

# DONOR

## *Development for Hospitals*

### *Healthcare Philanthropy & HIPAA: Finding a Comfort Zone*

## Is your glass half-full or half-empty?



By William C. McGinly, Ph.D., CAE, PA  
President, Chief Executive Officer  
Association for Healthcare Philanthropy

In the midst of a recession, how comfortable are you investing in the stock market? In making a big-ticket purchase? Expanding your business?

Much of the decision process will revolve around how you assess and perceive risk. Do you see the glass, as the saying goes, half-empty or half-full?

Every individual and every organization has a unique perception and tolerance for risk. In health care philanthropy, health care organizations and their development offices and supporting foundations must assess the perceived "risk" of their analysis of the patient privacy guidelines outlined in the Health Insurance Portability and Accountability Act (HIPAA). Despite best efforts on the part of legislators and the Department of Health and Human Services (HHS) to provide clear guidelines and clarifications, at the end of the day, it comes down to the organization's interpretation of the guidelines and their tolerance for perceived risk.

Development organizations have spent the last decade working with their health care organizations to find their comfort zone with HIPAA. The Association for Healthcare Philanthropy (AHP) and the vast majority of our members' hospitals have taken a broadminded interpretation of the HIPAA guidelines as they apply to fundraising. Most hospitals provide their development team full access to the patient demographic information outlined in HIPAA as available for health care operations, which

allows for successful grateful patient fundraising and donor concierge and VIP programs. Unfortunately, some hospitals have taken a much more conservative, and we believe, far too narrow approach, limiting access to patient demographic information for fundraising activities—and in some extreme cases, restricting access entirely. This later view is possibly driven by concerns that fundraising activities could be construed as marketing efforts and therefore subject to more stringent HIPAA privacy guidelines. Or, perhaps it stems from a mistaken belief that by taking a limited approach, the risk of possible future scrutiny is avoided. Ultimately, these decisions are limiting the potential of donors to support their community health care institutions.

And now, concerns and confusion about fundraising and patient privacy have arisen again as a result of HIPAA

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Without the support of donors, many hospitals struggle under unremitting financial pressure. The good news is you can open the door to new and greater donor relationships and connect much more effectively with your current donors! The *Jay Reardon Healthcare Direct Mail Program*, teamed with the premier services of United Printing & Mailing, LLC, provides an effective, efficient and affordable method to promote fund development using direct mail as the medium. Plus our services are turnkey and all under one roof: Strategy and planning, list development, creative, printing, mailing and post-campaign evaluation that is customized and professional.

If you would like to learn more about how we can bring new donors to your development efforts, call, email, fax or write us today!

UNITED PRINTING & MAILING  
4833 South 38th Street  
Phoenix, AZ 85040  
1-800-645-6659  
602-276-4229 FX  
jay@ugotmail.com  
www.ugotmail.com/jayreardon

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## The Book CORNER



***“Essential Spanish for Healthcare: A quick, easy-to-use program for nurses, doctors, clinics and hospital administrators, EMS personnel and healthcare workers.”***— Publisher Living Language refers to their company as “The foremost name in language self-study. Since 1945, millions have learned to speak, read and write a new language with our courses.” Available at Amazon. We have not studied this course but believe it is worth your checking out if you deal with Spanish speaking patients.

***“From Here to Maternity”***— Publisher says, it is “a complete pregnancy guide used and highly recommended by doctors, hospitals and healthcare providers across the United States.” Author – Connie C. Marshall. Paperback. Amazon says it is “currently unavailable” but we thought the title was so hilarious we had to include it.

***“An Irish Country Christmas”***— A heartwarming tale of yuletide merriment by New York Times bestselling author Patrick Taylor who has written “An Irish Country Doctor” and “An Irish Country Village” – both reviewed here. A bit early for the holidays, but a gift reminder nevertheless. Continuing saga of Drs. Barry Laverty and Fingal Flahertie O’Reilly. Irish laughter at its very best! Highly recommended. Amazon and no doubt at your local bookstore.

*(As usual, we try to limit our rants and reviews to books about and for doctors, nurses, staff and all the other healthcare heroes.)* ■

provisions included in the American Recovery and Reinvestment Act of 2009 (H.R.1). The Association for Healthcare Philanthropy (AHP), with the help and support of our members and other organizations, successfully fought to have language removed from H.R.1 that would have threatened health care philanthropy by no longer classifying fundraising activities as part of health care operations, eliminating access to patient demographic information. In its final form, H.R.1 *does* include changes to the HIPAA legislation, *but none that alter the original intent of the fundraising provision or that affect health care philanthropy in any substantive way.* The changes are primarily in the area of overall HIPAA enforcement—requiring HHS to monitor and impose penalties—and allowing additional enforcement outside of HHS.

Yet, AHP is hearing from some members whose hospital compliance officers are now limiting their access to patient information based on the “new” HIPAA guidelines. Whether these decisions have been simply based on bad information, or fear of the potential of increased enforcement, it highlights the need for health care fundraising executives to stay informed, and

to serve as an authoritative source when addressing these issues with their health care colleagues.

The perception of risk can be paralyzing. And the best defense is education. I encourage you to review [AHP’s analysis of the H.R.1 language](#) (found at [www.ahp.org/government-relations](http://www.ahp.org/government-relations)) as it pertains to health care philanthropy, which is available on the AHP Web site. While there are no significant changes for fundraisers, there are new provisions that affect vendors who are provided patient information in their role supporting development offices and fundraising activities. View Figure A below for a quick synopsis.

If your organization handles health care patient information, review your internal processes to ensure that you are in compliance. And review your Business Associate agreement with your health care organizations and update with the new H.R.1 provisions. Help your health care clients to stay educated regarding the facts of HIPAA and use testimonials from your clients who are taking a broadminded view of risk. Because when it comes to HIPAA, the glass *is* half-full. ■

Figure A	HIPAA	H.R.1
Access to Patient Information for fundraising activities	Patient demographic information is available to fundraisers as part of “health care operations.”	No change. Patient demographic information is available to fundraisers as part of “health care operations.”
Fundraising Opt-out requirement	Written fundraising communication must include opt-out language that provides recipients of the communication, who are patients, the opportunity to elect not to receive any further such communication. (NOTE: The fundraising opt-out should not be placed in the notice of privacy practices that health care organizations provide to patients)	H.R.1 clarifies that there must be “clear and conspicuous opt-out for written fundraising communication.” It also directs the HHS Secretary to further define what constitutes appropriate opt-out language.
Business Associates	Fundraising vendors and consultants that are provided patient for specific programs managed by or through a development office for fundraising purposes must enter into a “business associate” agreement with the health care provider.	H.R.1 increases the responsibility and liability of vendors that are provided patient information. Business Associates are now directly accountable to Federal and State authorities for compliance with HIPAA privacy and security rules.
Enforcement	Enforcement at the discretion of HHS.	H.R.1 changes the following: <ul style="list-style-type: none"> <li>• Business Associates now directly accountable for HIPAA compliance.</li> <li>• The HHS Secretary now <i>required</i> to impose penalties in cases of willful neglect.</li> <li>• Civil monetary penalties increased up to \$1.5 million for repetitions in one calendar year.</li> <li>• State Attorney Generals now authorized to take civil action.</li> <li>• HSS Secretary now required to conduct periodic audits.</li> <li>• Vendors that handle personal health records, but are not HIPAA covered entities, now fall under the jurisdiction of the FTC regarding breaches of patient information.</li> </ul>

# Inside: A River of Mail by the Millions!

United Printing & Mailing, LLC prints all our fund raising letters, processes them for mailing and manipulates miles of mailing data—all from their modern, state-of-the-art operation in Phoenix, Arizona. Yet, impressive as their facility is from the street, you have no idea of the giant volume of mail it commands until you tour its inner workings.

Inside the sprawling complex are batteries of large screen computers where art and design work takes place. United has both web and sheet-fed high speed printing presses that deliver thousands upon thousands of impressions every day. A Komori Lithrone five-color press. Two and four-color Heidelberg presses. A specialty envelope press. Bindery facilities where printed pieces are scored, trimmed, folded and inserted. Direct-to-plate technology for superb reproduction.

And before mailing—three steps for automation that reduce your postage rate: CASS (Coding Accuracy Support System) to check your mail list against the United States Postal Service’s national database to ensure each of the addresses are deliverable. High speed, quality addressing and bar coding with complete laser-imaging department. And sorting where zip code sequences are audited.

Founded in 1965, United Printing & Mailing looks great from the outside but grows even larger on the inside with the hum of modern machinery and expert activity and the river of mail pieces by the million, flowing smoothly through this amazing facility. ■



## A Wonderful Wide World!

*Special websites you may find interesting, helpful and fun!*

**[www.ceoexpress.com](http://www.ceoexpress.com):** The Executive Internet. One of the very best web sites for a variety of resources. Excellent information source!

**[www.newseum.org](http://www.newseum.org):** Click on “Today’s Front Pages” and access 715 newspaper front pages from 71 countries.

**[www.allnurses.com](http://www.allnurses.com):** Largest community for nurses on the web. They claim 339,877 members.

**[www.youtube.com](http://www.youtube.com):** Unbelievable source for everything—music, history, theater, comedy, etc.

**[www.ted.com](http://www.ted.com):** Watch and listen to engaging, informative lectures from experts in many fields.

**[www.answers.com](http://www.answers.com):** Very good search engine. Dictionary, encyclopedic and much more.

**[www.time.gov](http://www.time.gov):** The official U.S. time web site. Map shows time zones and gives precise time. ■

### Fun Facts

Researchers at Kansas State University say plants in hospitals promote healing. Patients in hospital rooms with plants and flowers have shorter hospital stays, fewer intake of analgesics, lower rating of pain, anxiety and fatigue and greater satisfaction with their rooms when compared to patients without plants. ■

Don’t be irreplaceable. If you cannot be replaced, you can’t be promoted. ■

You can go anywhere you want if you look serious and carry a clipboard. ■