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HIPAA Compliance Lessons and Breaches in 2022

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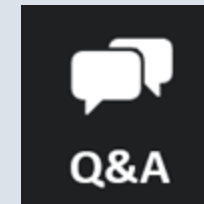
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- You must attend for 45 minutes to receive the certificate.

RECORDING

- A recording of this presentation will be emailed to everyone in 2 weeks' time.
- The recording will include the presentation slides.

HAVE A QUESTION?

- You are on mute. Communicate using the **Q&A box** in the webinar screen. Submit your questions for our speakers using the Q&A box.
- Presentation slides will be posted in the **chat box** of your webinar screen.





Liam Degnan
Director of Strategic Initiatives

PRESENTER

Liam has years of risk management experience that provides a unique outlook into the world of HIPAA compliance. For 5 years, he has helped advise healthcare decision-makers, medical and Psychology practitioners with their goal to simplify their compliance needs.

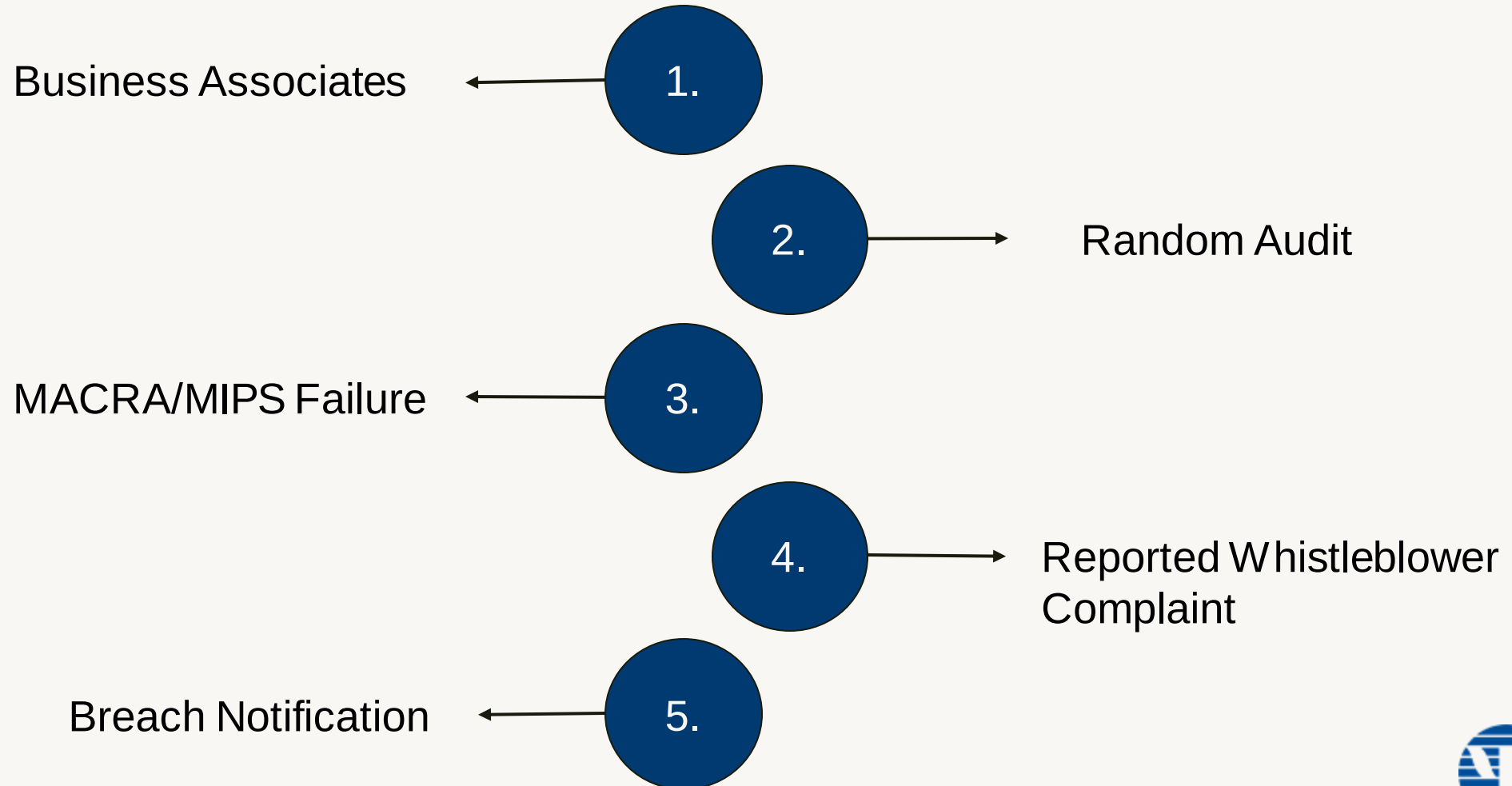
Seven Fundamentals of an Effective Compliance Program

1. Implement written policies, procedures, and standards of conduct
2. Designate a person to ensure they are followed
3. Conduct effective training and education
4. Develop effective lines of communication
5. Conduct internal monitoring and auditing
6. Enforce standards through well-publicized disciplinary guidelines
7. Respond promptly to detected offenses and undertake corrective action

HIPAA Compliance



What Causes a HIPAA Audit?



Fines in the Mental & Behavioral Health Space:

Who: Jacob & Associates

Why: Medical records were withheld, and patient was then asked to pay \$25 for their own files

Fine: \$28,000

Who: Danbury Psychiatric Consultants, LLC

Why: Withheld medical records because a patient had an outstanding balance

Fine: \$3,500



2022 Fines

Northcutt Dental-Fairhope
\$62,500

Why: Disclosed a patient's PHI to a campaign manager and 3rd-party marketing company

New England Dermatology and Laser Center
\$300,640

Why: Incorrectly discarded containers' labels with patients PHI

Dr. U. Philip Igbinadolor
\$50,000

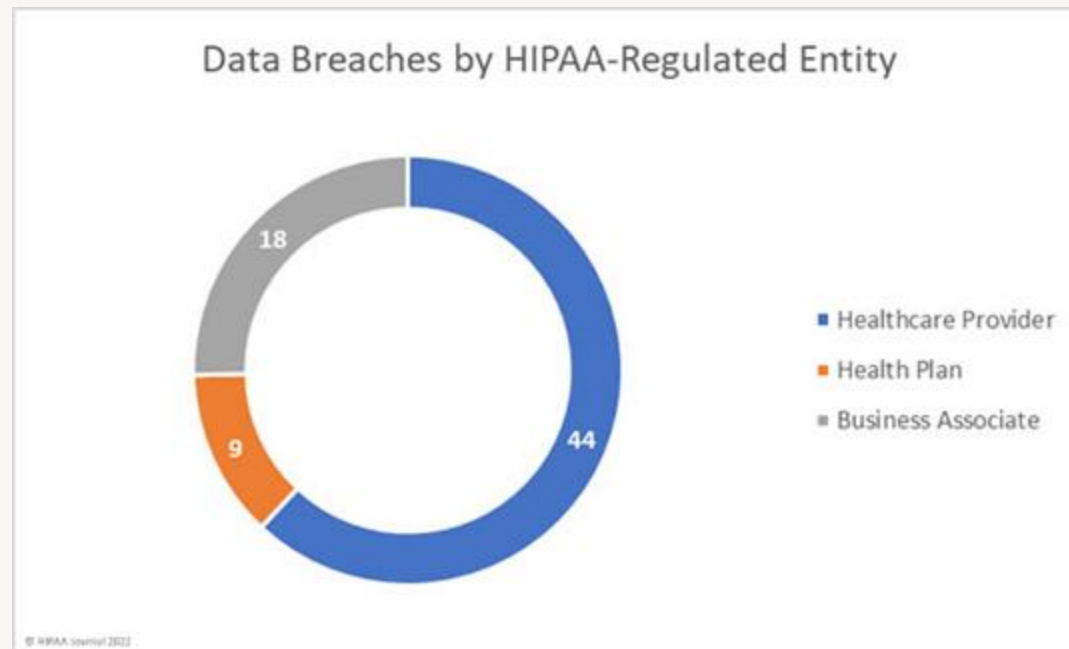
Why: Disclosed a patient's medical records online after they had left a negative review

Oklahoma State University
\$875,00

Why: Impermissible use of PHI, failure to conduct SRA, failure to perform an evaluation, failure to implement audit controls, failure to provide timely breach notification to affected individuals

OVERALL TOTAL as of 10/21: \$2,127,140

What Caused a Majority of Breaches in 2022?



Hacking/IT Incidents were reported the most out of any other breach

October was the worst month having 71 breaches reported and 6 million records breached

Breaches of 2022

*“Hacking continues to be the **greatest threat** to the privacy and security of individuals’ health information. In this case, a health plan did not stop hackers from roaming inside its health record system undetected for over a year which endangered the privacy of millions of its beneficiaries.”*

- Former OCR Director Roger Severino (Lifetime Healthcare Companies PR)



Compliance vs Security

Compliance

- Not a tech problem
- Affects everyone in the organization
- It's binary - you either are or aren't
- Mandated by law
- Technologically vague
- Requires ongoing management
- Impossible without security!

Security

- All about risk management
- Shades of gray
- Defined by risk profile
- Controlled by IT and personnel
- Constrained by budget
- Required in order to be compliant!



How to Protect Yourself from HIPAA Right of Access Fines

- ➡ Respect an individual's right to access and receive their own medical records
- ➡ Provide access to the records in a timely manner (within 30 days - if you're not able to meet that deadline seek an extension before time expires)
- ➡ Provide the individual with an easy means to request and pay for such records, where fees are allowed

**Tip: treat a Right of Access request as a customer service issue!*



Lessons from 2022 for Psychology Practices



ALL providers are at risk of being investigated for a HIPAA Violation:

- More than 65% of settlements in 2022 were small or solo practices



Not cooperating with an HHS investigation can increase the amount of the fine

- *ACPM Podiatry was issued \$100,000 fine for receiving two complaints for not providing requested medical records*



Keeping a log that tracks access requests shows the HHS that a provider is taking its Right of Access obligations seriously.

- *The privacy rule provides exemptions for therapy notes!*



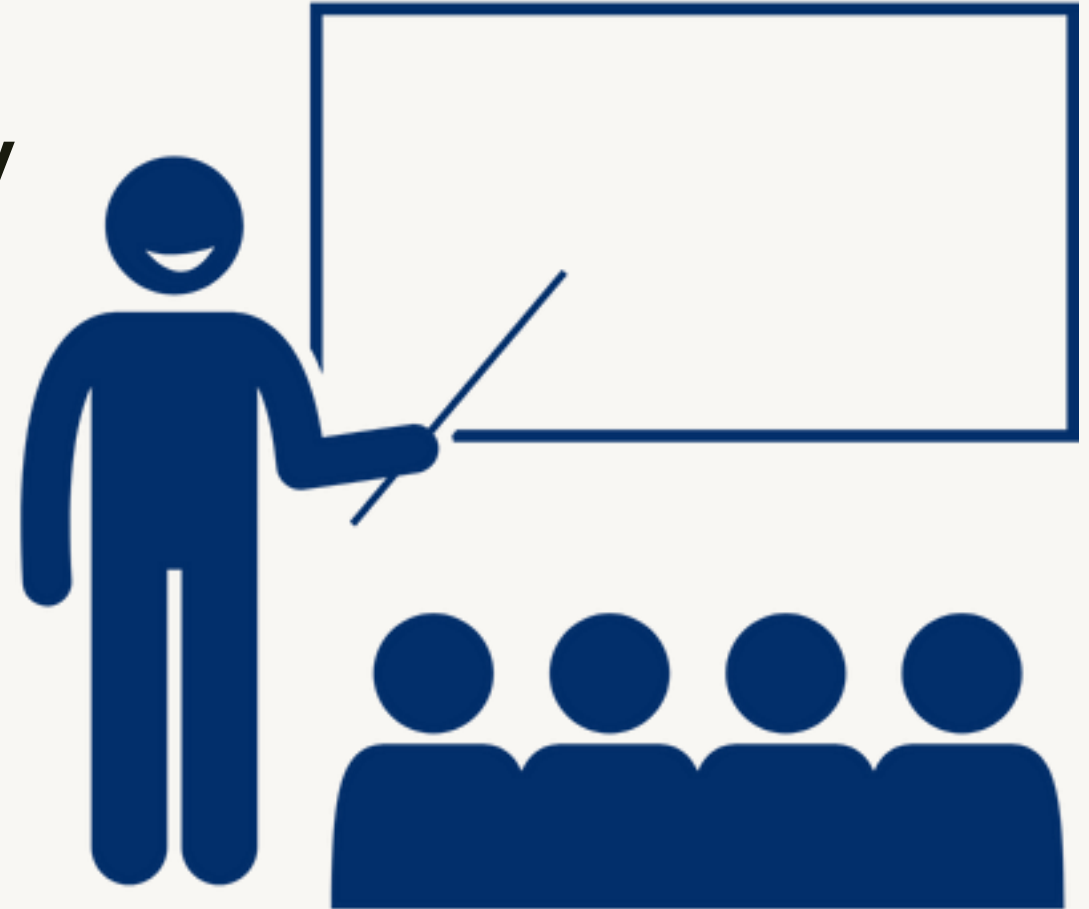
A patient may only be charged a “reasonable, cost-based fee” when requesting their own records for their own use



All providers need an Effective Compliance Program

- *Clear documentation of “Good Faith Effort” in the event of an audit is the only way to prevent a fine.*
- *Complete your annual Risk Analysis, and address the gaps identified.*

Predictions for the Psychology Industry in 2023



The Year of Right of Access

There will be a continued focus on the right of access of patients to their records

- There were 450% increase in Right of Access fines from 2019 to 2020.
- Right of Access fines have only continued to increase from 2021 and 2022.



<https://compliance-group.com/hipaa-right-of-access/>

Dobbs Decision

In the wake of the *Dobbs* decision, Health and Human Services will be putting more emphasis on responding to patient complaints that allege that providers have improperly used a patient's PHI without authorization.



<https://www.hipaajournal.com/hipaa-security-rule/>

Social Media Marketing & PHI

In the wake of the Facebook Pixel (an online tracking tool) news (providers were allegedly sharing PHI with Pixel without patients knowing about it), there will be greater HHS emphasis on ensuring that providers who use online tracking technologies, use them only as allowed by HIPAA.



<https://www.hhs.gov/hipaa/for-professionals/breach-notification/index.html>

AUDIENCE Q&A

FINAL THOUGHTS

- A recording will be emailed to you in 2 weeks. It will include the presentation slides.
- Take our survey immediately after the webinar has concluded.

THANK YOU!

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