Making the Move to Proactive Patient Privacy Monitoring

September 10, 2024

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Logistics

- All attendees in “Listen Only Mode”
- Please ask content related questions in Q&A
- Recording, final slides, resources will be shared within 48 hours
- Please take a few minutes to provide feedback via survey prompt at the end of this session

Agenda

- Introductions
- Overview of Patient Privacy Monitoring
- Common Challenges and Risks
- Patient Privacy Monitoring Trends
- Building and Managing an Effective Program
- Q+A

Introductions

About Your Presenters

Protenus

Presenter

Andrea Belmore

Director of Professional Services Consulting, Protenus

- Over 20 years of experience in privacy, compliance, internal audit, security and information technology and electronic health record software.
- Current Director of Protenus privacy services, working with our customers as a consultant and privacy program investigator
- Certified Healthcare Data Analyst (CHDA) and Healthcare Privacy and Security (CHDA) credentials from AHIMA
- Member of AHIMA HCCA/SCCE, AHIA, and IAPP

Clearwater

Presenter

Andrew Mahler, JD, AIGP, CIPP/US, CHC, CHPC, CHRC

Vice President, Consulting Services, Clearwater

- Over 10 years experience as a privacy, compliance, and research compliance program leader for complex health care systems, health plans, universities, and other organizations
- Former Investigator for the U.S. Department of HHS, Office for Civil Rights (OCR)
- Publishes and presents on topics including health law, healthcare compliance, data privacy and HIPAA, research compliance, third-party risk management, and cybersecurity practices
- Member of HCCA/SCCE, AHLA, IAPP, ABA, and others

Overview of Patient Privacy Monitoring

Since 2019, approximately half of all OCR resolution agreements found potential violations of requirements directly related to user access monitoring.

Time for a Poll!

Key Terms

- Patient privacy monitoring
- User access monitoring
- Snooping
- Proactive monitoring
- Reactive monitoring
- Behavioral analytics
- Machine learning

OCR Guidance – Monitoring

Examples of activities organizations should consider to reduce the chances of being a victim of cyber extortion include implementing robust audit logs and reviewing such logs regularly for suspicious activity.

OCR January 2018 Cybersecurity Newsletter

Covered Entities and Business Associates should appropriately review and secure audit trails, and use the proper tools to collect, monitor, and review audit trails. It is imperative to review audit trails regularly, both particularly after security incidents or breaches, and during real-time operations. Regular review of information system activity should promote awareness of any information system activity that could suggest a security incident or breach.

OCR January 2017 Cybersecurity Newsletter

Maintaining audit controls and regularly reviewing audit logs, access reports are important security measures, required by the Security Rule, that can assist in detecting and identifying suspicious activity or unusual patterns of data access.

Summer 2019 OCR Cybersecurity Newsletter

Recent Enforcement Activity

- Montefiore Medical Center, February 6, 2024
  - $4.75 million penalty + corrective action
  - *Montefiore discovered that from January 1, 2013 through June 30, 2013, one of its employees inappropriately accessed patient account information*
- Yakima Valley Memorial Hospital, June 15, 2023
  - $240,000 penalty + corrective action
  - *In May 2018, OCR initiated an investigation of Yakima Valley Memorial Hospital following the receipt of a breach notification report, stating that security guards working in the hospital's emergency department used their login credentials to access patient medical records*

Common Challenges and Risks

Typical Needs of a Healthcare Organization

- ✓ Proactive monitoring using technology/AI (instead of reports)
- ✓ Reactive monitoring (with investigation tools)
- ✓ Technology vs. manual review
- ✓ Comprehensive view of all EHR users' enterprise-wide
- ✓ Recommendations based on user activity within the client’s environment (risk)
- ✓ Escalation of cases with comprehensive documentation
- ✓ Training on the monitoring application, process, and policy requirements
- ✓ Board/leadership reporting
- ✓ OCR reporting
- ✓ Subject Matter Expertise

Traditional Approaches

Reactive Approach

- Invest only when required to do so by a 3rd party
  - Lenders
  - Investors
  - Regulators
  - Customers/Partners
- Cheaper in the short term
- Increased cost and risk due to lack of comprehensive program
- Can be terminally expensive in long run

Proactive Approach

- Hire and build program internally
- Leverage appropriate technology
- Assess and monitor program for risks (and successes)
- Regular reporting to leadership/board
- Internal collaboration and coordination

Patient Privacy Monitoring Trends

Breach Barometer Methodology

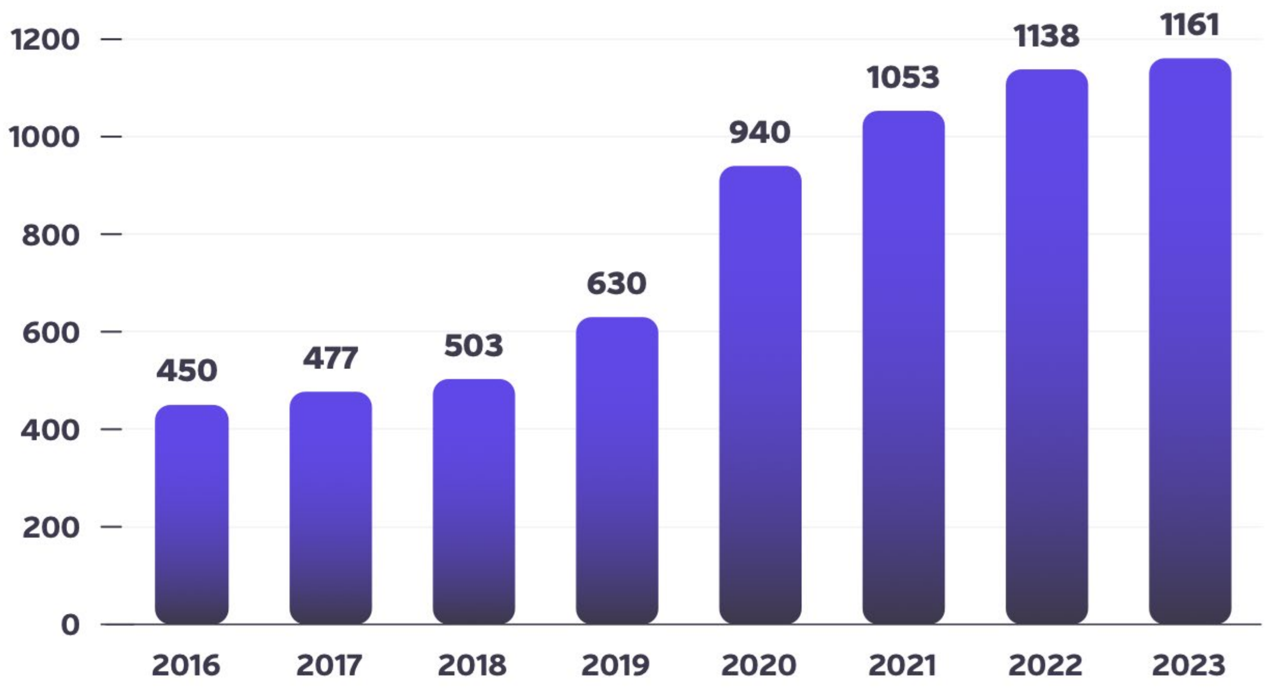
- Data reflects breaches involving 500 or more patient records reported to OCR/HHS up to and including the 2023 calendar year
- Also includes data breaches involving <500 records up to and including the 2022 calendar year
- Data also includes incidents from publicly available sources in the media or other publications
- Incidents included in the analyses for this report were compiled for Protenus by DataBreaches.net, with additional research and analyses provided by Protenus

Healthcare Organization – Privacy Trends

- Data Breach increase Year-over-year
- 3x increase since 2016

Figure 1.

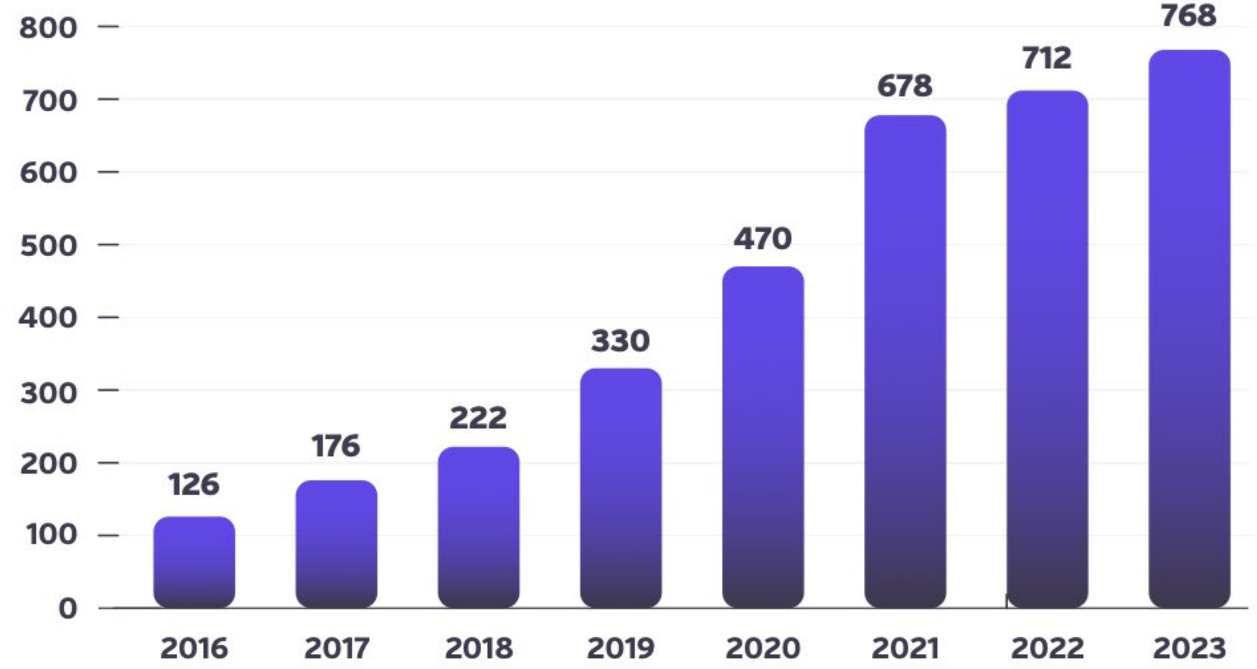
Number of Breaches Reported



Healthcare Organization – Privacy Trends

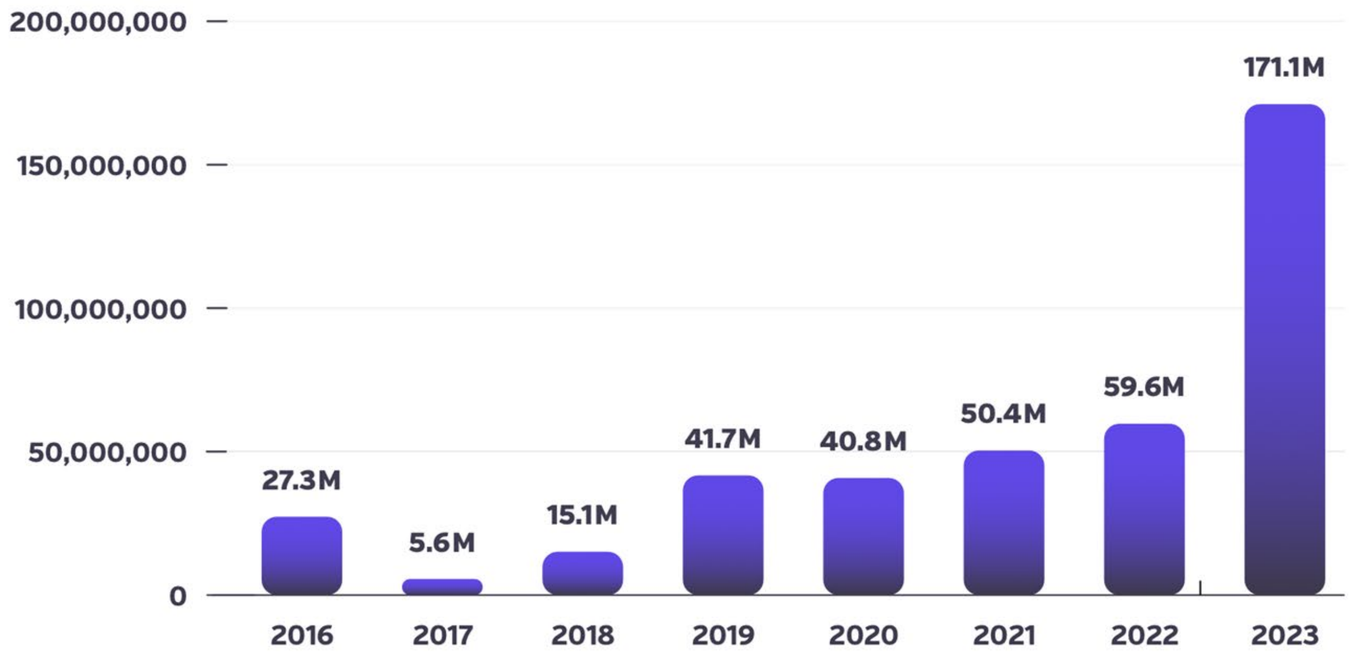
- Hacking Incidents affecting >500
- Increased consecutively
- Hacking incidents accounted for 86% of all records in 2022 and a staggering 97% in 2023

Figure 5.
Total Hacking Incidents



Healthcare Organization – Privacy Trends

Figure 2.
Number of Records Breached



Privacy Health Checkup (PHC) Methodology

- Protenus Privacy Health Checkups are a great source of data to better understand the organizations key indicators related to their privacy operations.

- Number of cases, violation rates, trends, key findings, recommendations, etc.

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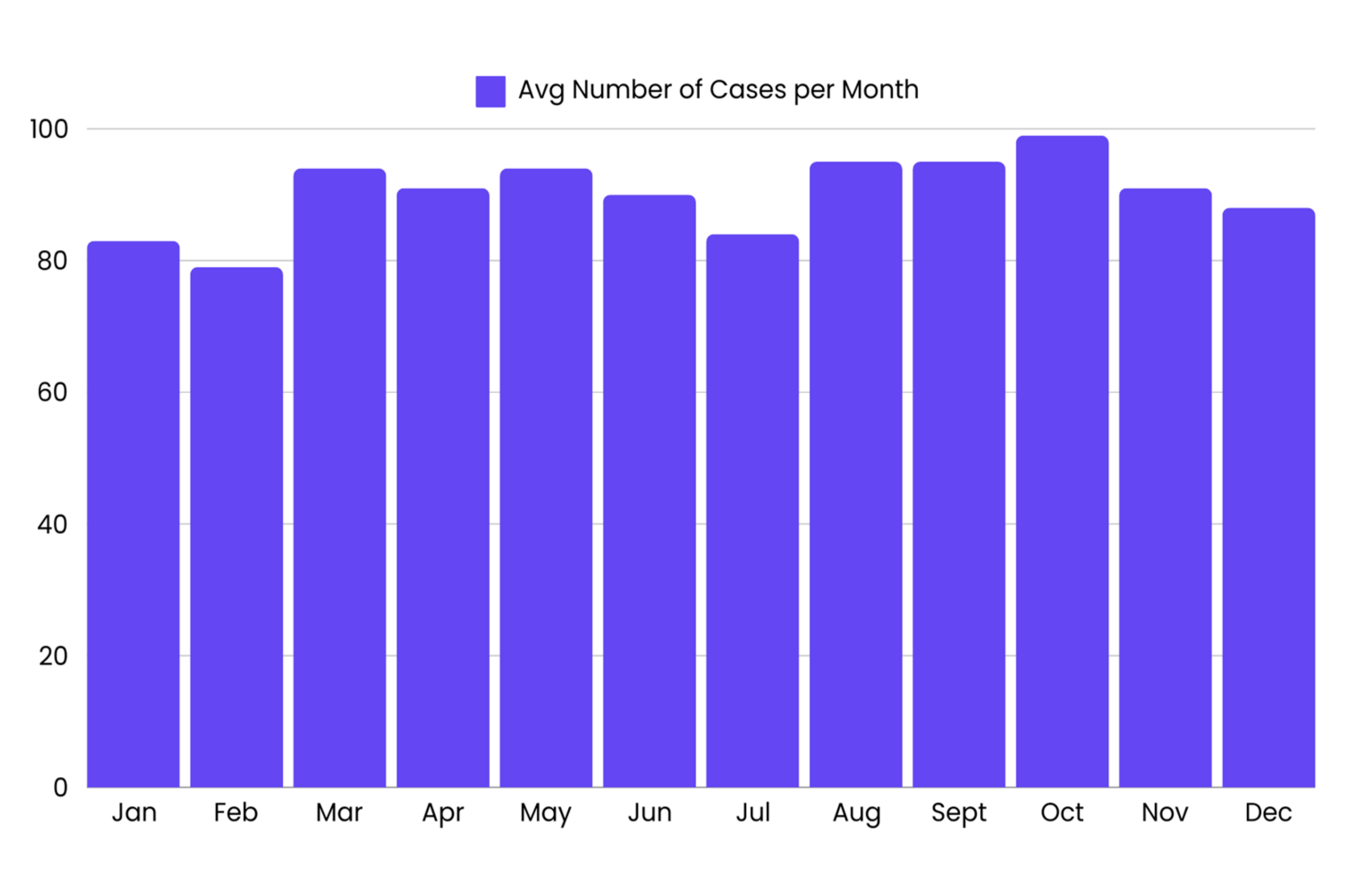
2024

Privacy Health Checkup

Academic Medical Center

Cases (investigations)

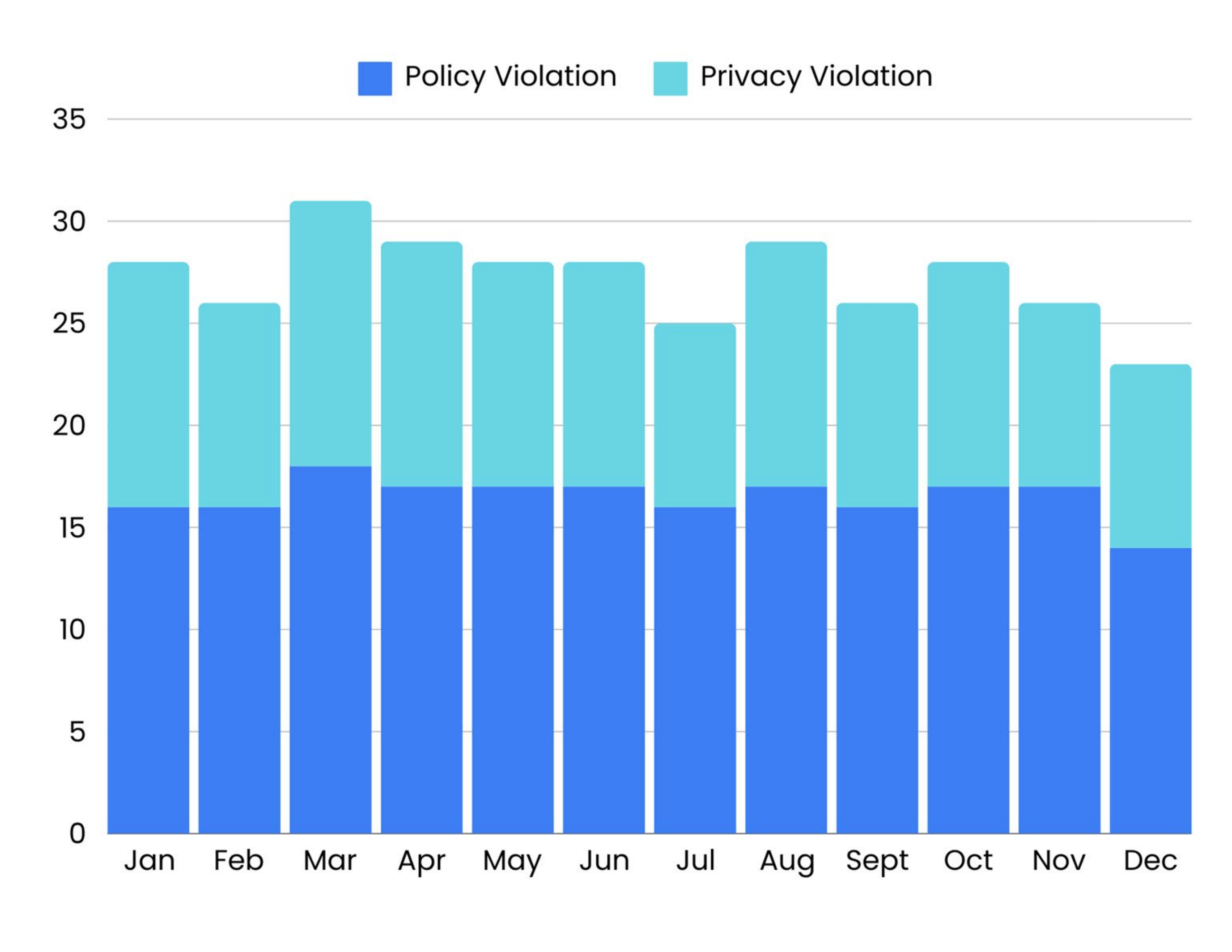
- Proactive privacy monitoring using sophisticated technology can increase the visibility for privacy teams
- Efficient use of artificial intelligence is a great way for teams to receive and perform case or incident investigations
- Remediate and target based on case volumes, by group, facility, organization, violations



Violations

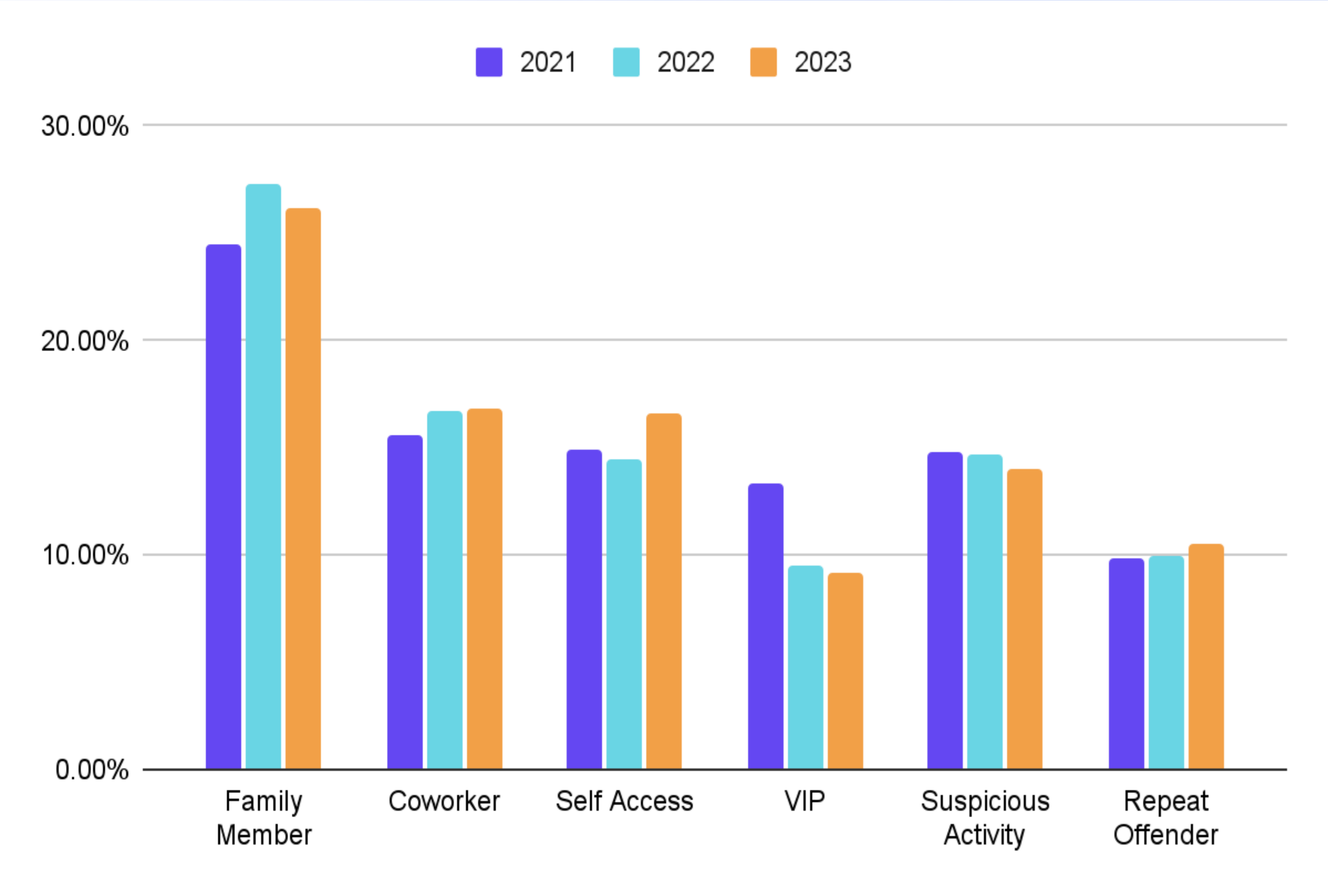
- Per the defined workflow and investigation process, cases are resolved based on feedback from the manager/supervisor in collaboration with human resources to resolve the case investigation

- The number of cases resolved as a violation increased



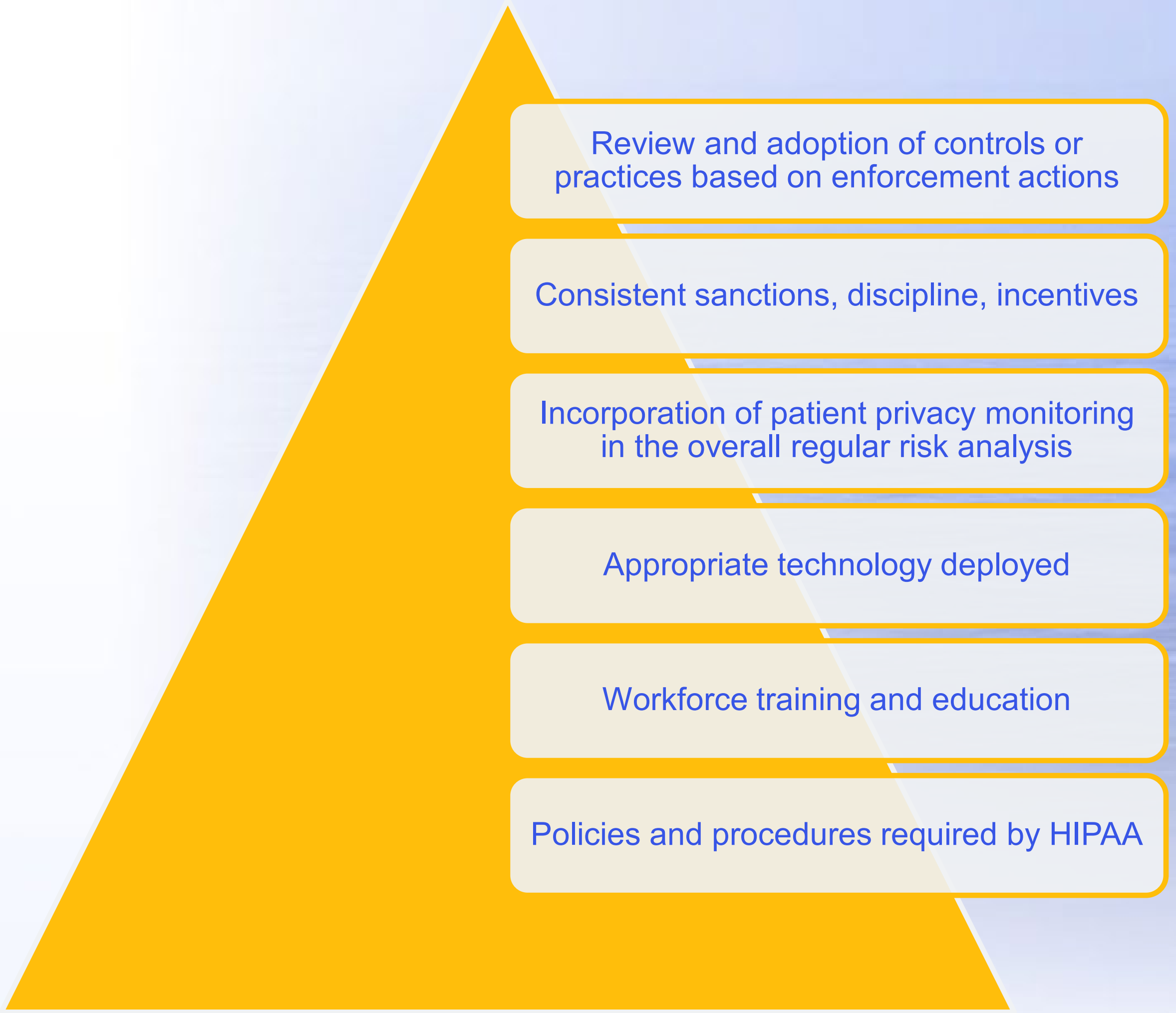
Types of Case Investigations

- Privacy coverage for a wide variety of risks within the organizations
- Family Member, Co-worker, and Self are the top three case categories which may vary (depending on organizational policies)



Building and Managing an Effective Program

Building on Requirements and Recognized Practices



Review and adoption of controls or practices based on enforcement actions

Consistent sanctions, discipline, incentives

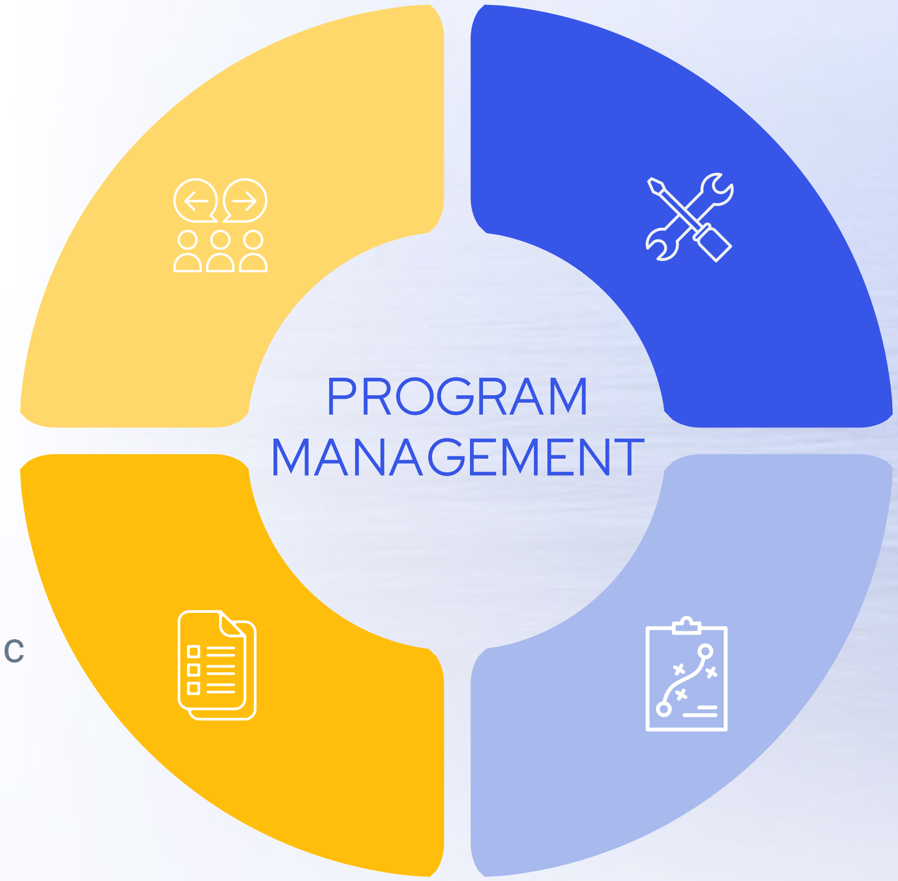
Incorporation of patient privacy monitoring in the overall regular risk analysis

Appropriate technology deployed

Workforce training and education

Policies and procedures required by HIPAA

Patient Privacy Monitoring Services



ASSESS

- Comprehensive ePHI user access monitoring
- Proactive monitoring of 100% of all identified users and patients

VALIDATE

- Regular communication
- Review of regular programmatic reports
- Validation prior to escalating cases and deliverables

BUILD

- Review and revise deliverables as needed in accordance with established processes

MANAGE

- Complete proactive analysis per approved fiscal year plan
- Ongoing consulting services
- Advisory Services

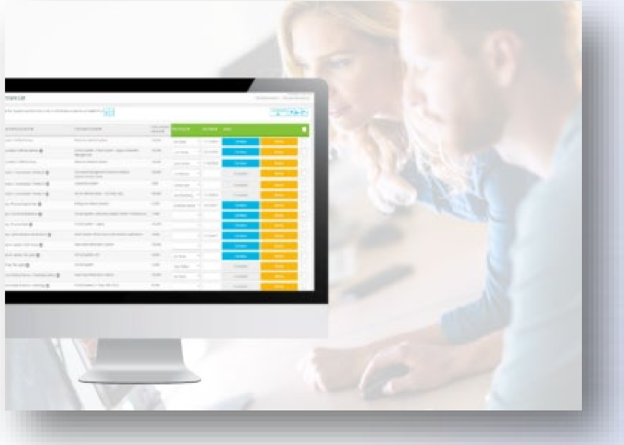
Takeaways

The **URGENCY** for healthcare organizations to prioritize technology-based solutions for proactive monitoring auditing and moving away from legacy reporting approaches that are cumbersome and tedious

- Risks: **insider threats and losing patient trust,** and the **reputational risk and damage** of a breach being reported in the media. The risk of having to endure the cost of **lawsuits and breach remediation,** including OCR fines
- Leverage technology and artificial intelligence from multiple EHR and ancillary systems - another factor is the number of **non-employed users** who have access to your EHR increases the breadth of privacy concerns
- Establish effective **policies and procedures** in your organization, ensuring you have the appropriate resources and workflow

Q&A

Clearwater Upcoming Webinars



OCR-Quality Risk Response Working Lab | September 18

- 2-part series
- Hands-On, Interactive E-Learning Series to Help You Minimize Cyber Risk Exposures and Meet Compliance Requirements.
- Register Here

View from Washington: How Cybersecurity Legislative Activity May Impact Healthcare Organizations | Monthly Cyber Briefing on October 3

- Clearwater's CEO, Steve Cagle and Mari Savickis, VP, Public Policy with CHiME
- Register Here

Clearwater Upcoming Industry Events

Healthtech
Leader 3.0
SEP 27 - 29, 2023 | CLEVELAND, OH
Hosted by Cleveland Clinic
Breaking down silos to enhance care delivery through technology, security, data and analytics
REGISTER TODAY >

Healthtech Leader 3.0 | Sept 18-20 | Cleveland, OH

- Clearwater is a proud sponsor.
- Join our CEO, Steve Cagle, Director of Partnerships, Robyn Ewers, and Account Executive, Laura Martin, and connect with influential leaders in security, technology, and data & analytics.
- Register Here

HHA Governance Retreat | Sept 19-20 | Lincoln, NE

- Clearwater Chief Risk Officer and Head of Consulting Services and Client Success Jon Moore will be presenting “Protecting Patients in an Age of Robots & Outlaws: Governance Strategies for Small Hospitals in AI and Cybersecurity”.
- Register Here

Meet us at the McGuireWoods Healthcare Finance & Growth Conference
Clearwater
McGuireWoods
September 26
Charlotte, NC

McGuireWoods Healthcare Finance & Growth Conference | Sept 25-26 | Charlotte, NC

- Join our session at 2:20pm on Thursday, Sept 26, and hear insights from Clearwater CFO Baxter Lee and our CRO and Head of Consulting and Client Success Jon Moore as well as Colin McCarthy, Counsel with McGuireWoods’ Healthcare team for PE Firms and investors active in healthcare.
- Register Here

SCALE Healthcare Leadership Conference | Oct 1 | New York, NY

- Clearwater is a platinum level sponsor. Join us for a fireside chat at 11:00 am featuring our CEO, Steve Cagle, and Gen4 Dental Partner’s CIO, Scott Dever.
- Register Here

HITRUST
COLLABORATE i24
CHARTING THE PATH FORWARD
October 1-3 | Omni Frisco at The Star

HITRUST Collaborate | Oct 1-3 | Frisco, TX

- Clearwater Senior Principal Consultant John Santana is teaming with our client James Polanco, CTO for ForeSee Medical, Inc to deliver the presentation “Turning Your Security-First Approach into a Competitive Advantage”. Breakout session is slated on Tuesday, Oct. 2, at 10:30am.
- Register Here

Nashville Healthcare Sessions | Oct 7-9 | Nashville, TN

- Clearwater is hosting a dynamic collaboration with cybersecurity experts from Jarrard and CW for an exclusive live cybersecurity incident response simulation. Join us Tuesday, Oct 8 at 10:45 am.
- Register Here

We are here to help.

Moving healthcare organizations to a more secure, compliant, and resilient state so they can achieve their mission.

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Appendix

Meet Protenus at these Upcoming Events

October 11, 2024

HCCA Regional Healthcare Compliance Conference - Denver

Register here.

Meet Tom Chelchowski, VP of Sales, at our tabletop to learn how Protenus uses AI to help solve your biggest healthcare compliance challenges.

October 25, 2024

HCCA Regional Healthcare Compliance Conference - Louisville

Register here.

Enjoy educational sessions tailored to healthcare compliance, risk management and more. Connect with Bree McGrath, VP of Sales, at our tabletop to save time, stay compliant, and reduce privacy violations using AI.

October 27-29, 2024

Consero Healthcare General Counsel Forum

Register here.

Join Protenus CEO, Nick Culbertson, and CRO, Cambrey Ware to network and learn about managing the legal function of hospitals and healthcare systems.

November 8, 2024

HCCA Regional Healthcare Compliance Conference - Philadelphia

Register here.

Join compliance professionals for a day of compliance education. Meet Bree McGrath, our VP of Sales, and Heather Arthur, our Senior Privacy Consultant, at our tabletop to learn about our Patient Privacy Monitoring solution.

November 15, 2024

HCCA Regional Healthcare Compliance Conference - Nashville

Register here.

Protenus CRO, Cambrey Ware, and VP of Sales, Erica Ginsberg will be on-site at this event which offers educational sessions on a variety of current and emerging topics that impact compliance programs in healthcare settings.

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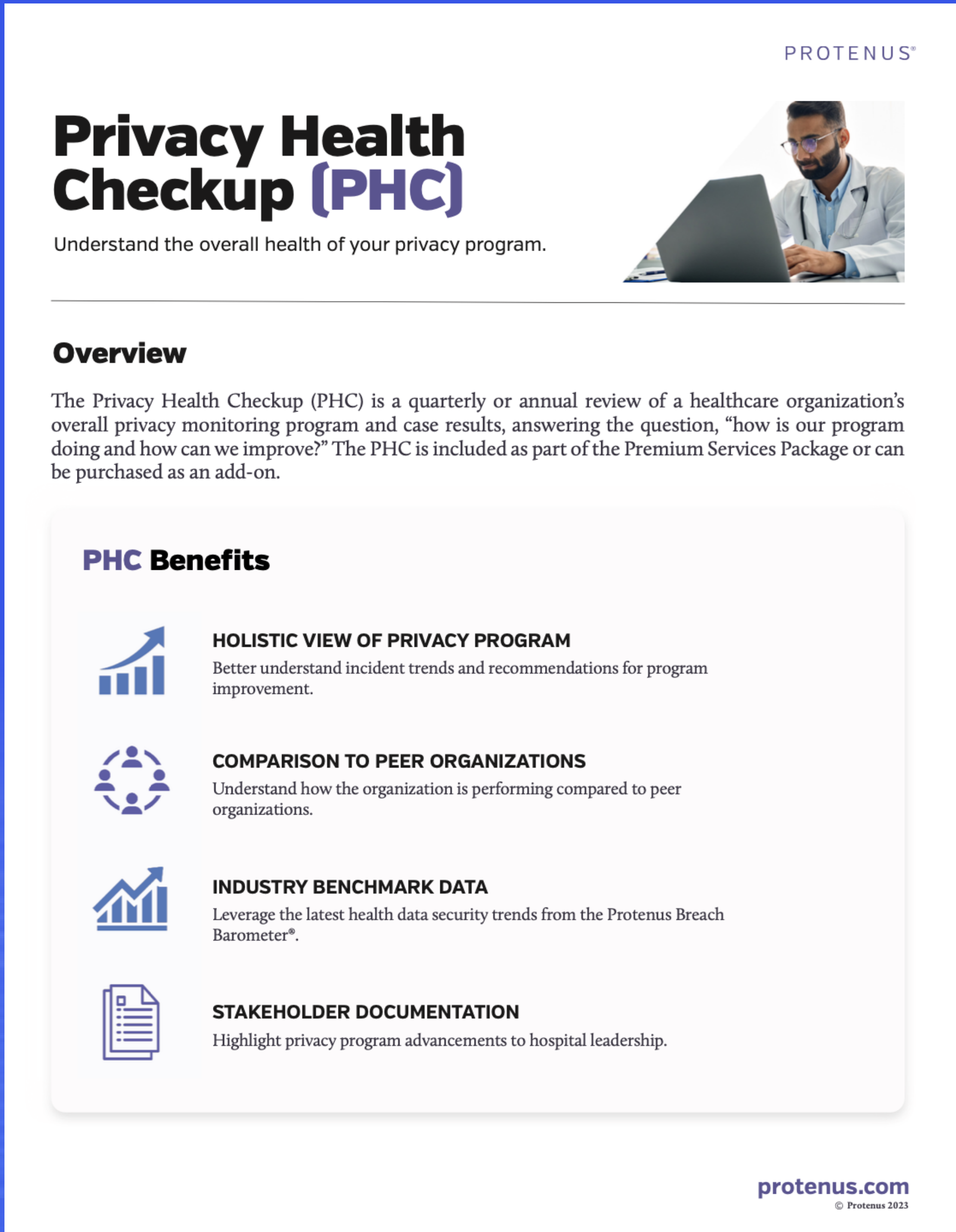
Breach Barometer – Protenus.com

Privacy Health Checkup – Contact a representative



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Privacy Health Checkup (PHC)

Understand the overall health of your privacy program.

Overview

The Privacy Health Checkup (PHC) is a quarterly or annual review of a healthcare organization's overall privacy monitoring program and case results, answering the question, "how is our program doing and how can we improve?" The PHC is included as part of the Premium Services Package or can be purchased as an add-on.

PHC Benefits

HOLISTIC VIEW OF PRIVACY PROGRAM
Better understand incident trends and recommendations for program improvement.

COMPARISON TO PEER ORGANIZATIONS
Understand how the organization is performing compared to peer organizations.

INDUSTRY BENCHMARK DATA
Leverage the latest health data security trends from the Protenus Breach Barometer®.

STAKEHOLDER DOCUMENTATION
Highlight privacy program advancements to hospital leadership.

protenus.com

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