

Fundraising and the New HIPAA Guidelines

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Background

When the HIPAA Privacy Rule was enacted in 2003, **federal law** required health systems to obtain patient authorization in order to use protected information such as department of service and treating physician for targeted fundraising purposes.

Legal Context

The HHS Office of Civil Rights changed HIPAA regulations in March 2013.

Hospitals are now able to have expanded access to more patient information for fundraising purposes.

Original Guidelines 2003 - 2013:

- Patient demographics
- Health insurance status
- Dates of service
- Specialist physician with signed authorization from patient

Updated Guidelines as of March 26, 2013:

- Patients do not need to sign an authorization form
- Department information (general not specific clinical care area)
- Physician(s) name(s)
- General treatment outcome information (favorable or not)
- Patient demographic information, health insurance status, dates of service can still be used

What can development officers know?

- Development does not need to obtain prior patient authorization to know:
 - a patient's name
 - contact information (address, phone, email)
 - date(s) of medical care
 - general department/division providing medical care
 - treating physician's name
 - clinical outcome* of care

***Outcome is interpreted as a general 'good, fair, or poor' indicator**

What can't development officers know?

- Development may not obtain lists of patients based on the following:
 - specific disease
 - diagnosis
 - clinical area visited*

***only based on treating physician or general department/division**

What must be offered to patients?

All development communications give clear opt out

- “a clear and conspicuous opportunity”
- “Low burden, ”low cost” methods
- may not condition treatment or payment on the individual’s choice with respect to the receipt of fund raising communications
- may provide a method to opt back in to receiving fund raising communications
- must respect opt-out patients and ensure that their communication wishes are met
- discretion to choose the scope of the opt-out be that for the duration of a campaign or apply it to all fund raising communication

Opportunities

- Annual giving programs have the ability to mail to a drastically larger audience since individuals are automatically opted-in to the program
- Annual appeals have become more personalized based on available PHI, specifically the department within the individual is receiving care.
- Major gift officers are able to be proactive in identifying possible prospects and while working with faculty to determine inclination and capacity
- Increased major and annual gift prospect pool

Challenges

Ethical Challenges

- Recognizing the role of medical establishment to protect vulnerable patients
- Patient / Physician confidentiality and trust impacted?

Annual Giving and Institutional Challenges

- Discretionary/Unrestricted Funds for the Dean's use declines as appeals become more personalized based on PHI
- Depending on institution, patient opt-out could apply to entire institution, not just specific department or campaign

How is JHU responding?

- The Johns Hopkins HIPAA Office has interpreted the rule that ***patient authorization is no longer required*** in order to obtain general department/division of service and treating physician data.
 - Tasked force was formed within the Fund for Johns Hopkins Medicine to determine how the new rules would be best implemented into Annual Giving and Major Gift work.
- Opt-out information is included on every solicitation letter (email and toll free phone number)
- Patients that chose to opt-out will be excluded from all Johns Hopkins fundraising communication
- Enhanced Wealth Screening Abilities
- Increased prospect pool
- Ability for research office to assist with increasing prospect pipeline by identifying patients that are philanthropic
- Development of new patient reports that incorporate allowable PHI and initial research information that are available to gift officers on a daily basis
- Hot List emailed daily to individual gift officer which includes patient visit date and time

How is JHU responding?

- Ability for solicitation mailings incorporate disease specific information (cancer)
 - We cannot send a communication to a patient that indicates we have been disclosed their personal PHI more specific than general department of service or treating physician.
 - We cannot compile a mailing list based on information more specific than general department of service (Oncology) or treating physician

Can you...

- Mail a fundraising communication about pancreatic cancer to a mailing list of patients of physicians who treat pancreatic cancer. **Yes**
- Mail a fundraising communication about pancreatic cancer to a mailing list of all patients seen in the Oncology Department. **Yes**
- Mail a fundraising communication about pancreatic cancer to a mailing list of all patients diagnosed with pancreatic cancer. **No** (because we don't 'know' that)

Sample Doctors' Day Patient Acquisition

Date

Name

Address Line 1

Address Line 2

City, State Zip Code

*"You saved my life with your compassionate **care.**"*

*"Thank you for **never giving up** on me. My family and I are forever in your debt."*

*"It is a comforting feeling to know that you are in **the care of the very best!**"*

Salutation,

I never tire of reading these types of notes from our patients. It re-affirms my vocational choice to be a doctor and re-energizes my resolve to do all that I can to support the work of Johns Hopkins Medicine and our team of world-class physicians.

March 30th marks the 81st anniversary of the first National Doctor's Day. Won't you let an outstanding Oncologist at Johns Hopkins know just how much you appreciate his or her commitment to you and your family's health?

With a gift of \$100 or any amount, you can recognize a trusted caregiver and support the work that is so important for future success. Enclosed is a notecard that you can use to write a special message like the ones above. If you make your gift by March 1, it will be delivered to your doctor before Doctors' Day.

I promise you, your support of Johns Hopkins Medicine is inspiring and plays a critical role in our success. Your gift can help a Hopkins doctor focus on pursuing new and innovative discoveries, treatments and most importantly, world-renown patient care. Please join us in celebrating and supporting our mission on Doctor's Day.

On behalf of the doctors of the Sidney Kimmel Comprehensive Cancer Center, thank you for your investment in our future.

Sincerely,



William Nelson, M.D., Ph.D.

Marion I. Knott Professor of Oncology

Director, The Sidney Kimmel Comprehensive Cancer Center at Johns Hopkins

P.S. Please don't delay—Doctors' Day is just a few weeks away. Please send your gift by March 1 and help our doctors continue their life-saving work. It's easy to do at www.hopkinsmedicine.org/support

Sample Johns Hopkins Opt Out Letter

DATE

NAME
ADDRESS
CITY, STATE, ZIP

RE: Opt-Out

Dear PERSON:

As you requested in your (NOTE, CALL, EMAIL) we have taken the necessary steps to ensure that you are not contacted in the future by Johns Hopkins Medicine for fundraising purposes. We have made the effective date (DATE) which was the date of your communication with us.

Should you be a patient of any other Johns Hopkins Medicine affiliate hospital at any point, you may receive a separate fundraising communication originating from that affiliate foundation. To opt out of those fundraising communications, please contact them directly as noted below.

If you need to contact me for any additional reason, please write to me at the above address, or call 1-877-600-7783, or email fjhmoptout@jhmi.edu. Thank you for your time.

Sincerely,

Jeremy Durkin
Manager, Medical Development Services
Fund for Johns Hopkins Medicine

Affiliate	Toll Free Number	Email
Howard County	855-640-4150	HCGH-Foundation@jhmi.edu
Suburban Hospital Foundation	800-896-6688	SHFoundation@jhmi.edu
Sibley Foundation	855-632-8100	sibleyfoundation@jhmi.edu

How is MGH responding?

- Formed task force with representation from all areas to outline a transition plan from January to September 2013
- Requests for patient lists first handled on an ad-hoc basis, but was not an efficient process. Time consuming to handle and lists reported information for a single physician.
- Listed physician relationships are now added to the donor database for anyone with an existing constituent record.
- New constituent records are added to the donor database for anyone with a vendor gift capacity rating of \$1M+ within select zip codes (highly rated Massachusetts and out-of-state).

How is MGH responding?

- Approximately 500 new names with vendor rating of \$1M+ identified from December – March patient lists.
- MGH Development Information Management (IM) team worked with Partners HealthCare IS & Finance teams to establish a process to receive a monthly list that reports all clinical visits for a patient.
- Each month DEV IM uploads physician(s) names and clinical service information for patients. Reports are available to development staff to review new data added to the donor database.



Thank you!