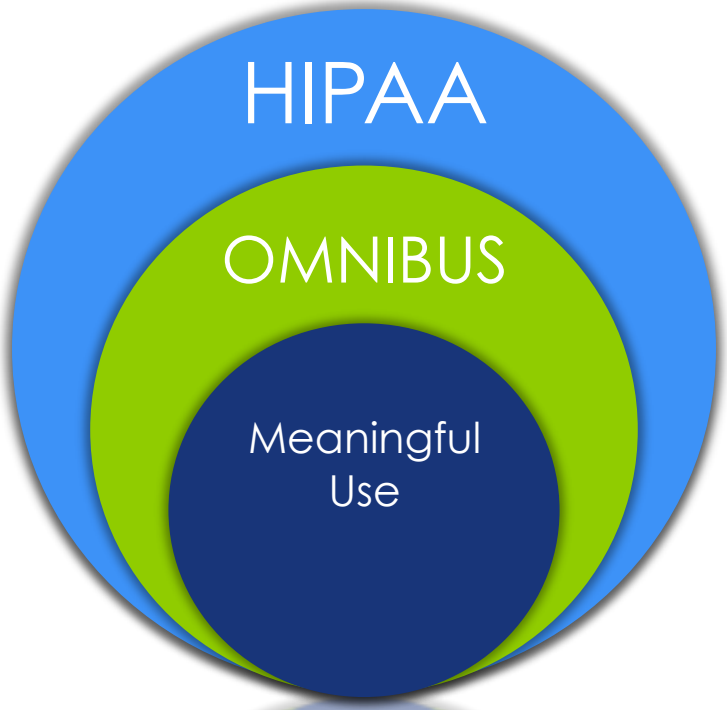
* Cost for 10 employee practice

Avoidable Breach

- Who: Anchorage Community Mental Health Services (ACMHS) - **Nonprofit** org. **(Alaska)**
- What: **Malware** caused breach of unsecured ePHI
- Why: *"ACMHS had adopted policies and procedures in 2005, but these **policies and procedures were not followed and/or updated**."* ACMHS could have **avoided** the breach (and not be subject to the settlement agreement), if it had followed its own policies and procedures
- Settlement: **$150,000 & CAP (Corrective Action Plan)** (12/2014)

What is HIPAA Compliance and what is NOT

- **Compliance vs. Security**
  - Fines vs. Risk
- **HIPAA/HITECH**
  - Protect patient confidentiality while furthering innovation and patient care
  - Privacy Rule and Security Rule
- **Omnibus**
  - Business Associates must be HIPAA compliant
  - Covered Entities must have BAAs
    - Conduct Due Diligence
  - Breach Notification Rule
- **Meaningful Use**
  - Accelerate adoption of EHR (electronic Health records)



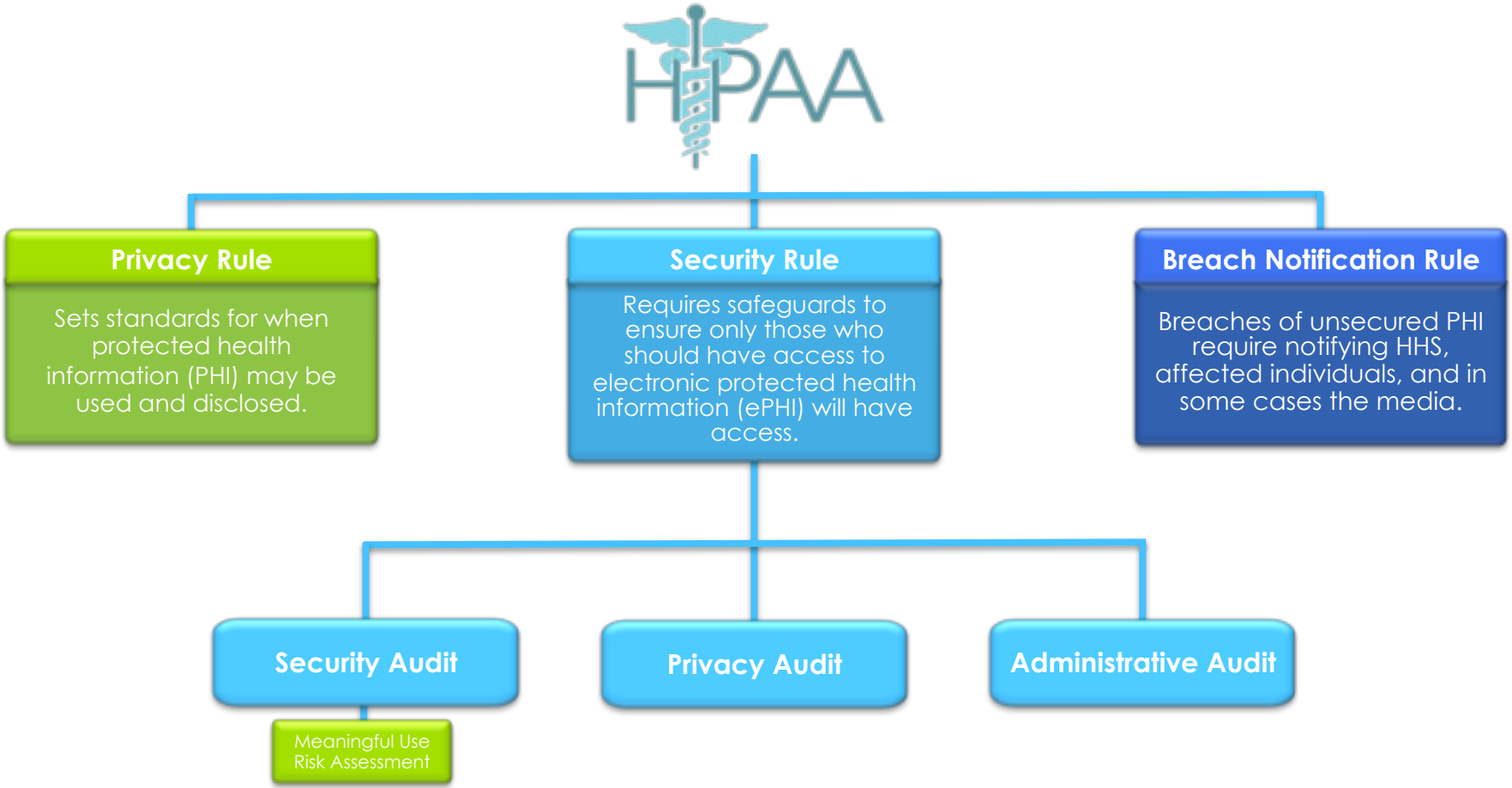
Compliance vs. Security

- Audits
  - Security, Privacy, and Administrative
- Gap Identification
- Remediation
- Policies & Procedures
- Employee Training & Attestation
- Business Associate Management
  - BA Agreements & Audit
- Incident Management

- Security Risk Analysis
  - Penetration Testing
  - Vulnerability Scan
- Network Security
- Managed Services
- IT Consulting
- Cloud Services

Security Risk Assessment

FINES → **REPUTATION** ← RISK



What Information Does HIPAA Protect?

PHI may include any of the following:

- Names
- Addresses
- Dates of Service
- Telephone Numbers
- Fax Numbers
- Email Addresses
- Social Security Numbers
- Medical Record Numbers
- Health Plan Beneficiary Numbers

- Account Numbers
- Certificate/License Numbers
- Vehicle identifiers/Serial Numbers
- Device identifiers and serial numbers
- Web Universal Resource Locators (URLs)
- Internet Protocol (IP) address numbers;
- Biometric identifiers
- Full Face Photos or Videos
- Any other unique identifying number, characteristic, or code

Omnibus Rule

- Business Associates:
  - Direct liability by function
  - Directly liable for violations
  - Must be HIPAA Compliant (Security Rule)
    - **Technical**, **Administrative, & Physical** Safeguards
- Covered Entities:
  - Compliance with Privacy Rule
  - Must have BAAs (Business Associate Agreements)
  - Conduct **Due Diligence**
  - for the CE
- Contracting with subcontractors
  - BA liability flows to all subcontractors

"I heard the new HIPAA Omnibus Rules are a whole lot tougher on business associates."

The Need For BAAs

- Who: Raleigh Orthopaedic (North Carolina)
- What/Why: 17,300 patients affected
  - Handed over PHI to potential business partner without first executing a **business associate agreement**.
- Settlement: **$750,000 & CAP** (4/20/16)

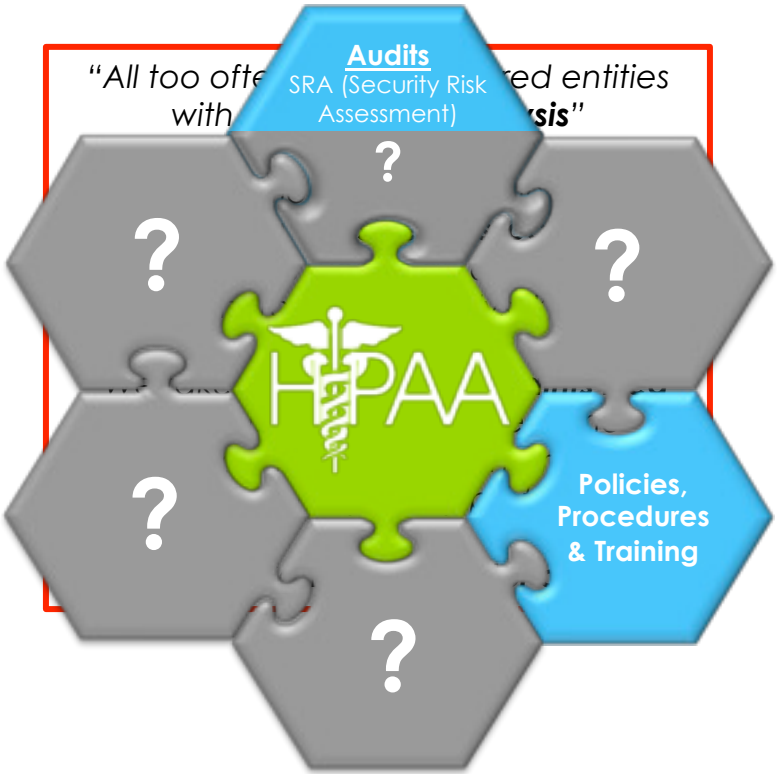
"HIPAA's obligation on covered entities to obtain **business associate agreements** is more than a mere check-the-box paperwork exercise," said **Jocelyn Samuels, Director of OCR**. "It is critical for entities to know to whom they are handing PHI and to obtain assurances that the information will be protected."

http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/raleigh-orthopaedic-clinic-bulletin/index.html

Why Should I Worry About HIPAA?

HIPAA is the Law

- **Current market solutions often only address *pieces* of compliance**
- **Enforcement is on the rise ↑**
  - Record fines levied: ***400% increase***
    - **$6.2 Million** in 2015
    - **$24 Million** in 2016
    - **$11.4 Million** so far in 2017*
  - Three prison sentences
  - Medical license revoked
  - State Attorney General levying fines



http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/index.html

HIPAA Enforcement

- **$24 Million** in 2016 – 400% increase
- **$11.4 Million** so far in 2017

*"All too often we see covered entities with a **limited risk analysis**"*

*"Organizations must have in place compliant **business associate agreements** as well as an accurate and thorough risk analysis"*

*"We take seriously **all complaints filed by individuals**, and will seek the necessary remedies to ensure that patients' privacy is fully protected."*

- Jocelyn Samuels, Director of OCR

- **Three** Prison Sentences
- Medical License **Revoked**
- **State Attorney General** levying fines

The Seven Fundamental Elements of an Effective Compliance Program

Compliance according to HHS:

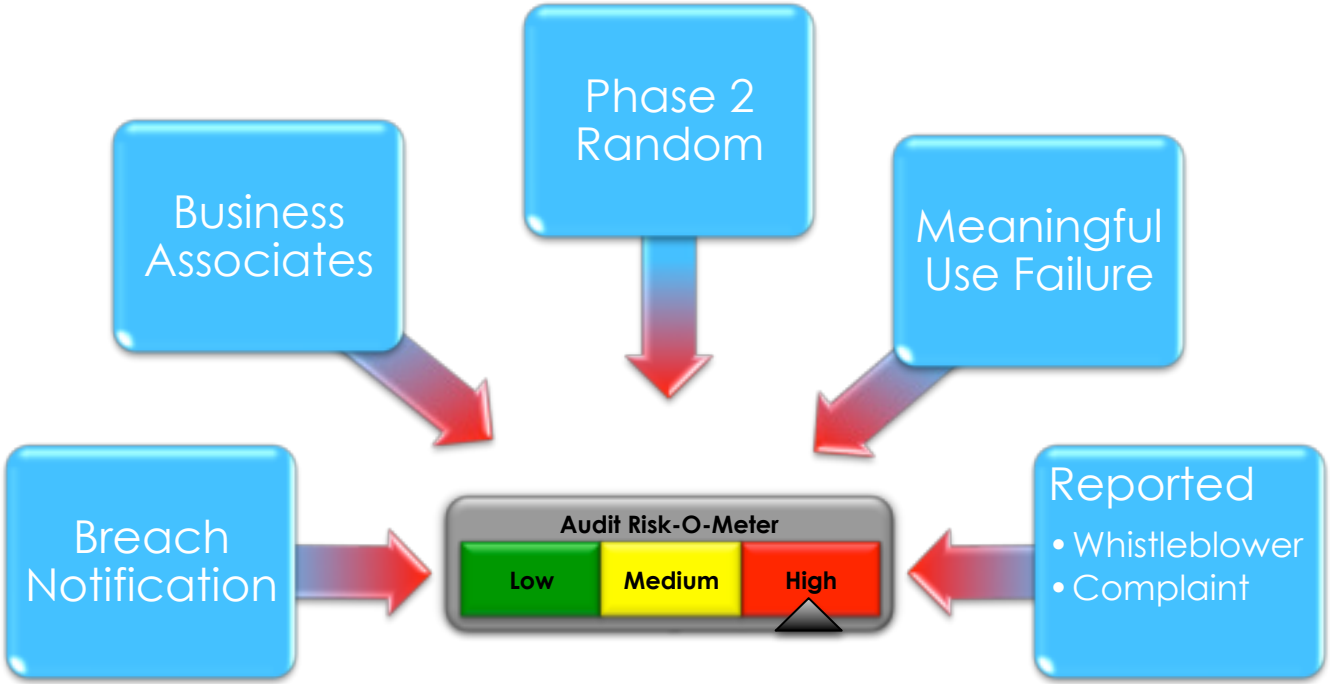
1. *Implementing written policies, procedures and standards of conduct.*
2. *Designating a compliance officer and compliance committee.*
3. *Conducting effective training and education.*
4. *Developing effective lines of communication.*
5. *Conducting internal monitoring and auditing.*
6. *Enforcing standards through well-publicized disciplinary guidelines.*
7. *Responding promptly to detected offenses and undertaking corrective action.*

*Source HHS & OIG

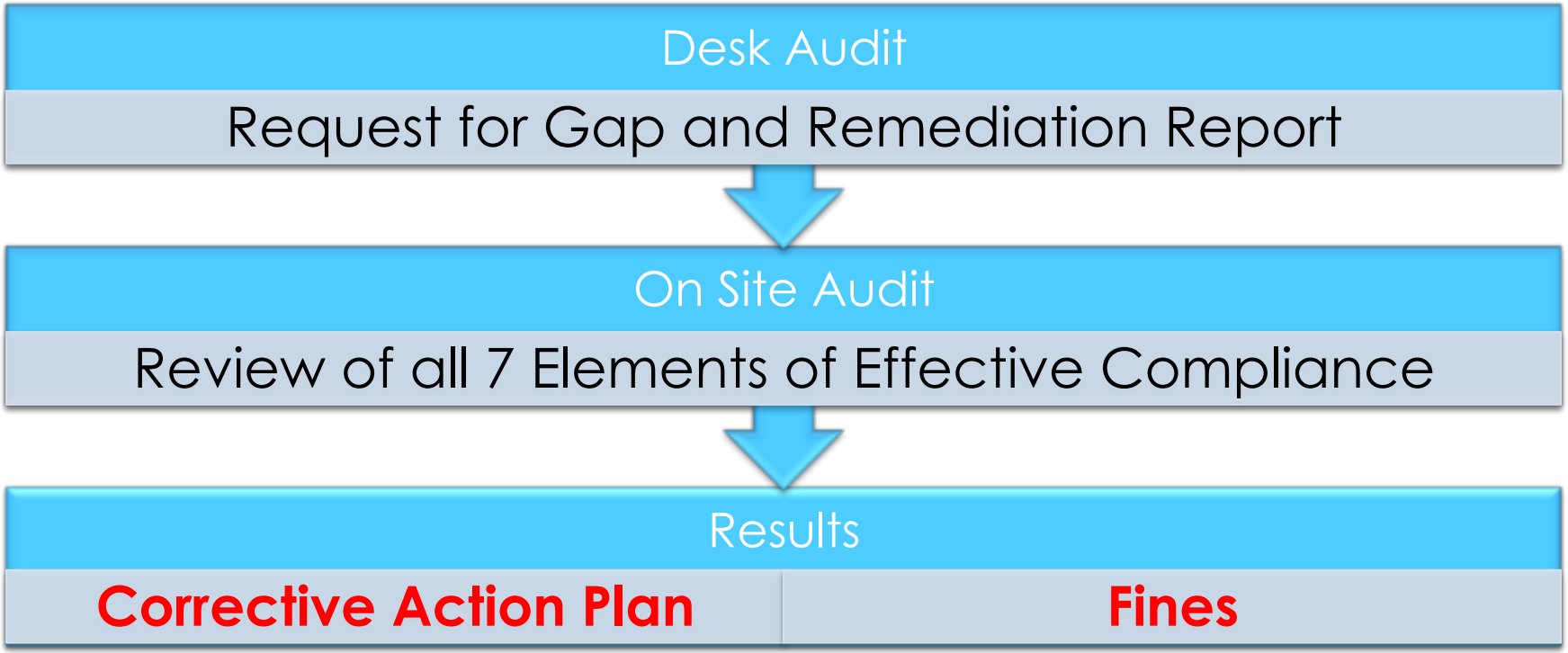
Random odds ….

- Winning Lotto — 1 in 175 Million
- Attacked by a shark — 1 in 11.5 Million
- Hit by Lightning — 1 in 960,000
- Hole in One — 1 in 12,500
- Random HIPAA Audit — 1 in 10,000
- Meaningful use Audit — 1 in 10
- Breach-Related Audit — 1 in ?

Causes Of A HIPAA Audit



The Process Of An Audit



Risk Analysis is NOT Enough

- Who: OHSU (Oregon Health & Science University)
- What: Reports of **unencrypted laptops, stolen unencrypted thumb drive**, 1,361 patient records
- Why: Conducted **SIX** risk analysis in (2003, 2005, 2006, 2008, 2010, 2013) but did not address the widespread vulnerabilities**.** Also, lacked **policies & procedures.** Lack of **BAA.**
- Settlement: **$2.7 Million & CAP** (7/18/16)

*"From well-publicized large scale breaches and findings in their own risk analyses, OHSU **had every opportunity to address security** management processes that were insufficient. Furthermore, OHSU should have addressed the lack of a business associate agreement before allowing a vendor to store ePHI," said OCR Director Jocelyn Samuels. "This settlement underscores the importance of leadership engagement and why it is so critical for the C-suite to **take HIPAA compliance seriously**."*

http://www.hhs.gov/about/news/2016/07/18/widespread-hipaa-vulnerabilities-result-in-settlement-with-oregon-health-science-university.html

Improper Disclosure Of PHI

- Who: Feinstein Institute for **Medical Research**
- What: **Laptop stolen from car contained** (13,000 PHI) of research participants. **Password-protected but not encrypted**
- Why: Failed to reasonably safeguard PHI;
  - **Lacked policies & procedures** for ePHI access
  - **Failed to implement policies and procedures** to safeguard ePHI
- Ruling: **$3.9 Million & CAP** (3/17/16)

"***Research institutions*** *subject to HIPAA must be held to the* ***same compliance standards as all other HIPAA-covered entities****," said OCR Director Jocelyn Samuels. "For individuals to trust in the research process and for patients to trust in those institutions, they must have some assurance that their information is kept private and secure."*

Unauthorized Patient Testimonials

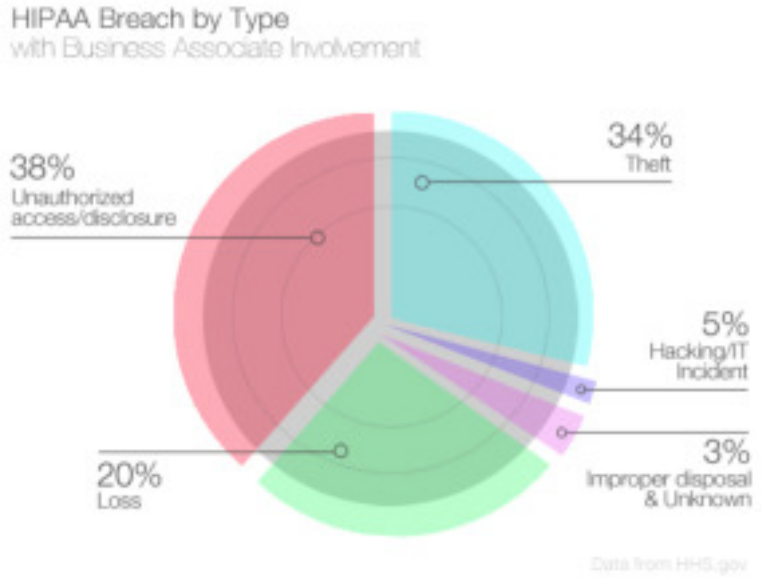
- Who: Complete P.T. Pool & Land **Physical Therapy**
- What: **Posted patient testimonials** (including names/ photos) on website without authorization.
- Why: Failed to reasonably safeguard PHI;
  - **Impermissibly disclosed PHI without authorization;**
  - **Failed to implement policies and procedures** to comply with HIPAA regarding authorization
- Ruling: **$25,000 & CAP** (2/16/16)

*"The **HIPAA Privacy Rule gives individuals** important **controls** over whether and how their protected health information is **used and disclosed for marketing** purposes," said OCR Director Jocelyn Samuels. "With limited exceptions, the Rule requires an individual's **written authorization** before a use or disclosure of his or her protected health information can be made for marketing."*

http://www.healthcareitnews.com/news/physical-therapist-pay-25000-over-unauthorized-patient-testimonials

But…It Probably Won't Happen To Me

- In a recent study, **more than half** of business associates (**59%**) reported a data breach in the last two years that involved the loss or theft of patient data. More than a quarter (**29%**) experienced two breaches or more.
- Of the 345 incidents reported by HHS and listed on their site under Breaches Affecting 500 or More Individuals, 74 involved a business associate (**21%**).



Fifth Annual Benchmark Study on Privacy & Security of Healthcare Data conducted by Ponemon Institute
http://media.scmagazine.com/documents/121/healthcare_privacy_security_be_30019.pdf

Tardy Breach Notification = 1st Fine Of 2017

- Who: Presence Health
- What: **Missing paper schedules** (836 PHI)
- Why: **Failed to notify within 60 days** of discovery:
  - **Media outlets**
  - **OCR**
  - **Individuals affected**
- Settlement: **$475,000 & CAP** (1/9/17)

*"Covered entities need to have a clear policy and procedures in place to respond to the **Breach Notification Rule's timeliness requirements**" said OCR Director Jocelyn Samuels. "**Individuals need prompt notice of a breach** of their unsecured PHI so they can take action that could help mitigate any potential harm caused by the breach."*

https://www.hhs.gov/about/news/2017/01/09/first-hipaa-enforcement-action-lack-timely-breach-notification-settles-475000.html

Solving The HIPAA Compliance Puzzle

We simplify compliance so you can confidently focus on your business.

Compliancy Group
855-85-HIPAA
855-854-4722
info@compliancygroup.com
www.CompliancyGroup.com

Marc Haskelson
President & CEO
855-854-4722 Ext 507
Marc@compliancygroup.com