

# HIPAA, PHI, and You

Strategy, data, and ethics for hospital development offices and foundations when implementing a grateful patient program and accessing patient data

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In 1996, Congress passed the Health Insurance Portability and Accountability Act (HIPAA). Since it took effect in 2003, healthcare providers have been held to stringent rules with significant monetary penalties for violations. More specifically, hospital development offices and foundations have been held to the HIPAA rules pertaining to the use of Protected Health Information (PHI) for fundraising purposes. Those rules limited access to patient data, allowing access to only basic demographic information.

That changed on March 26, 2013, when the Department of Health and Human Services' (HHS) modifications to the HIPAA Privacy Rules took effect.

The new HIPAA rules give hospital development offices and foundations access to additional PHI, including treating physician, department of service, and outcome information. Once again, fundraising communications and outreach can be targeted to donors and prospects based on a specific program related to patients' areas of treatment.

## PHI and You

Grateful patients are one of a hospital foundation's best sources for donor acquisition.

Yet, the nature of the patient's interaction with your hospital is very personal. How you will manage and incorporate patient data into your business processes is an important consideration in building your relationship with patients.

### The New Rules and Compliance

Because significant monetary penalties are levied for HIPAA violations, hospital compliance officers can be conservative in their use and access of the PHI that is available to you. The Association of Healthcare Philanthropy (AHP) provides analysis of the new rules to help make your case to access more information from your patient data system; however, you need to implement the business processes that ensure your use of the data adheres to the rules, both legally and ethically.

## Contents

PHI and You .....	1
Putting the Data to Use ...	2
The Ethics of Storing and Using PHI .....	3
Conclusion .....	4

Continued on following page

### Putting the Data to Use

#### Growing the Major Gift Pipeline with Physician Referrals

As hospitals and health systems increasingly depend on revenue from contributions, they have recognized the value in high-touch fundraising versus special event fundraising. Focusing on individual major giving is a primary strategy for meeting revenue goals. With the inclusion of treating physician information in allowable PHI, now is the time to fully develop a physician referral program.

The relationship between a physician and his/her patient can be key to a successful moves management strategy. Educating the medical staff on the importance of their role in relationship building — as well as alleviating any patient privacy concerns — should be a component of every hospital's annual plan.

Ease of referral is an important consideration. Development officers can be assigned to manage referrals from physicians based on specific departments or other criteria, but making the referral process easy for a busy physician is vital to securing those new major gift prospects.

For example, a Blackbaud client has developed a mobile application for the iPhone® and Android® phones that allows a physician to enter a patient name and then generates an email to the hospital development office. Once the development officer receives the referral, the information should be entered into the database in a way that allows for reporting on physician referral metrics. Knowing that their referrals resulted in direct revenue to the hospital — and possibly their department — provides physicians with incentive for future referrals.

#### Considerations when Importing Patient Data Files

Similarly, importing patient information from the hospital's patient data system offers new prospects for acquisition in both annual and major giving. Screening patient data for wealth indicators will identify those potential prospects who may qualify for the major gift pipeline.

Considerations for importing patient data include frequency of the extraction from the patient data system, criteria for screening, and qualification for entry into the constituent relationship management (CRM) or donor database. Your business process should include a determination whether all patient data files will be imported into your database, or just those patients who meet specific criteria, such as making a gift in response to an appeal or major giving wealth indicators. If you will not import all patient data files, you need to determine a process for managing and securing the file export.

Before you import the patient data into your CRM database, you need to identify which fields are best for storing the data for ease of use for segmenting appeals, tracking patient opt-outs, identifying major gift prospects, linking relationships, and reporting. And once the data is imported, how will you manage it?



#### About the Author

Susan McLaughlin brings more than 16 years of fundraising and nonprofit administration experience to her role as a Blackbaud consultant. Susan is responsible for leading enterprise-level implementation of Blackbaud solutions for hospitals and health systems within the higher education and hospitals vertical.

She specializes in constituent relationship management, annual giving, major and planned gifts, moves management, and campaign planning and management. Prior to joining Blackbaud, Susan led the J.C. Blair Memorial Hospital Foundation in Pennsylvania as its first executive director. She was responsible for all aspects of foundation management, including fundraising, financial and database management, policy development and implementation, fund distribution, marketing, and public relations. She is a charter member of the Association of Fundraising Professionals, Allegheny Mountains Chapter and was recognized as the chapter's first Outstanding Fundraising Professional in 2006. Susan holds a Bachelor of Arts from Gettysburg College. She received her Certified Fund Raising Executive credential in 2000.

Continued on following page

## Managing the Data – the Importance of Policies and Procedures

Defining and documenting business processes is critical for maintaining and consuming your data.

When segmenting appeals for donor acquisition of grateful patients, you may choose to use the discharge date as an indicator for inclusion in the appeal to ensure that a prospect is not receiving a gift request and a hospital bill simultaneously. You may choose department of service as an indicator for an invitation to a community benefit program. Major gift officers should enter contact reports for each touch, whether it's a quick visit to the patient's room or a follow up call after discharge. Business processes like this that are geared toward the grateful patient relationship should be documented and managed to allow for analysis of the effectiveness of your efforts.

The new HIPAA rules also modified the process for a patient to opt out of receiving fundraising communications. Any fundraising material or communication made to former patients — those in your imported patient data file wherever it may be stored — must include a written or oral opt-out provision. Because the opt-out provisions have changed so that no un-due burden is placed on the individual, it is critical that you have clear policies and procedures in place to track these opt-outs.

For example, how will you track a patient who has opted out of a campaign-specific communication but not all fundraising campaigns? Do you have a procedure in place that outlines how an individual who has previously opted out but then makes an unsolicited tribute gift is excluded from future communications?

## The Ethics of Storing and Using PHI

Even with the many benefits associated with the HIPAA ruling and greater access to personal health information, we must recognize the sensitivity of this valuable information.

The Association of Healthcare Philanthropy's (AHP) Statement of Professional Standards and Conduct states that members have a duty to faithfully adhere to the highest standards and conduct in their respect for the rights and privacy of others and the confidentiality of information gained in the pursuit of their professional duties.

The Association of Fundraising Professionals Code of Ethical Principles and Standards states that members shall not disclose privileged or confidential information to unauthorized parties.

Beyond government- or association-mandated privacy regulations that tell us what kinds of information we can collect, opt-in and opt-out permissions we may need, and how we can use the information acquired, nonprofit organizations have an obligation to protect the privacy of constituent information. Patient data information is critical in establishing and growing an effective grateful patient program. But every organization should further define who needs to have access to the allowable PHI stored on a constituent's record as part of its Constituent Privacy Policy. Good database administration practices will limit access to who can and cannot view, add, edit, or delete the data.

Continued on following page

## Conclusion

The new HIPAA rules offer great opportunity for hospitals and health systems to reach out in a more meaningful way to the individuals and families who have the greatest affinity to them — their patients. However, with this opportunity comes great responsibility to establish business processes that allow for successful fundraising but also manage and protect the patient data entrusted to you.

## About Blackbaud

Serving the nonprofit and education sectors for 30 years, Blackbaud (NASDAQ: BLKB) combines technology and expertise to help organizations achieve their missions. Blackbaud works with more than 28,000 customers in over 60 countries that support higher education, healthcare, human services, arts and culture, faith, the environment, independent K-12 education, animal welfare and other charitable causes. The company offers a full spectrum of cloud-based and on-premise software solutions and related services for organizations of all sizes including: [fundraising](#), [eMarketing](#), [advocacy](#), [constituent relationship management](#) (CRM), [financial management](#), [payment services](#), [analytics](#) and vertical-specific solutions. Using Blackbaud technology, these organizations raise more than \$100 billion each year. Recognized as a top company by Forbes, InformationWeek, and Software Magazine and honored by Best Places to Work, Blackbaud is headquartered in Charleston, South Carolina and has operations in the United States, Australia, Canada, the Netherlands and the United Kingdom. For more information, visit [www.blackbaud.com](http://www.blackbaud.com).

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