

Welcome!



Cerebral Palsy Associations
of New York State
Real people. Realizing potential.



The Arc
New York



FMA

**THIS IS BEING
RECORDED AND
WE WILL SHARE
THE SLIDES AND
THE RECORDING**

HR PANDEMIC CONSIDERATIONS NY SHIELD Act CRITICAL ACTION STEPS & DEADLINES

This is not legal advice. It is your responsibility to evaluate the accuracy, completeness and usefulness of any information, opinion or content and to seek appropriate advice of professionals, as appropriate.

Thank You !



Cerebral Palsy Associations of New York State

Real people. Realizing potential.

**THANK YOU
FOR YOUR SERVICE
IN THIS WORLD WAR
AGAINST AN INVISIBLE ENEMY**

Mike Semel

- 40-year IT business owner/manager
- 17-year certified HIPAA Professional
- **Certified Business Continuity Professional (CBCP)**
- **Red Cross Disaster Management – 14 years**
- EMT/ER Tech/FD Rescue Captain /IndyCar Safety Team
- **Hospital/Skilled Nursing/School District CIO**
- Cloud Backup Service COO
- HIPAA Courseware author



Mike Semel

President
Chief Compliance Officer
SEMEL Consulting



Speaking, Writing

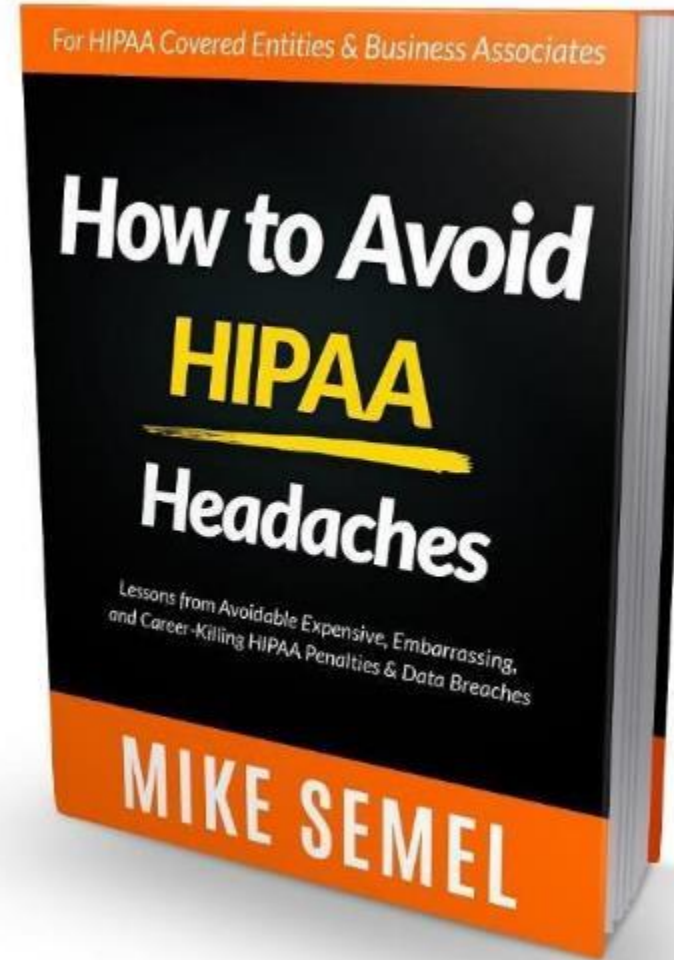


2018 FMA Conference

2019 Quality & Compliance Conference



Amazon Best-Seller



Pandemic Planning

Bethpage®
Federal Credit Union



**2007 – Business Continuity Plan
Pandemic Plan**

2011 – Hurricane Irene

2012 – Superstorm Sandy

2020 – COVID-19



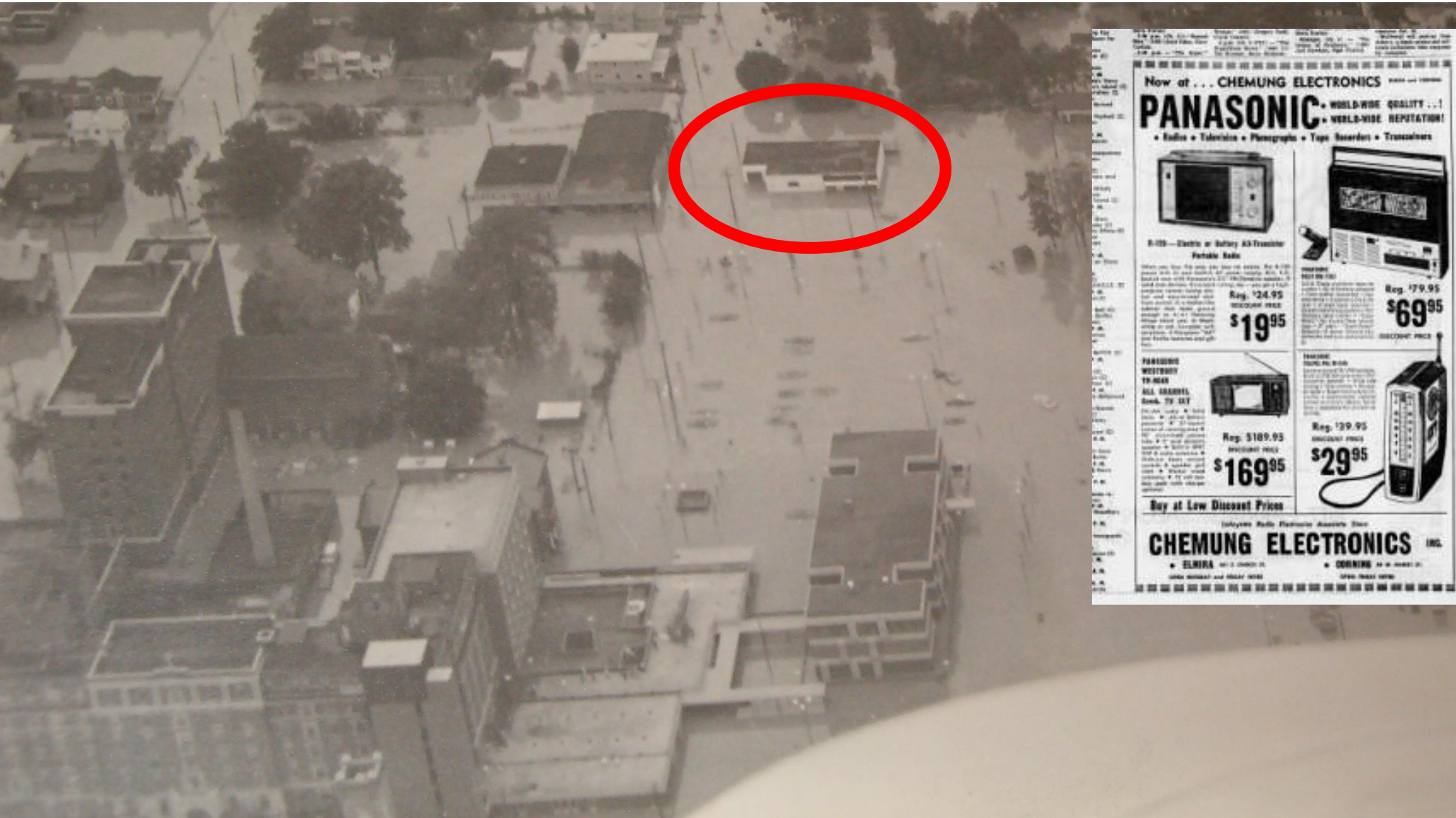
**2007 Members – 138,000
Assets - \$ 3 billion**

**2020 Members – 405,000
2020 Assets - \$ 9 billion**

1972 – Hurricane Agnes



1972 – Hurricane Agnes



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CHEMUNG ELECTRONICS

Pre-inventory Sale

1 DAYS ONLY! THURS. & FRI. SAT. JUNE 15-17th

Lafayette CB RADIOS

179⁹⁵

189⁹⁵

129⁹⁵

59⁹⁵

64⁹⁵

99⁹⁵

129⁹⁵

CHEMUNG ELECTRONICS

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Fear, Stress, Frustration Uncertainty, Doubt, Anger

Looking Back...

- Temporary Setback
- Panasonic Forgave a \$ 300,000 debt
- 30-year SBA Loan
- Customers Still Needed Us
- Major Community Changes
- Character-Builder
- I Learned What is Really Important



SHIELD Act

What is Compliance?

Having to meet requirements set by others

Federal & State Laws

Industry Regulations

Contractual Obligations

Insurance Policy Requirements

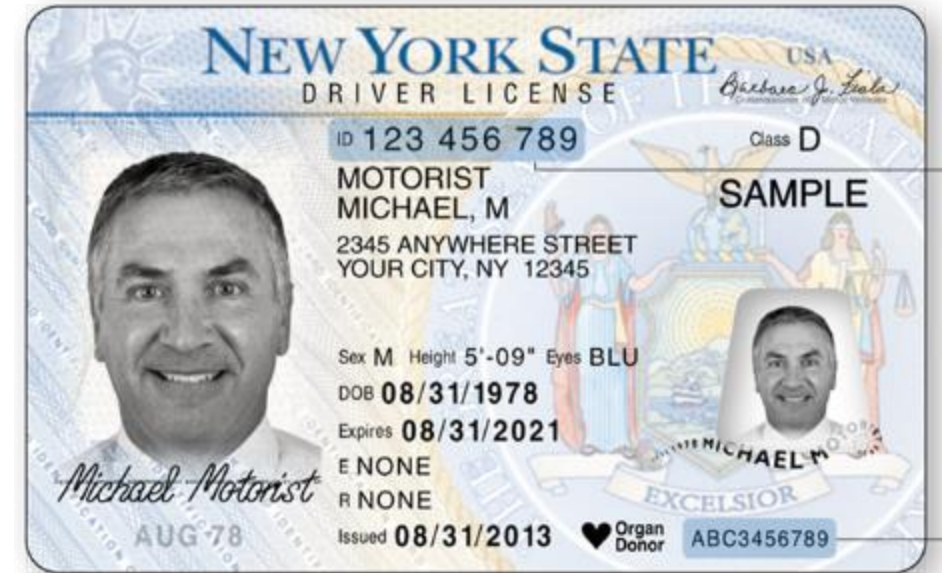
NY State Breach Law

- Protects the following data if acquired without authorization
 - Social Security Number
 - Driver's License or non-driver ID
 - Account number, credit card number, or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account.

IMPORTANCE TO CP Affiliates:

INDIVIDUALS – SS# AND BANK ACCOUNT INFO

HR RECORDS OF APPLICANTS, CURRENT EMPLOYEES, FORMER EMPLOYEES; CURRENT AND PAST CONTRACTORS; VEHICLE ACCIDENT REPORTS



NY SHIELD Act – consumer protection

- **Stop Hacks and Improve Electronic Data Security Act**
 - Signed into law July 25, 2019
 - Breach notification requirements went into effect October 23, 2019
 - Data security requirements went into effect March 21, 2020
- **Applies to all businesses that store data about New Yorkers**
- **Expands definition of Private Information**
- **Changes breach to include ‘access’ to data instead of just ‘acquiring’ data**
- **Requires reasonable data protection**
- **Failure considered an unfair business practice**
- **Exemptions for regulated businesses**



NY SHIELD Act – Other Compliance Laws

- **Businesses that are already regulated by and comply with data breach notice requirements HIPAA, NY DFS Reg 500, Gramm-Leach-Bliley Act, are not required to further notify affected New York residents**
- **Still required to notify the New York attorney general, the New York State Department of State Division of Consumer Protection, and the New York State Division of the State Police.**



NY SHIELD Act – Reasonable Safeguards

- Businesses must **develop, implement and maintain reasonable safeguards to protect the security, confidentiality and integrity** of the private information.
- **Businesses in compliance with laws like HIPAA and the GLBA are considered in compliance** with this section of the law.
- Small businesses are subject to the reasonable safeguards requirement, however safeguards may be *“appropriate for the size and complexity of the small business, the nature and scope of the small business’s activities, and the sensitivity of the personal information the small business collects from or about consumers.”*
- Small business = any business with fewer than fifty employees, less than \$3 million in gross annual revenue in each of the last 3 years, or less than \$5 million in year-end total assets.



NY SHIELD Act – Penalties

- **No private right of action (but...)**
- **Class action litigation is not available.**
- **Attorney general may obtain civil penalties.**
- **For data breach notification violations that are *not* reckless or knowing, the court may award damages for actual costs or losses incurred by a person entitled to notice, including consequential financial losses.**
- **For knowing and reckless violations, the court may impose penalties of the greater of \$5000 dollars or up to \$20 per instance with a cap of \$250,000.**
- **For reasonable safeguard requirement violations, the court may impose penalties of not more than \$5,000 per violation.**



NY SHIELD Act – Basis for Litigation

“...enterprising litigants are certain to refer to (the SHIELD Act’s) substantive security requirements as a new floor in New York, at least when alleging negligence in relation to a data breach.”



New York Law Journal

F. Paul Greene, Attorney, Harter-Secret

NY SHIELD Act – **October, 2019** – Amend Breach Notification Requirements

- **Change your incident response plan**
 - Individual Notification
 - Government Reporting



NY SHIELD Act – **March 21, 2020** – Administrative, Technical, Physical Security Written Program

- Risk assessments
- Employee training
- Selecting vendors capable of maintaining appropriate safeguards
- Implementing contractual obligations for those vendors
- Disposal of private information within a reasonable time period



Security & Compliance



It's not about what you do.

It's all about what you can prove you do in writing, to respond to regulators & lawsuits.

Your Next Steps

- **Incident Response Plan Update**

- Current NY Data Breach Law
- Other regulations – HIPAA, DFS 500, GLBA, Banking, SEC, FINRA,
- NEW - SHIELD Act notification and reporting requirements

- **Stay compliant with HIPAA**

- RECOMMENDATION: Ongoing validation by an independent third-party expert

- **Implement Security Program beyond HIPAA**

- Don't just think of customer/client/patient/member data
- Protect HR, Payroll, Workforce Driver's info, accident reports, etc.
- RECOMMENDATION: Ongoing validation by an independent third-party expert

Client Portal – SHIELD Act Guidance



START HERE ▼

HIPAA COMPLIANCE FOR MEDICAL PROVIDERS ▼

STATE DATA BREACH LAWS ▼

STATE DATA BREACH LAW OVERVIEW

CALIFORNIA

FLORIDA

MASSACHUSETTS

NY SHIELD ACT

STATE DATA BREACH LAWS

STATE DATA BREACH LAW OVERVIEW

NY SHIELD ACT

Client Portal – SHIELD Act Checklist



START HERE ▼

HIPAA COMPLIANCE FOR MEDICAL PROVIDERS ▼

STATE DATA BREACH LAWS ▼

NEW YORK SHIELD ACT COMPLIANCE CHECKLIST

DEVELOP, IMPLEMENT, AND MAINTAIN REASONABLE SAFEGUARDS TO PROTECT THE SECURITY, CONFIDENTIALITY, AND INTEGRITY OF THE PRIVATE INFORMATION INCLUDING THE DISPOSAL OF DATA.

IMPLEMENTS A DATA SECURITY PROGRAM THAT INCLUDES THE FOLLOWING

REASONABLE ADMINISTRATIVE SAFEGUARDS

DESIGNATES ONE OR MORE EMPLOYEES TO COORDINATE THE SECURITY PROGRAM

IDENTIFIES REASONABLY FORESEEABLE INTERNAL AND EXTERNAL RISKS

ASSESSES THE SUFFICIENCY OF SAFEGUARDS IN PLACE TO CONTROL THE IDENTIFIED RISKS

**UPDATE THIS CHECKLIST QUARTERLY,
AND COLLECT REPORTS TO CREATE**

NAME OF CYBERSECURITY PROGRAM

DATE OF LAST RISK ANALYSIS

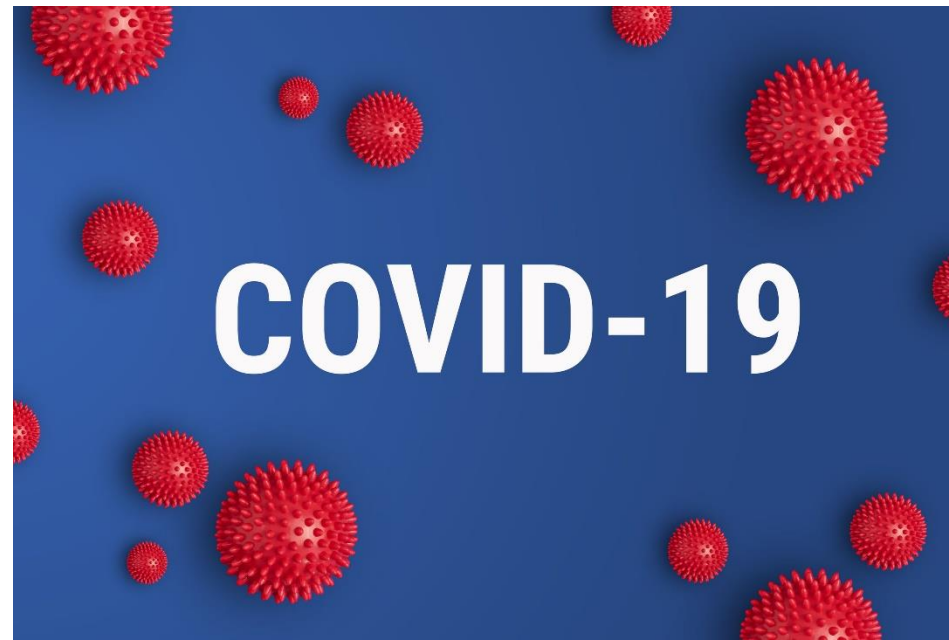
5	DATE OF LAST NETWORK SCAN AND INDEPENDENT EXPERT ASSESSMENT
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HOW WE COMPLY

**ENTER ANSWERS.
DOCUMENTS**

DATE OF LAST AUDIT

NAME(S) OF DOCUMENT
CASE OF AUDIT



PANDEMIC HR CONSIDERATIONS

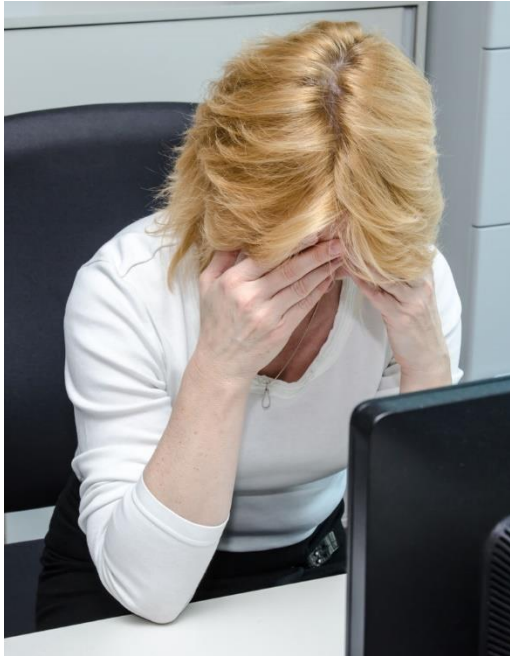
9/11



Disaster Services



Look Familiar?



Look Familiar?



Do You Ever Feel Like You are Working With...?



Can't work because the cat needs medicine...

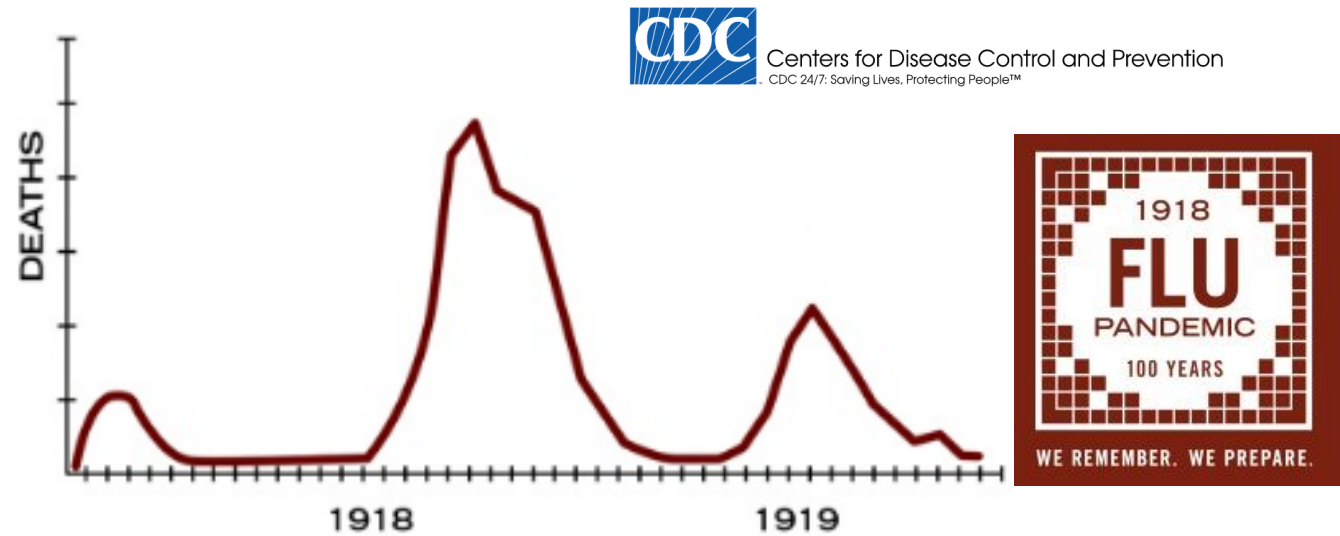


PANDEMICS END

“This too shall pass.”

Pandemic Waves

Temporary, but...



There were 3 different waves of illness during the pandemic, starting in March 1918 and subsiding by summer of 1919. The pandemic peaked in the U.S. during the second wave, in the fall of 1918. This highly fatal second wave was responsible for most of the U.S. deaths attributed to the pandemic.

Pandemic Waves

Good News-
More Technology
More Manufacturing Capacity
Better Communications
No War
Lessons from 1918

WE ARE ESSENTIAL

“People will continue to depend on us.”



**WE WILL TAKE ADVANTAGE OF ALL
THE FINANCIAL RESOURCES
AVAILABLE TO US**

Unprecedented Government Assistance

“dramatic expansion of unemployment insurance, a rescue fund for state and local governments, immediate cash for hospitals and a huge pool of grants and loans for small businesses.”

- Furloughs keep benefits but allow employees to claim unemployment
- Grants
- SBA Loans
- ‘Marshall Plan’ for Healthcare Providers

**SUPPORTING STAFF =
SUPPORTING INDIVIDUALS**

9/11 Lessons Learned

- **Our country can be attacked**
- **Mental Health & PTS support for staff**
- **Healing Takes Time**
- **Everyone needs help, even (especially?) if they don't think they do**
- **What was important yesterday isn't important today**

SUPPORTING STAFF =
PATIENCE
EAP
TIME OFF
CAREER CHANGE

THERE WILL BE A 'NEW NORMAL'

Post 9/11 'New Normal'



Post COVID-19 New Normal

- **Worldwide Threat Possible**
- **Better Preparedness**
- **Greater Capacity**
- **Workspace/Environment**
- **Telehealth**
- **Lessons Learned**

KEEP A DIARY

AFTERWARDS

LESSONS I LEARNED

RECOGNIZE EVERYONE'S EFFORT

Recognition

Keep Thanking Your Staff.

Plan on Recognizing Your Staff after this ends.

Not just the heroes.

Because everyone is a hero.





How We Can Help You Protect Your Individuals, Your Brand, and Your \$\$

- **Compliance Validation/
Gap Analysis**
 - Federal Laws – HIPAA, FERPA
 - State Laws – NYS SHIELD Act
 - Contracts
 - Industry Requirements
 - Cyber Insurance Compliance Review
- **1-year Consulting**
 - For Compliance Officers, IT Directors, and Executives
 - Not just IT
 - Not Just Reports
 - We do not sell IT Products or Services



Contact us with questions.

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FREE CYBERSECURITY & COMPLIANCE CHECKUP

<https://www.semelconsulting.com/FREE-CHECKUP/>