



**Connecting
Healthcare[®]**
Engaging Patients[™]

HIPAA Success - Physician Education Series

Legislative Background

Your Faculty:

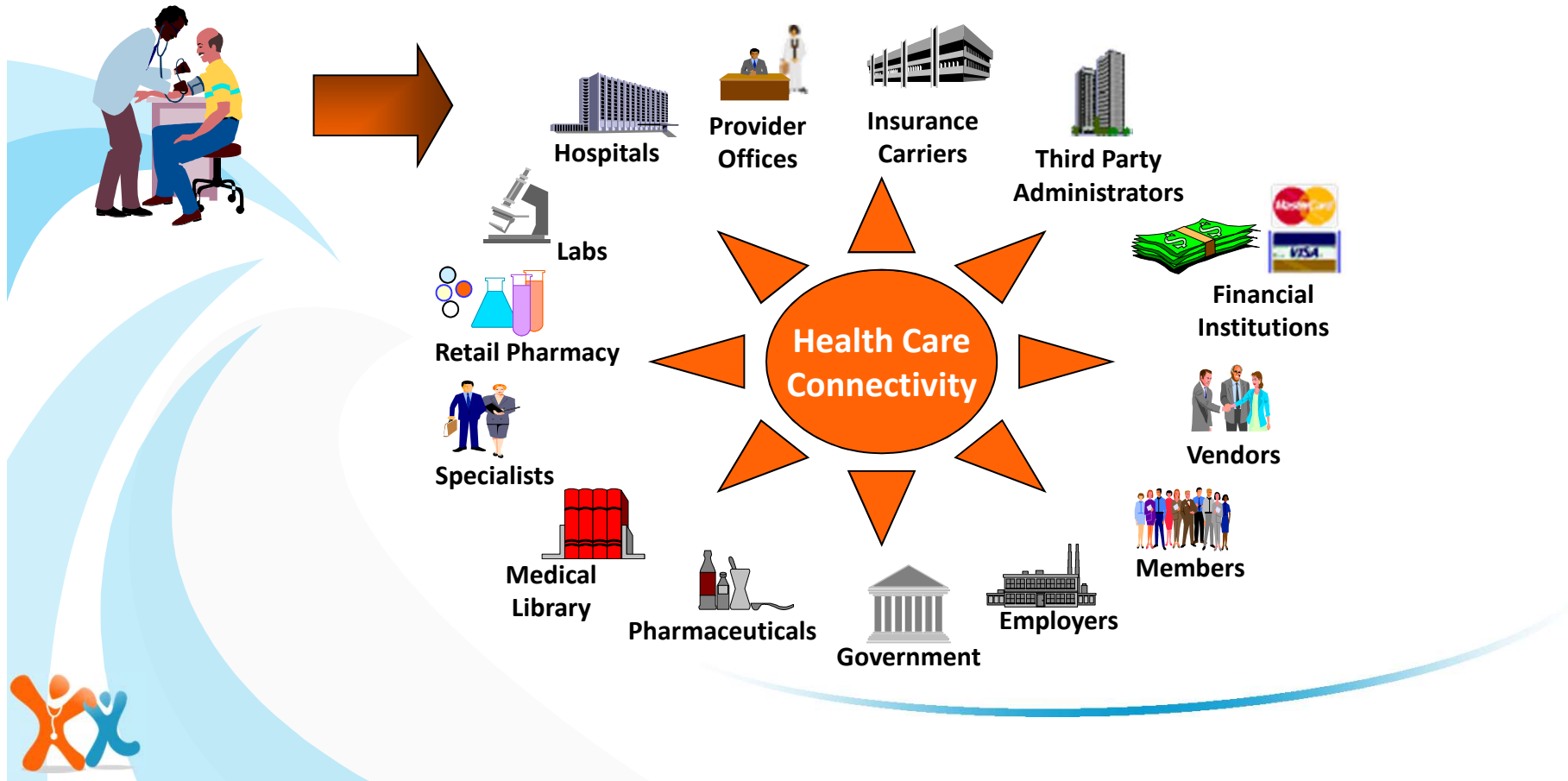
Walt Culbertson

- President and Founder, Connecting Healthcare®
- Host and Producer, Medical Update Show
- Served as Technical and Operations Lead, HIE Project Manager Florida Health Information Exchange
- Served as the State of Florida - Technical SME for the ONC State Health Policy Consortium, Southeast Regional HIT-HIE Collaboration (SERCH)
- Founding Executive Director, ePrescribe Florida and President, ePrescribe America
- Founding Chair of the Southern Healthcare Administrative Regional Process (SHARP), a regional collaborative workgroup alliance of private and public health care organizations and HHS, HRSA and CMS
- Founding Co-Chair of the CMS Sponsored Southern Insurance Commissioner Task Force, a regional collaborative workgroup alliance for State-level HIPAA Education
- Founding Security and Privacy Co-Chair for the Workgroup for Electronic Data Interchange (WEDi) Strategic National Implementation Process (SNIP)



Why HIPAA?

- Health Care delivery has evolved to require enormous administrative efforts across many organizations

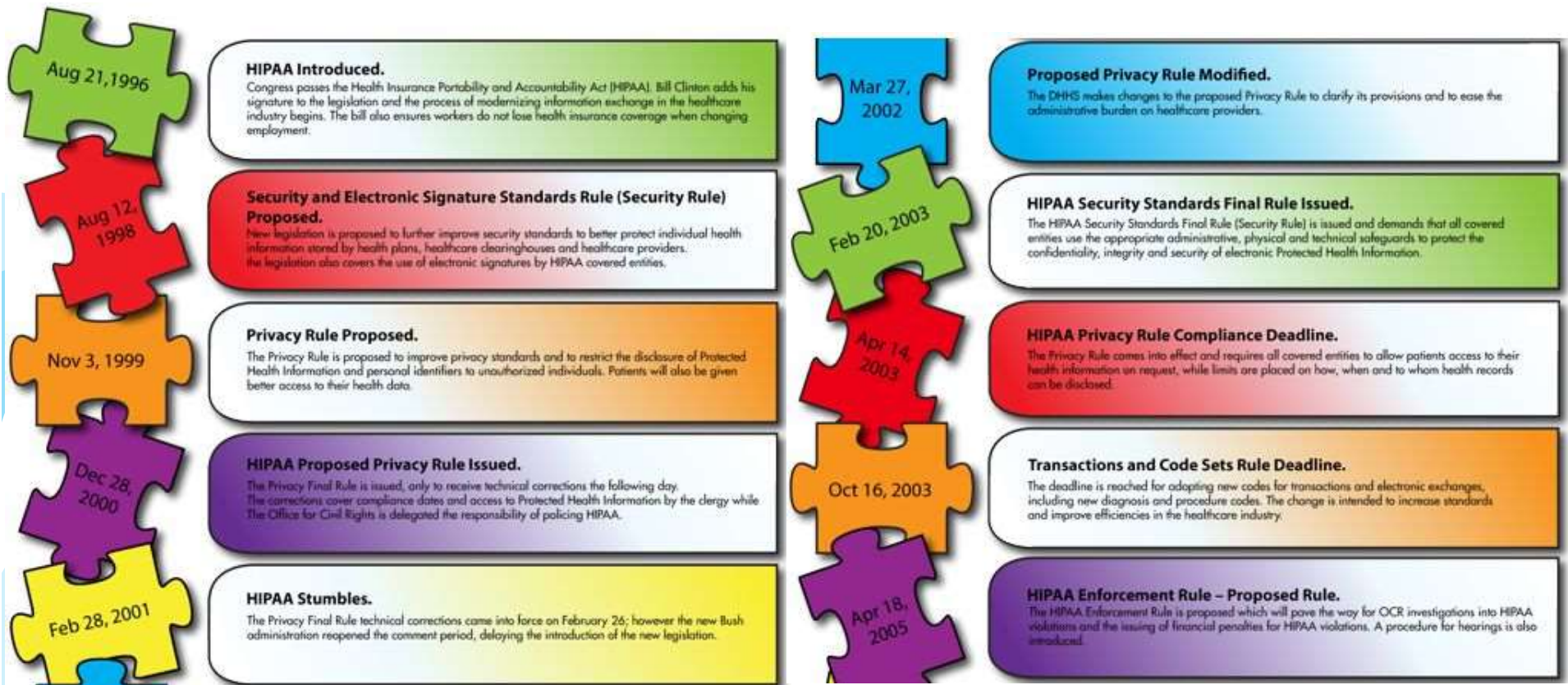


What is HIPAA?

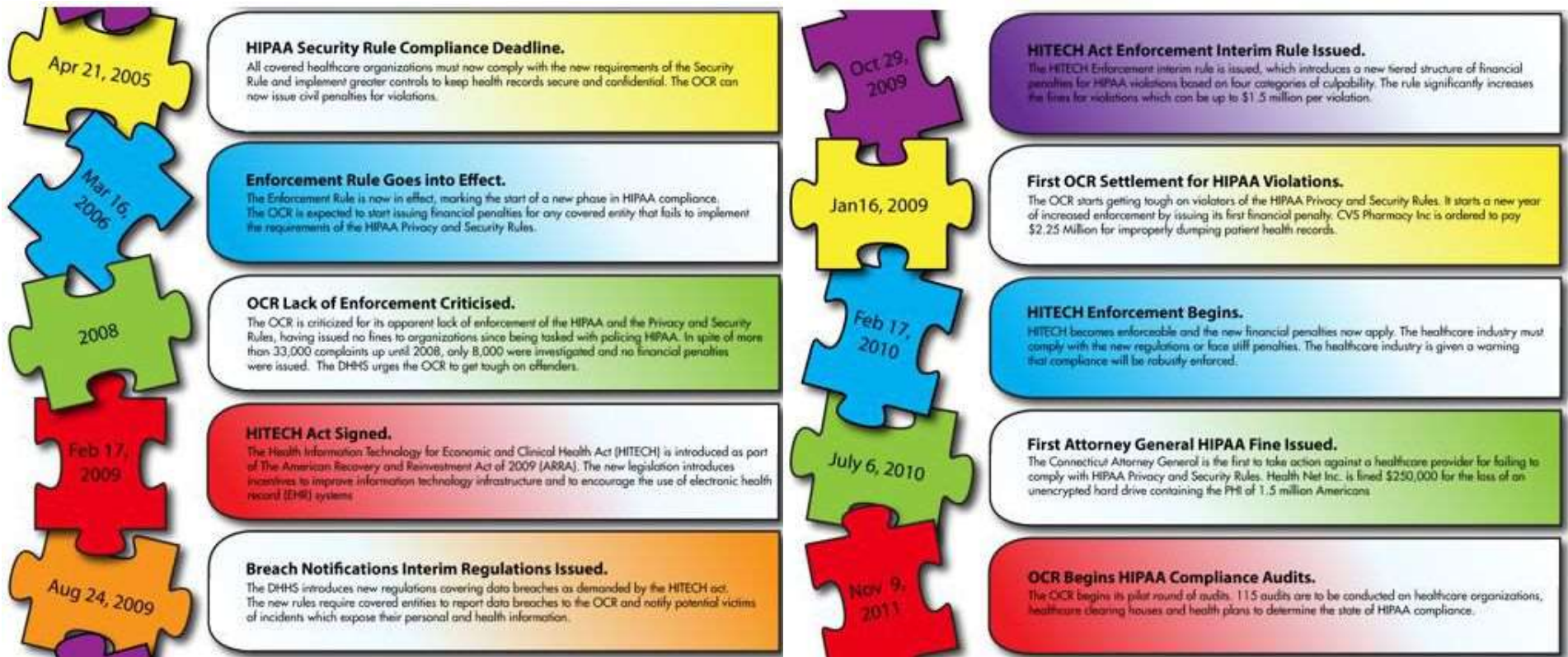
- **H**ealth **I**nsurance **P**ortability and **A**ccountability **A**ct
 - Congress passed law in 1996
 - Kennedy and Kasselbaum co-sponsored bill
 - First provisions finalized concerned portability of health care coverage



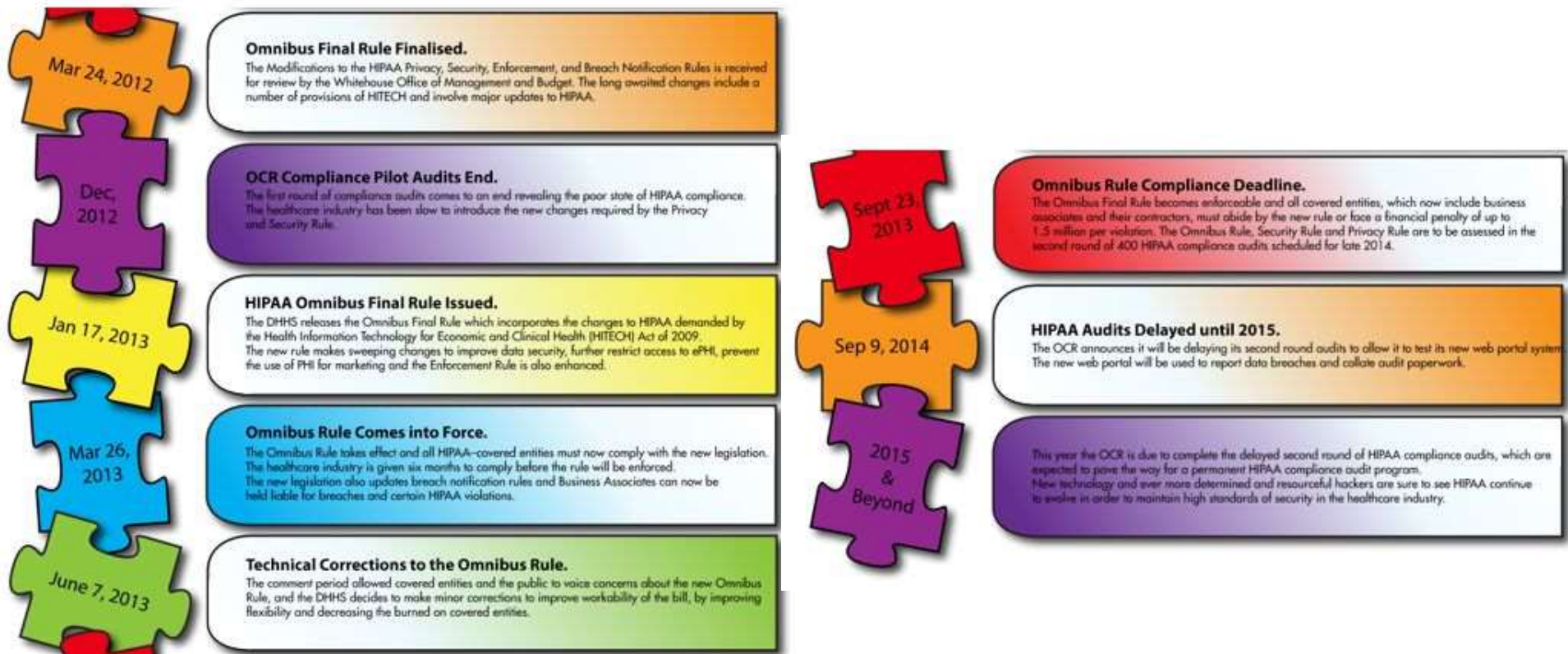
History of HIPAA Timeline 1996 - 2005



History of HIPAA Timeline 2005 - 2011



History of HIPAA Timeline 2012 - 2015



HIPAA Origin and Intent

- HIPAA was designed to:
 - Protect health insurance coverage for workers and their families when they change or lose their jobs
 - Prevent discrimination against employees and their families due to existing medical conditions



HIPAA Origin and Intent

- In trying to address these challenges, it became clear that Healthcare must standardize certain data:
 - Core Business Interactions and Code Sets used within the transactions
 - Key Identifiers such as the:
 - Patient identifier
 - Health plan identifier
 - Employer Identifier
 - Provider Identifier

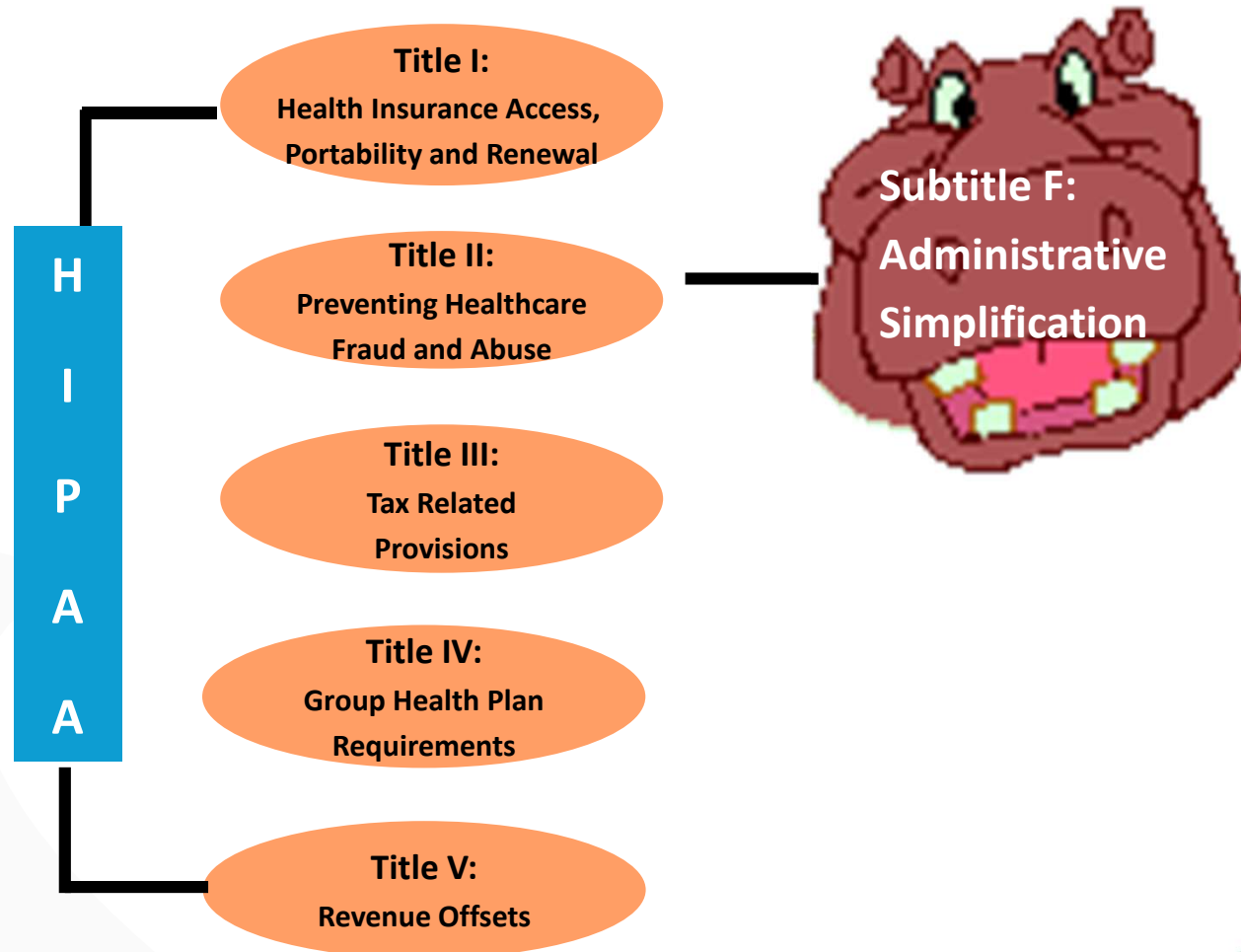


HIPAA Origin and Intent

- Also become clear that data must be securely and confidentially shared between insurers and providers
- This lead to rules being promulgated for:
 - Privacy
 - Security



HIPAA Components



HIPAA Provisions

- Group and Individual Insurance Reform
 - Portability of coverage, guaranteed issue and renewal
 - Limits on pre-existing exclusion provisions
- Tax-Related Health Provisions
 - Managed Spending Account (MSAs)
 - Long-term care insurance
 - Taxation of insurance benefits



HIPAA Provisions

- Fraud and Abuse
 - Medicare integrity, data collection, beneficiary incentive programs
 - Increased penalties, sanctions, and exclusions
 - Administrative Simplification (AS)



HIPAA Regulatory Process

The Department of Health and Human Services (DHHS) issues the regulations

- Publishes proposed rule in Federal Register
- Provides mechanisms for public comment
 - Usually 60 day time period
 - Reviews comments and revises rule



HIPAA Regulatory Process

DHHS Publishes final rule in Federal Register & notifies Congress

- Rule effective 60 days later (Final Comment Period)
- Mandatory compliance 24 months later (36 months for small plans with less than \$5 million in annual revenue)



Standards Maintenance Process

- Transactions maintained by industry groups
 - Establishes a new category of organization, The Designated Standard Maintenance Organization (DSMO)
 - Memorandum of Understanding from six organizations
 - Web site: <http://www.hipaa-dsmo.org>



Standards Maintenance Process

- Code sets maintained by owners
- Annual Review/Update Process
 - Public input
 - National Committee on Vital and Health Statistics
 - Regulations as needed



Penalties and Fines

- Non-Compliance with Requirements
 - \$100 per violation to a maximum of \$25,000 per requirement per year
 - The security rules contain many specific requirements and the addressing the application of HIPAA penalties



Penalties and Fines

- Wrongful Disclosure of Health Information

- Simple disclosure – fines up to \$50,000 and/or one year in prison
- Disclosure under false pretenses – fines up to \$100,000 and/or five years in prison
- Disclosure with intent to sell or use – fines up to \$250,000 and/or 10 years in prison



Assess All HIPAA Provisions

- While they were released in a staggered fashion, the HIPAA regulations are interdependent within the systems and operations of covered entities
- None of the provisions of Administration Simplification should be assessed nor remediated in a vacuum
- Later releases of the final rules will further effect changes already in progress as well as implemented solutions to meet earlier specifications



Remember - HIPAA is Not the only Law

- Issues will exist over preemption floor/ceiling
- Since HIPAA does not preempt all state laws, then HIPAA is not the only law of the land
- HIPAA preempts all contrary state laws, except where state laws are “more stringent” than HIPAA
- Explore industry standards. Assess how HIPAA will interplay with state requirements, focus on procedural issues for privacy and security policies and procedures



Gramm Leach Bliley

GLB Act provides protection for:

- Non-public personal information about individuals who obtain financial products or services for personal, family or household purposes
- Covers financial information not health care information



Gramm Leach Bliley Definition

Non-public Personal Information

- Includes any personally identifiable financial information provided by a customer or consumer to a financial institution to obtain a financial product or service
- Financial institution includes insurance companies and health plans



Gramm Leach Bliley Quick Summary

What GLB allows:

- Sharing of information with “affiliated” companies
- Sharing of information with “non-affiliated” companies ONLY following
 - **Notice** of a company’s information sharing practices AND
 - Providing an opportunity to customers to “opt out” of disclosures



Gramm Leach Bliley Who is covered?

- Financial institutions including insurance companies and health plans
 - State insurance authorities will enforce GLB for insurance companies and health plans – need to monitor laws in states where conduct business
 - DHHS: GLB may fall under HIPAA clauses regarding preemption – comply with GLB now and worry about preemption later



Gramm Leach Bliley When?

Compliance Date: July 1, 2001

- Some states have requirements that must meet prior to this date
- Cannot disclose information to non-affiliated companies unless have previously provided
 - Notice of disclosures
 - Allowed 30 day period following notice for individuals to “opt out” of disclosures



Gramm Leach Bliley What to Do?

- Conduct privacy audit
 - What financial information do you currently share with whom?
- Issue privacy notice
 - Allow time for individuals to opt out
- Modify systems to
 - Track “opt out” elections of individuals
 - Protect against unauthorized disclosure of non-public personal information





Have Questions?

Visit our Website,
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or give us a call!

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