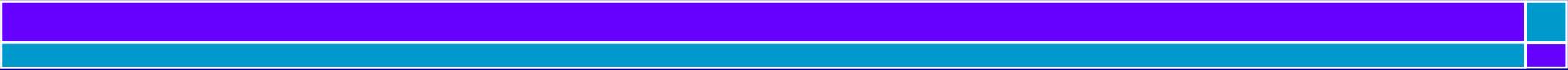


Lessons learned from negotiating an OCR Resolution Agreements: What should you focus on?

Presented by:
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Resolution Agreements

- ❑ We now have 16 settlements
 - Providence Health – unencrypted data 7/2008
 - Adult & Pediatric Dermatology, PC of Massachusetts – stolen thumb drive 12/2013

- ❑ Only one formal CMP imposition

How have the Resolution

Agreements changed?

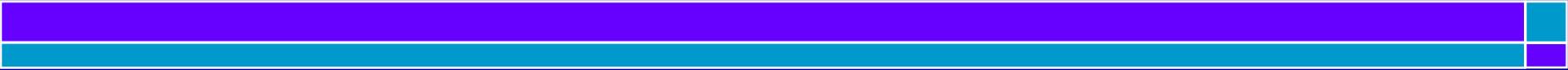
Providence Health

- ❑ July 2008
- ❑ “covered incidents”
- ❑ Triggered by complaints to OCR & CMS
- ❑ 3 year term
- ❑ Payment of \$100,000.

Adult & Pediatric

Dermatology

- ❑ December 2013
- ❑ Factual background & covered conduct
- ❑ Self-report of lost thumb drive.
- ❑ CAP ends when OCR approves the CE’s implementation report.
- ❑ Payment \$150,000



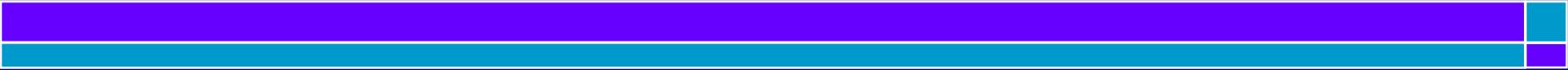
What are the trends?

- ❑ Increasing dollar figures because of the change in CMPs
- ❑ Decreasing obligations
- ❑ Decreasing time periods for CAP



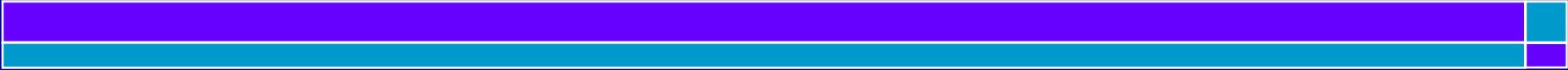
Things to think about

- How did OCR calculate the settlement amount?
 - UCLA
 - 3 Privacy rule provisions violated
 - 3 Security rule provisions violated
 - Some violations where after the change to the CMPs
- What is defined as the covered conduct?



Things to think about

- ❑ If a monitor is required who will/can the monitor be?
- ❑ What is the time period of there is a CAP and when does it begin?



Things to think about

- ❑ What are the timeframes OCR requires in the CAP?
- ❑ Is there a certification or attestation required for employee training?

What puts you at risk for an OCR settlement?

- Biggest areas of concern:
 - Policies & Procedures
 - Risk Analysis
 - Encryption Strategy
 - Audit & Monitoring
 - Contingency Planning
 - Workforce Training
 - Business Associates (Third Party Risk)

QUESTIONS

