

Up for DEBATE

The Presidential
ELECTIONS

The 68th ANNUAL AWARDS LUNCHEON

October 18, 2016, Arlington Convention Center



Margaret H. Jordan
to receive the
Distinguished Health
Service Award

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FOX News



Tucker
Carlson

Washington Post



Eugene
Robinson

and
moderator

KERA News



Lauren
Silverman

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OF HEALTH CARE
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Steve Love

President/CEO
Dallas-Fort Worth
Hospital Council

Scores create déjà vu

DURING MY HIGH SCHOOL YEARS, I worked after school at a local grocery store. I remember the confusion of customers when looking at grades given to fresh fruits and vegetables by the U.S. Department of Agriculture. The top grade of apples was U.S. Extra Fancy, oranges was U.S. Fancy and potatoes was U.S. Extra No. 1, to name a few. When I was restocking produce, customers would ask me, “Do these grades really help me make good consumer decisions?”

I’ve been asked about hospital grades recently and had immediate flashbacks to that produce counter in a small rural store in Virginia. Now don’t get me wrong, clearly the health and well-being of patients is the single most important mission of any provider. This notion of provider grades is similar to my experiences in the grocery store and can be confusing.

Medicare’s Hospital Compare, Consumer Reports, Health Grades, The Joint Commission, Leapfrog, *U.S. News and World Report* are just a sampling of hospital grades and comparisons.

The concern is each system uses its own methodology, sometimes reaching wildly divergent conclusions. This provides confusion rather than clarity. Ratings fluctuate significantly from year to year, utilizing stale data and are not properly adjusted for risks associated with patient types. The most recent Star Ratings did not properly account for socio-economic factors, type of hospital, reason for readmission and the data had not been fully validated.

New research from the Johns Hopkins Armstrong Institute for Patient Safety and Quality found only one measure out of 21 that met the scientific criteria for being a true indicator of patient safety. Several public rating systems utilize these measures so the information could misguide patients. “These measures have the ability to misinform patients, misclassify hospitals, misapply financial data and cause unwarranted reputational harm to hospitals,” said Bradford Winters, MD, PhD and lead author on the study.

The U.S. Dept. of Agriculture eventually standardized grades for fruits and vegetables and we will do the same for providers. In the meantime, please know that hospitals support transparency. So ask your providers to give you quality and patient safety information with outcomes so you make informed healthcare decisions. ■



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DFWHC INTERLOCUTOR

EDITORIAL

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INTERLOCUTOR

1: one who takes part in dialogue or conversation

2: one in the middle of a line who questions the end people and acts as a leader

The 68th ANNUAL AWARDS LUNCHEON

October 18, 2016
Arlington Convention Center

Jordan to be honored at DFWHC event themed “Up for Debate”

JUST IN TIME FOR THE NOVEMBER ELECTIONS, the DFW Hospital Council’s 68th Annual Awards Luncheon on October 18 at the Arlington Convention Center will showcase a lively discussion on the candidates in support of the theme “Up for Debate: The Presidential Elections.”

Tucker Carlson of FOX News and **Eugene Robinson** of *The Washington Post* will provide their storied expertise on what is sure to be one of the more energetic presidential elections in U.S. history. **Lauren Silverman** of KERA News will serve as moderator. A reception begins at 11:00 a.m. and the ballroom doors open at 11:40 a.m.

Margaret H. Jordan, president/CEO of Dallas Medical Resource since 2004, has been announced as the 2016 recipient of the Distinguished Health Service Award. Jordan has also served as the president/CEO of the Margaret Jordan Group and was executive vice president of corporate affairs at Texas Health Resources from 2000-2006.

“Margaret’s career in North Texas healthcare and her dedicated involvement in the community make her one of the most deserving recipients in the history of the award,” said W. Stephen Love, president/CEO of DFWHC. “Her commitment, volunteer work and voice for social change have been crucial in improving healthcare and patient safety in Texas.”

A founding director of the National Black Nurses Association, Jordan has earned many awards for her work including the Dallas Historical Society’s Community Service Award and the Dallas County Medical Society Health Award. She has been a director of the American Hospital Association,



Margaret H. Jordan

the Texas Hospital Association, the Metropolitan United Way and the YWCA.

In a fascinating anecdote, Jordan is a direct descendant of Paul Jennings, U.S. President James Madison’s enslaved manservant. Jennings’ personal memoir, “A Colored Man’s Reminiscences of James Madison,” published in 1865, is considered the first-ever memoir about life in the White House.

The Distinguished Health Service Award has been bestowed annually for 68 years. Since 1948, residents of the Dallas/Fort Worth area have been honored for their support of healthcare including **Dr. Merlyn Sayers** (2015), **Dr. Wright Lassiter, Jr.** (2014), **T. Boone Pickens** (2012), **Ray and Nancy Ann Hunt** (2009) and **Ross and Margot Perot** (2008).

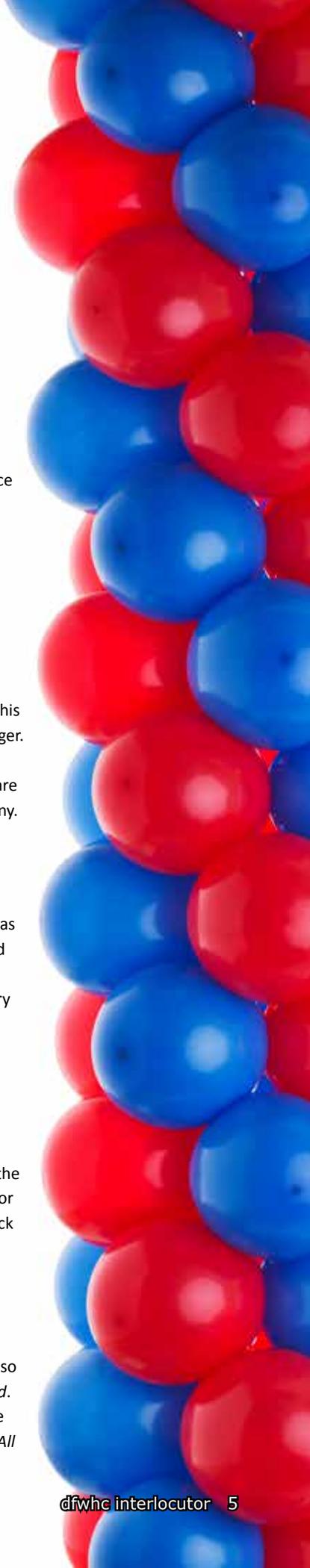
The Young Healthcare Executive of the Year will be presented to **Clint Abernathy**, president of Texas Health Harris Methodist Hospital Alliance. **Levi Davis**, the longtime board member of Methodist Health System, will receive the Kerney Laday, Sr. Trustee of the Year Award. In addition, a special tribute will be presented to **Joel Allison**, president/CEO of Baylor Scott & White Health, who will be stepping down after 17 years at the helm.

For questions, please contact **Chris Wilson** at chrisw@dfwhc.org or call 972-719-4900. ■



Up for DEBATE

The Presidential ELECTIONS



Clint Abernathy, Young Healthcare Executive of the Year

Clint Abernathy was named president of Texas Health Harris Methodist Hospital Alliance in 2015. He joined Texas Health Alliance in 2012 as professional services officer and played an integral role in efforts to open the hospital. Abernathy previously served as administrative director of operations for Texas Health Presbyterian Hospital Dallas and served as the hospital's director of performance and productivity from 2007-2011.



Levi Davis, Kerney Laday, Sr. Trustee of the Year

Levi Davis has been a longtime board member of Methodist Health System, beginning his tenure in 2002 and named chair in 2012. He is also a former assistant Dallas city manager. Davis was the first black board chairman of Methodist Health System, and the first to come from the public sector. Davis has also served on the boards of the Texas Healthcare Trustees, the Texas Hospital Association, the State Fair of Texas and the Dallas Symphony.



Tucker Carlson, FOX News

Tucker Carlson serves as host of *FOX & Friends Weekend*. He joined FOX News in 2009 as a contributor and has provided analysis for America's elections, including the 2016 and 2012 presidential campaigns. He also produced a FOX News special, "Fighting for Our Children's Minds," in 2010. Carlson joined CNN in 2000 as its youngest anchor in history hosting *The Spin Room* and *Crossfire*.



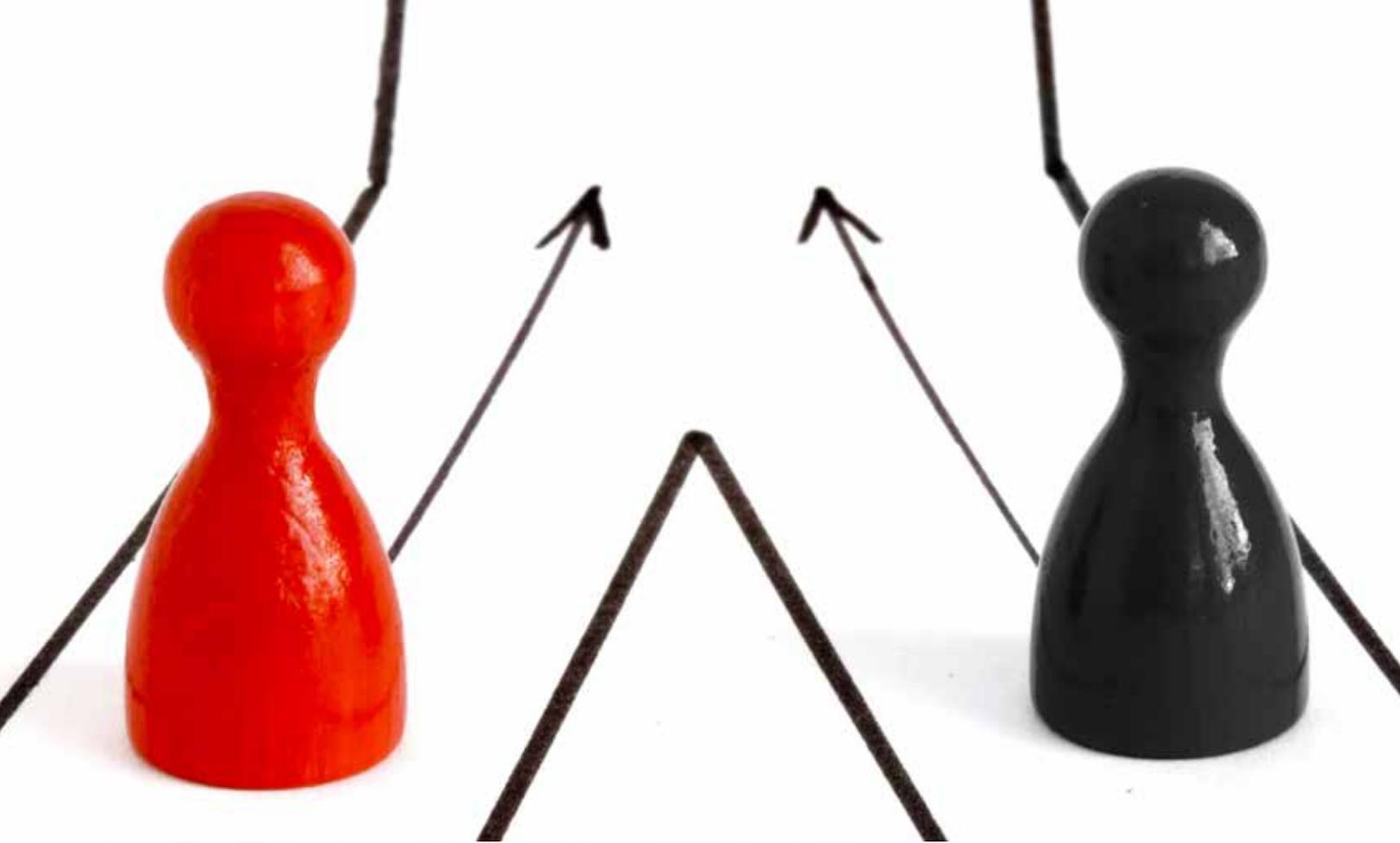
Eugene Robinson, The Washington Post

In a three-decade career at *The Washington Post*, Eugene Robinson has been city hall reporter, city editor, foreign correspondent and managing editor. In 2009 he received the Pulitzer Prize for his columns on the 2008 presidential campaign. Robinson is the author of "Disintegration: The Splintering of Black America" (2010) and "Coal to Cream: A Black Man's Journey Beyond Color to an Affirmation of Race" (1999).



Lauren Silverman, KERA News

Lauren Silverman is the Health, Science & Technology reporter at KERA News. She is also the primary backup host for KERA's *Think* and the statewide news show *Texas Standard*. While at KERA, Lauren has received several regional Edward R. Murrow awards. Before joining KERA, Lauren was a reporter on the National Public Radio's weekend program *All Things Considered* in Washington D.C.



JOINT VENTURE

THR and Aetna form a health plan

AETNA AND TEXAS HEALTH RESOURCES announced in May the creation of a jointly owned, for-profit health plan company that will sell to individuals and employers in 14 counties in North Texas.

The joint venture will be equally owned by the two and will launch with a provider base made up of Southwestern Health Resources, Texas Health's previously announced network with UT Southwestern. It includes more than 3,000 physicians, 27 hospitals and more than 300 outpatient sites.

New fully-insured and self-insured commercial products will be offered to employers and consumers in 14 counties in the Dallas-Fort Worth Metroplex, including Collin, Cooke, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, Somervell, Tarrant and Wise, and are anticipated to be available on Jan. 1, 2017.

The new health plan will focus on a value-based component to help achieve Aetna's goal of transitioning 75 percent of its contracts away from fee-for-service payment models.

The Aetna and Texas Health partnership is the first of its kind in North Texas to fully align the incentives and capabilities of a national insurer and major health system. By sharing ownership

and accountability equally, the new health plan will focus on the consumer experience by combining fully integrated care teams, health insurance benefits and administrative services to eliminate redundancies of care and to reduce administrative hassles.

The new partnership will feature the Southwestern Health Resources network as its core, which includes more than 500 physicians in Texas Health's employed physician group, Texas Health Physicians Group (THPG). Texas Health's 69 outpatient facilities include surgery centers, fitness centers, imaging centers and more than 250 other community access points. Its hospitals include 16 acute-care facilities, along with six short-stay, one transitional care and two rehabilitation hospitals.

The partnership with Texas Health is Aetna's second joint venture with a nonprofit health system, as Aetna moves 75 percent of its contracts to value-based care models by 2020. Texas Health had nearly 162,000 inpatient stays and more than 1.5 million outpatient encounters (excluding physician office visits) in North Texas last year. Aetna provides health care benefits to approximately 700,000 commercial members in the 14-county area in the Dallas-Fort Worth Metroplex. ■



**Chance King of
Maxim Healthcare.**

MAKING CONTACT

August 11 Speed Networking event attracts area executives

A FULL HOUSE TURNED OUT for the August 11 Speed Networking event hosted by the DFW Hospital Council (DFWHC) at Texas Scottish Rite Hospital for Children in Dallas. A fun opportunity to meet and greet healthcare executives, the event was attended by representatives of **UT Southwestern Medical Center, Children's Health System, Best Receivables Management, Maxim Healthcare Services, PediaPlex, Max Maxwell Law Practice, P.C.** and **Physician's Medical Practice Management Magazine**, among many others. DFWHC Foundation President **Kristin Jenkins** served as host. DFWHC's next Speed Networking is set for **Thursday, November 3**. Details soon to follow. ■



**Esther Agyemang of
Edward Jones Investments.**



**Madison Wagner of
Predictive Medical Solutions.**

Around DFWHC

Nurses save runner's life

Twenty-two year old Michael Loftis collapsed from a heart attack at the Irving Half Marathon in April. Thanks to the quick thinking of two nurses from **Las Colinas Medical Center**, he is alive today. Nurses **Laura Rampley** and **Ron Samuel** volunteered to help at Las Colinas Medical Center's booth at the marathon. Little did they know that in addition to talking about hospital services, they would have to put their skills to work. After crossing the finish line, Loftis collapsed. Laura quickly realized the situation was serious and jumped into action. After checking for a pulse and realizing he didn't have one, she instructed Ron to start chest compressions while she went to get an Automatic External Defibrillator (AED). Together, they continued CPR and shocked his heart with the AED until his heart beat returned and he regained consciousness. ■

HALSEY AWARD



LILLIE BIGGINS, president of Texas Health Harris Methodist Hospital

Fort Worth and chair of the DFW Hospital Council, received the Fort Worth Chamber of Commerce's inaugural Susan Halsey Executive Leadership Award on June 14. The Halsey Award recognizes an executive who has devoted time and energy to strengthening the organization they lead. It is named after the late Fort Worth attorney and Chamber chairman. Halsey died from colon cancer in 2014. The award was presented before more than 800 attendees at the Chamber's 134th annual meeting at the Omni Fort Worth Hotel. ■

Snake Go!



Lane Smith, 18, of Flower Mound is warning others of the dangers of "Pokémon Go Distraction." On July 12, Lane and a friend were playing Pokémon Go while walking at a park. Focused on his phone, Lane says it was his friend who noticed a moving "stick." By then, the brown snake had bitten Lane's toe. Within minutes, Lane's foot began to swell and his parents rushed him to an ER. Lane was quickly treated and transferred to **Medical Center of Lewisville**. Doctors determined Lane did not require antivenin and was released in 24-hours. ■

Lopez named new COO at Parkland



DAVID S. LOPEZ, FACHE, HAS BEEN NAMED Parkland Health & Hospital System's permanent Executive Vice President and Chief Operating Officer. Lopez first came to Parkland in February to serve as Interim Chief Operating Officer. Prior to Parkland, Lopez served as Chief Operating Officer for four years and Chief Executive Officer for nine years at Harris County Hospital District in Houston. He has spent much of his career working in public health systems throughout Texas. Lopez earned his Master of Science in Health Care Administration from Trinity University in San Antonio, Texas. ■

Star Ratings

Leaders speak out against federal scores

HOSPITAL ASSOCIATION LEADERS including **Rick Pollack**, president/CEO of the American Hospital Association and **W. Stephen Love**, president/CEO of the DFW Hospital Council, spoke out against the July 27 release of the federal safety ratings by the Centers for Medicare & Medicaid Services in a story posted in *The Dallas Morning News*. A total of 276 hospitals in the state, including 56 in North Texas, were rated in the release.

“The ratings raise far more questions than answers for consumers. They are not ready for prime time,” Pollack said.

“The assignment of star ratings implies that hospitals have been measured on an equal, or an equivalent basis,” Love said. “That is not the case. We agree patients need to make informed decisions, but the information used to make health care decisions must be validated and accurate.”

The full story, penned by **Sabriya Rice**, can be found at: <http://www.dallasnews.com/business/health-care/20160727-how-did-your-dfw-hospital-fare-in-the-latest-federal-safety-ratings.ece>. ■



Denton Regional names President/CEO

STEVEN EDGAR, FACHE, PT, HAS BEEN NAMED PRESIDENT/CEO of Denton Regional Medical Center.

He begins his tenure August 22. Edgar joins Denton Regional from Wesley Woodlawn Hospital in Wichita, Kansas, where he has served the past four years as CEO. During his tenure at Wesley Woodlawn he achieved outstanding patient satisfaction and employee engagement, and expanded service lines including ER, cardiology and surgical services. Prior to Wesley Woodlawn, Edgar served as COO and Associate Administrator of the 760-bed Wesley Medical Center in Wichita, Kansas, leading volume growth strategies, physician relations and recruitment, staffing, capital construction and ancillary patient care departments. Edgar holds a bachelor's degree in Health Science-Physical Therapy from the University of Missouri, Columbia, and a Master of Public Administration – Health Administration, from University of Missouri, Kansas City. He is a Fellow of the American College of Healthcare Executives. ■

Mowan to lead Medical City

CHRIS MOWAN, MBA, FACHE, WAS NAMED PRESIDENT/CEO at Medical City Dallas Hospital. He began his tenure July 25. Mowan joins Medical City from Las Vegas, Nevada, where he has served the past three years as CEO of MountainView Hospital, a complex teaching hospital. Mowan's career with HCA spans more than 20 years, starting with roots as an HCA North Texas division manager to roles as COO at Del Sol Medical Center in El Paso and as COO at Sunrise Medical Center and Children's Hospital in Las Vegas. Mowan is a graduate of Indiana University and holds a Master's degree in Business Administration from Southern Methodist University. He is a Fellow of the American College of Healthcare Executives. ■

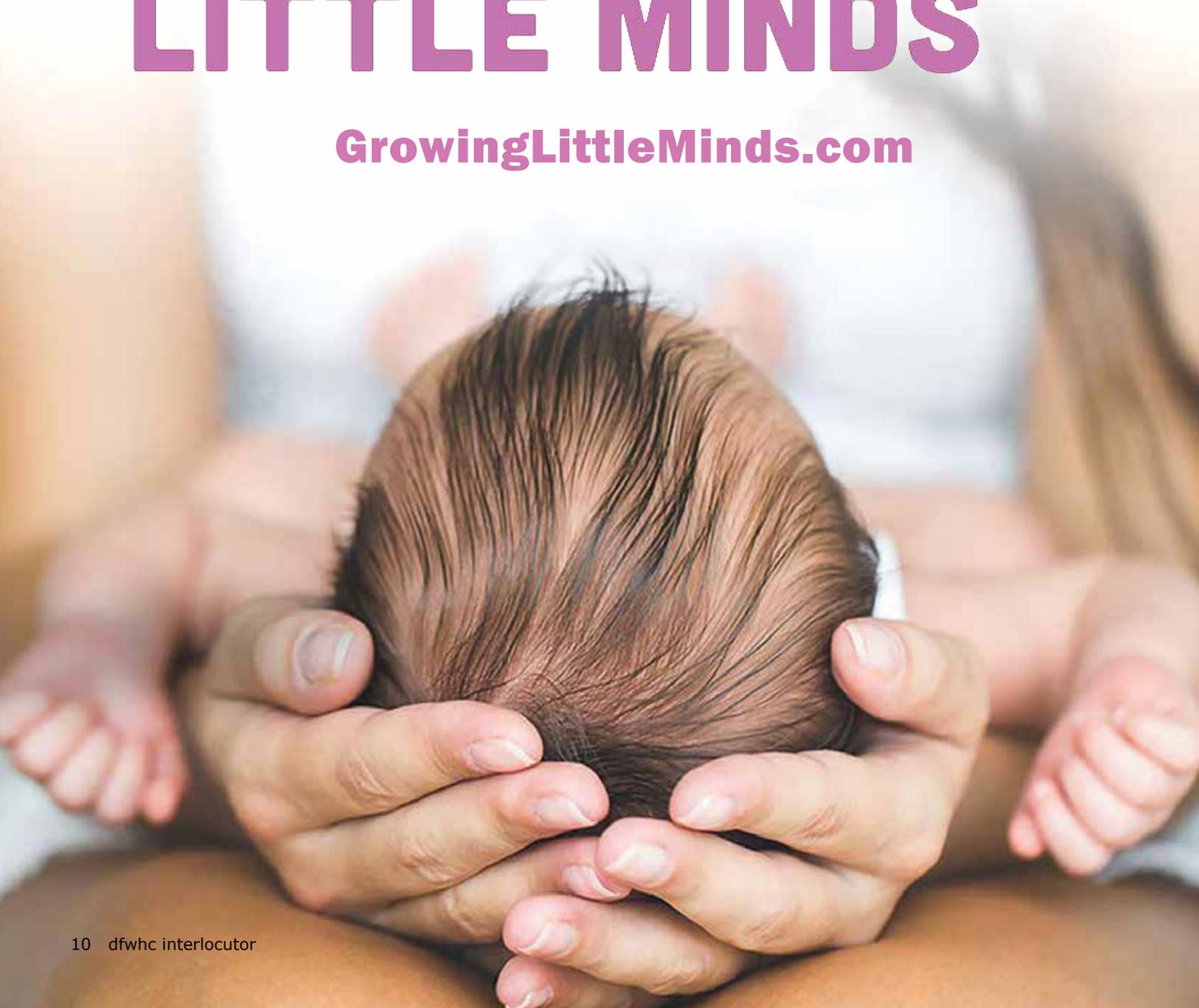


**START YOUR
BABY ON A
LIFELONG VOYAGE
OF DISCOVERY.**

**Press Conference
Sept. 8, 10:00 a.m. at
Parkland Health
& Hospital System!**

GROWING LITTLE MINDS

GrowingLittleMinds.com



Summer Campaign Continues

Kits mailed to North Texas hospitals



WORKING WITH DALLAS MAYOR MIKE RAWLINGS, the Dallas-Fort Worth Hospital Council (DFWHC), which unites 90 North Texas member hospitals to advance exceptional healthcare in the region, launched the early brain development program “**Growing Little Minds**” this summer. The goal of the initiative is to inform new parents of the intellectual and psychological value of spending meaningful time connecting with their newborns.

“**Growing Little Minds**” is designed to encourage parents of new babies to inspire their infants by highlighting how simple, everyday activities can have a positive effect on their development. These interactions are especially important during their first year of life. Parents can increase their newborn’s capacity to learn by engaging their sense of sight, sound, touch, taste and smell.

“Babies truly are like little sponges,” said DFWHC President/CEO W. Stephen Love. “We are bringing together all 90 member hospitals of North Texas to encourage young parents of new babies by showing them how easy it is to help their newborns absorb knowledge through normal, one-on-one interactions like playing peek-a-boo and reading to them. In fact, there’s a good chance parents may already be doing some of these things already.”

DFWHC sought Agency Creative’s expertise to create a campaign that offers helpful information and advice about newborn care through videos which are part of a dedicated website at **GrowingLittleMinds.com**. Integrated social media feeds on Facebook, Twitter and Instagram provide additional tips and allow mothers and fathers to connect and compare notes with a growing community of parents.

So far, hospital participation has been strong, with media kits and souvenir towels distributed to each DFWHC member facility.

A press conference to promote the campaign has been scheduled for Thursday, September 8 at 10:00 a.m. at Parkland Health & Hospital System. Mayor Rawlings, Dr. Fred Cerise, president/CEO at Parkland, and Love are expected to participate. ■





TAKING ACTION

It could save your life in an active shooter situation

Parkland Health & Hospital System recently released the article below detailing survival tips during an active shooter situation. Following the horrific July 7 tragedy in which five police officers were killed in downtown Dallas, the DFW Hospital Council decided to publish this information.

THE HARSH REALITIES OF ACTIVE SHOOTER SITUATIONS in schools, theaters and offices across the country have become all too familiar in recent years. And while mass casualties are the goal of those firing the guns, law enforcement and medical personnel at **Parkland Health & Hospital System** say there are ways individuals can protect themselves and others when placed in the deadly crossfire.

“Unfortunately, we don’t know when violence will occur. We’ve seen reports from shopping malls, university campuses and even healthcare clinics,” said **Dan Birbeck**, a captain with the Dallas County Hospital District Police. “But even though we don’t know the ‘when,’ anyone can be prepared to take action.”

Capt. Birbeck has trained staff at numerous healthcare operations on active shooter response. He said action can come in many forms and if an individual is caught in an active shooter situation, they should never underestimate the threat.

“If you hear sounds and your first thought is ‘that’s gunshots,’ don’t try to convince yourself it may be something

else like fireworks. How you react could mean the difference between life and death,” Capt. Birbeck said.

Individuals can increase their chances of survival by remembering a simple acronym ADD – avoid, deny, defend. Avoid where the shooting is taking place – get out of the building or find a safe area to shelter until police arrive. Deny the shooter access by barricading the area with multiple layers such as locking a door and moving heavy objects such as desks or file cabinets to further block access and defend yourself and others against the shooter. But, cautions Capt. Birbeck, if there is no opportunity to avoid or deny access an individual must remember they are going up against someone whose ultimate goal is a mass homicide.

“You must have the mindset that you will truly be in a fight for your life,” he said.

Alexander L. Eastman, MD, MPH, Medical Director and Chief of the Rees-Jones Trauma Center at Parkland and Assistant Professor of Surgery at UT Southwestern Medical



STOP THE BLEED

Center, is highly qualified to talk about the trauma associated with gunshot wounds, but as a Lieutenant on the Dallas Police Department's Special Weapons and Tactics (SWAT) squad, Dr. Eastman knows first-hand how to respond effectively during an active shooter situation. In addition, Dr. Eastman is a nationally-recognized expert on the topic having written policy for the U.S. Department of Justice and the Hartford Consensus on survivability during a mass casualty shooting event.

The Hartford Consensus recommends that an integrated active shooter response include the critical actions contained in the acronym **THREAT**:

- **Threat suppression;**
- **Hemorrhage control;**
- **Rapid Extrication to safety;**
- **Assessment by medical providers;**
- **Transport to definitive care.**

“As we’ve looked back over active shooter situations, we’ve found that life-threatening bleeding from extremity wounds is best controlled by first responders through the use of tourniquets,” said Dr. Eastman. “First responders are first and foremost trained on how to respond in an active shooter situation, but they are also trained in emergency medical care such as the application of tourniquets.”

Dr. Eastman also emphasized that no matter how rapid the arrival of emergency responders, bystanders will always be first on the scene. A person who is bleeding can die from blood loss within five minutes, therefore it is important to quickly stop the blood loss. A national campaign with Texas ties, “Stop the Bleed,” empowers individuals to act quickly and save lives.

Still, the key to surviving an active shooter situation is to have a plan, say Dr. Eastman and Capt. Birbeck.

“When you go into an office building, shopping mall or restaurant, look around and size up your surroundings. Know where the exits are and plan in your mind what you’d do in the event of an active shooter situation,” Capt. Birbeck said. “Don’t be paranoid, but work ‘ADD’ into your plan. It could mean the difference between life and death.”

For additional information on the Stop the Bleed initiative, visit www.dhs.gov/StopTheBleed. ■



The DFW Hospital Council would like to offer its support to all North Texas law enforcement agencies. We also offer sincere and heartfelt condolences to our community protectors at the Dallas Police Department and the Dallas Area Rapid Transit (DART). Most importantly, we offer our thoughts and prayers to the families and friends of the five brave police officers who selflessly gave their lives serving in the line of duty. We are deeply saddened over this horrific tragedy that occurred July 7 in Dallas. The DFW Hospital Council would also like to offer its thanks to the employees of Parkland Health & Hospital System, Baylor University Medical Center and Methodist Dallas Medical Center who worked tirelessly saving the lives of so many on that terrible night.



Associate Members

Patients' Access Rights Permissible fees under HIPAA

By Charise R. Frazier and Ashley L. Thomas

ON JANUARY 7, 2016, THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE FOR CIVIL RIGHTS (“OCR”) released new guidance clarifying an individual’s right to access his or her medical record under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). On February 25, 2016, OCR released additional guidance explaining the permissible reasonable cost-based fees for copies of medical records. Under HIPAA, individuals have an enforceable, legal right to request copies of their medical records maintained by covered entities. The purpose of the guidance is to remove barriers and resolve misunderstandings related to individuals accessing their health information.

REQUESTS FOR ACCESS

Upon request, individuals can access their protected health information (“PHI”) in one or more “designated record sets” maintained by a health care provider. A designated record set is defined as a group of records maintained by or for a covered entity that includes: (1) medical records and billing records; (2) enrollment, payment, claims adjudication and medical management record systems; or (3) any other records used by covered entities to make decisions about individuals. State laws that provide a greater right of access to PHI than HIPAA, or that are not contrary to HIPAA, still apply and are not preempted by HIPAA. Patients are not required to state a reason why they are requesting their medical records.

Under limited circumstances, a covered entity may deny an individual’s request for access to all or a portion of the PHI requested. In certain circumstances, an individual has a right to have the denial reviewed by a licensed health care professional designated by the covered entity who did not participate in the original decision to deny (45 CFR 164.524 (a)). A covered entity cannot deny access to an individual’s medical record if the individual has failed to pay his or her medical bill(s).

VERIFICATION

Covered entities are required to take reasonable steps to verify the identity of an individual requesting access to his or her medical record. The verification process may not impose unreasonable measures on an individual that serve as barriers or unreasonably delay the individual from obtaining access to his or her medical record. Examples of unreasonable measures:

- Requiring an individual to physically come to the covered entity’s office in order to provide proof of identity in person when the individual is requesting a copy of his or her medical record to be mailed to a home address;
- Requiring web portal for requesting access to individual’s medical record as not everyone has access to portals; and



- Requiring individual to mail access request as this would delay the covered entity's receipt of the request and, thus, the individual's access.

TIMELINES FOR PROVIDING ACCESS

Covered entities should respond to a request for access as soon as possible but must respond no later than 30 calendar days. If a covered entity is unable to provide access within 30 days, it may extend the time by no more than an additional 30 days. The covered entity must provide the individual with a written statement giving the reason(s) for delay and the date by which the entity will complete the request.

FORM AND FORMAT OF ACCESS

Covered entities are required to provide the individual with access to PHI in the form and format requested so long as it can be produced. If the covered entity cannot produce the PHI in the form and format requested, then it should provide the individual with a readable hard copy form of his or her PHI or in a format mutually agreed upon. Mail and email are generally considered readily producible formats.

PERMISSIBLE FEES

HIPAA permits a covered entity to charge a reasonable and cost-based fee for creating a copy of the individual's record. Although OCR suggests covered entities provide copies of medical records free of charge, this is not a HIPAA mandate. If state law requires health care providers to provide one free copy of a patient's medical record, HIPAA does not preempt that state law. Covered entities are encouraged to examine the financial situation of the individual requesting access and consider whether it will be impossible for the individual to afford the fee. Reasonable and cost-based fees include:

1. Labor for copying PHI (paper or electronic);
2. Supplies for creating copy (paper, toner, USB drive);
3. Labor to prepare a summary of PHI (if requested); and
4. Postage if the individual wants copy mailed.

A covered entity is not permitted to charge a fee associated with maintenance and storage of data, labor associated with ensuring HIPAA compliance and other costs not included above, even if authorized by state law. OCR further clarifies the labor fee for producing the medical record, which cannot include costs associated with reviewing the request, search or retrieval of PHI and segregating or otherwise preparing PHI in response to the request. A covered entity can only charge for labor costs associated with creating and delivering a copy of the record in the format requested. Labor costs can include:

- Photocopying;

- Scanning paper PHI into electronic format;
- Converting electronic information to format requested;
- Transferring electronic PHI from covered entity's system to a web-based portal, portable media, email, app, personal health record and/or;
- Creating and executing a mailing or email.

OCR suggests three practices covered entities use to calculate a reasonable, cost-based fee for record copies:

1. **Actual Costs.** Covered entity may calculate labor costs to fulfill the request as long as the labor is only for copying and the rates are reasonable. Covered entity may add to labor costs any applicable supply (paper, CD or USB drive) or postage costs.
2. **Average Costs.** Covered entity can develop schedule of costs for labor based on average costs to fulfill standard requests as long as they are allowed under HIPAA and reasonable. Covered entities cannot charge per page fees for paper or electronic copies of PHI.
3. **Flat Fee for Electronic Copies of PHI.** Covered entity may charge individuals flat fee for standard requests for electronic copies of PHI, provided fee does not exceed \$6.50, inclusive of labor, supplies and postage.

PRACTICAL TAKEAWAYS

In light of this guidance, covered entities of all types should take the following necessary steps to ensure that they are providing their patients with reasonable access to their medical records.

- Review and audit medical record access policies to ensure access is provided appropriately and timely;
- Ensure verification process does not create barriers to, or unreasonably delay the individual from, obtaining access to PHI;
- For electronic access, monitor patient portals to ensure there are authentication controls; and
- Identify labor and supply costs associated with producing medical record copies to ensure fees are reasonable and cost-based.

This article is educational in nature and not intended as legal advice. Always consult legal counsel with specific legal matters. If you have questions or would like additional information, please contact **Charise R. Frazier** at 317-977-1406 or cfrazier@hallrender.com or **Ashley L. Thomas** at 317-429-3664 or athomas@hallrender.com. ■

Associate Members



9 Best Practices

By Alan Newberg
and Jay Sutton

Improve your month-end close

AN EFFICIENT MONTH-END CLOSE PROCESS INCREASES DISCIPLINE AND STRUCTURE, improves controls and reduces risk. Streamlining this process also puts accurate financial information into leadership's hands sooner – facilitating timely analyses and smarter decision-making. Following are nine best practices for improving your month-end close.

- 1.** Set your goal for a three-day close. The norm for a hospital system to close its financial records is eight business days. Best-in-class systems typically take three to five days. Set interim goals to shave a day off the process each month or two and foster an expectation of continuous improvement.
- 2.** Immediately convene a five-person close-improvement team. Select five individuals based on their role in the close process to be permanent close-improvement team members. Communicate the creation of a formal close-improvement program to the entire accounting team, including those in payroll, accounts payable, and revenue accounting. Invite representatives from nonaccounting departments to provide relevant information. Build a project charter to describe your vision for an improved close process, delineate your final and interim goals, and designate all staff involved in close activities as program participants and ad hoc team members. Invite all team members to a “kickoff” event – a real event that is not merely a meeting summarizing the program but one that educates the participants in improvement objectives

and techniques. For a case study during the kickoff event, find a small problem and improve upon it. Communicate progress and planned improvements on a quarterly basis.

3. Conduct pre- and post-close team meetings. In pre-close meetings, discuss the close schedule and timeline, changes being implemented and issues to consider, and follow-up items from the previous month's post-close meeting. In post-close meetings, review what worked and troubleshoot what did not, including actual versus scheduled journal entry (JE) completion dates and times. Review the status of assignments given to team members during the month. Discuss data and characteristics gathered during the process, including any nonvalue-added steps, risks, controls, and abnormalities from previous months.

4. Create a Gantt chart of journal entries. The close process consists of numerous JEs. Some take very little time to prepare; others take days. Some data is available at the start of month-end close; other data is not available until the end. Ask each accountant to select 10 JEs that require more time than the others, or JEs not completed until the last day or for which data arrives late. If someone has more than 10 problem entries, document them all. The point is to focus on all time-consuming and end-of-process entries.

Have each accountant create a Gantt chart of his or her selected JEs, with a starting point (when data is received) and an end point (when the JE is booked). Then combine the individual Gantt charts into a single chart. Shortening the close process involves reducing the time required to prepare entries, analyzing the results, and obtaining needed data sooner (preferably, on day one). The master Gantt chart will help reveal which entries should be focused on first.

5. Prepare a detailed close schedule. Detailed schedules add discipline and structure to the close process. Build a schedule identifying the day of completion for each JE. Start with daily increments (for example, end of day one or end of day three). Update the schedule each month to address the changes implemented. After a few months, adjust the schedule into half-day increments (a.m. or p.m.). Finally, adjust the schedule into hourly increments. Record actual completion days and times, analyze variances, and discuss results in post-close meetings.

6. Measure close characteristics. In addition to creating a Gantt chart, collect measures of process performance. Create two bar graphs: one reporting when JEs were posted to the general ledger (day one, day two, etc.), the other reporting the number of entries by each team member. Collect total lines

posted, and sort this data by accountant. Add intelligence to JE numbers – for example, 100 series for cash, 200 series for fixed assets, 300 series for reclassifying entries. This will allow you to report the number of entries by type and when they are posted. Create statistics according to JE dollar value, and summarize by number of entries under \$1,000; \$1,000 to \$10,000; \$10,000 to \$100,000; and greater than \$100,000.

Measures will be added and dropped as the improvement program progresses. For example, a company might have a problem with accrued payable as the last entry booked each month because the accountant takes two days to review invoices and book their accrual. By measuring the number of accrued invoices by dollar value, the company might discover that more than half of the review time is spent on invoices less than \$100. By changing policy, the company could shave a day off month-end close.

7. Focus on journal entries. As a general rule of thumb, focus first on improving the last posted entries – working from the back forward. Begin with entries posted on the last day. Look at the steps performed and when the data is received. Have your team list root causes for the delay. Does the team member not have time to start the entry until later even though the data is present, or does the data arrive late? Is the process inefficient? Ask “Why?” five times to help identify root causes. Then, when all of the last-day JEs are completed earlier in the close, move to the next day, and so on.

8. Conduct a monthly improvement day. Formal methods to improve processes such as lean manufacturing might prompt the team to spend a week qualifying and quantifying a problem, identifying solutions, and implementing improvements. A modified, daylong version of this process one or two days after close, in which the team discusses the target JEs, maps JE subprocesses, reviews data, discusses potential root causes, and brainstorms solutions, can be helpful. The associated accountant(s) then should make the necessary changes, implement solutions, and apply the new processes in the next month's cycle.

9. Implement other improvement ideas. As a general process improvement rule, eliminate tasks or JEs where possible. When this is not feasible, consider automating, simplifying, or load balancing to reduce the time it takes to prepare JEs.

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Jay Sutton, 317-706 2738, jay.sutton@crowehorwath.com ■

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Interlocutor is publishing articles submitted by Associate Members. This article was provided by **UT DALLAS**. For guidelines, contact Chris Wilson at chrisw@dfwhc.org.



IN RESPONSE TO THE BURGEONING HEALTHCARE MARKET and changes driven by the Affordable Care Act, **The University of Texas at Dallas Naveen Jindal School of Management** is launching a new master's degree program for healthcare professionals who are seeking additional education to help boost their careers and lead these significant changes.

The Executive Master of Science in Healthcare Management degree for healthcare professionals is geared to accommodate the busy schedules of working professionals, with classes meeting two days a month on a Friday and Saturday, and requiring four hours of online work between class sessions. The curriculum is designed to complement existing professional development programs along the entire continuum of care. It debuts this fall.

"We believe that in order to shape the healthcare environment, we need leaders of character who can drive transformational change, and who understand and can balance clinical outcomes, financial outcomes and quality outcomes for the patient," says **Keith Thurgood**, clinical professor of leadership and healthcare management and director of the new program.

"Leaders must think differently, act differently and deliver a different result than in the past," Thurgood says. "Leading the changing business of healthcare requires leaders who have a more comprehensive skill set than most have today if we are to institutionalize a patient-centric system that delivers on the promise of a more effective and efficient healthcare system."

The new program will be taught by seasoned business leaders, experienced healthcare professionals, medical school faculty and a select group of experienced physician executives. Its approach will be based on intense student interaction, real-life case studies and leadership problems, and it will provide opportunities for students to create and apply action plans for immediate use in their own job situations.

"The objective of our program is to have students leave classes with a couple of extra arrows in their quiver," Thurgood says, "and to learn from their peers in a seminar environment and then go back to their hospitals, clinics, doctors' offices and other healthcare workplaces to implement what they have learned. Our program is about translating knowledge and vision into action that fundamentally shifts the expectations and performance curve in the healthcare industry.

"Our new program is designed to bring together healthcare professionals who are seeking to advance their careers professionally and personally, and offer them that opportunity in a world-class setting with high-quality faculty and a top-notch curriculum," he says.

The new program complements two other Jindal School

executive healthcare degree programs that are aimed at doctors. These are the Executive MS in Healthcare Management for Physicians and the Executive MBA in Healthcare Management for Physicians.

The Jindal School also offers an undergraduate program that leads to a BS in Healthcare Management and a graduate MS in Healthcare Management program open to applicants without previous healthcare industry experience.



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For more information, contact **Dr. Keith Thurgood** at **972-883-5859** or email Keith.thurgood@utdallas.edu. ■



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U.S. News & WORLD REPORT

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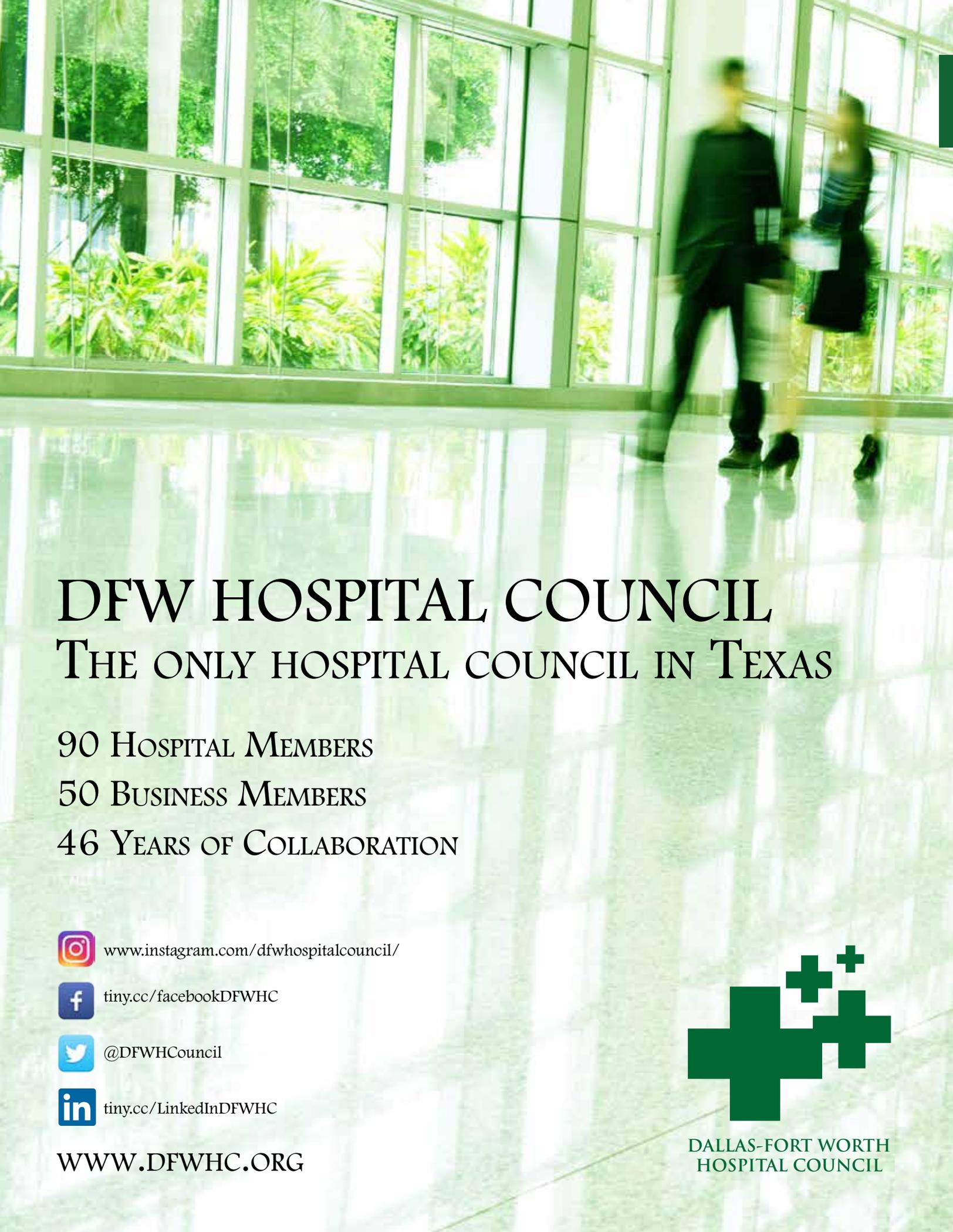
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Kristin Jenkins

JD, MBA, FACHE

President, DFWHC Foundation
Senior Vice President, DFWHC

Collective Impact models can make a difference

FOR YEARS, COMMUNITIES HAVE IDENTIFIED THE PRESSING HEALTH NEEDS of citizens through evaluation and assessment. In North Texas, common needs include behavioral health treatment, access to care, high diabetes prevalence and infant mortality.

All of these needs are addressed by many sponsored programs that can demonstrate improvement in the lives of participants. But are these programs enough? Alone, can they really move the needle on complex social and health issues? Is there a better way?

Research indicates one of the most effective ways to improve complex social issues is through **“Collective Impact”** models. These models require communities to adopt common agendas, shared measurements, reinforcing activities, communications and a backbone entity for coordination. Collective Impact increases alignment between members of the community. It can also inspire residents to reach a common goal.

The Collective Impact model creates a blueprint for everyone in the community. Such a discipline involves prioritizing community needs above the sole interest of individuals or singular organizations. It requires a commitment to support partner organizations with areas of expertise perhaps different from your own.

Effective Collective Impact activities require many inputs. The key factor is an influential **“champion”** who can keep the team together during the early stages of the initiative. These champions can encourage continued involvement and adjust course as necessary. Quite simply, they are the leaders, usually well known within the community, ensuring sustainability through the most difficult challenges.

The DFW Hospital Council Foundation supports the use of Collective Impact models to address complex health problems in North Texas. We also support the valiant efforts of individuals and singular organizations who directly improve the community through their missions and hard work. They are necessary to improve our quality of life.

If you are interested in learning more about Collective Impact, please contact us at the Foundation and we will be glad to discuss the topic in a venue of your choosing. ■

How to contact us

972-717-4279

info@dfwhcfoundation.org



www.dfwhcfoundation.org

Foundation Mission

To serve as a catalyst for continual improvement in community health and healthcare delivery through education, research, communication, collaboration and coordination.

Foundation Vision

Act as a trusted community resource to expand knowledge and develop new insight for the continuous improvement of health and healthcare.

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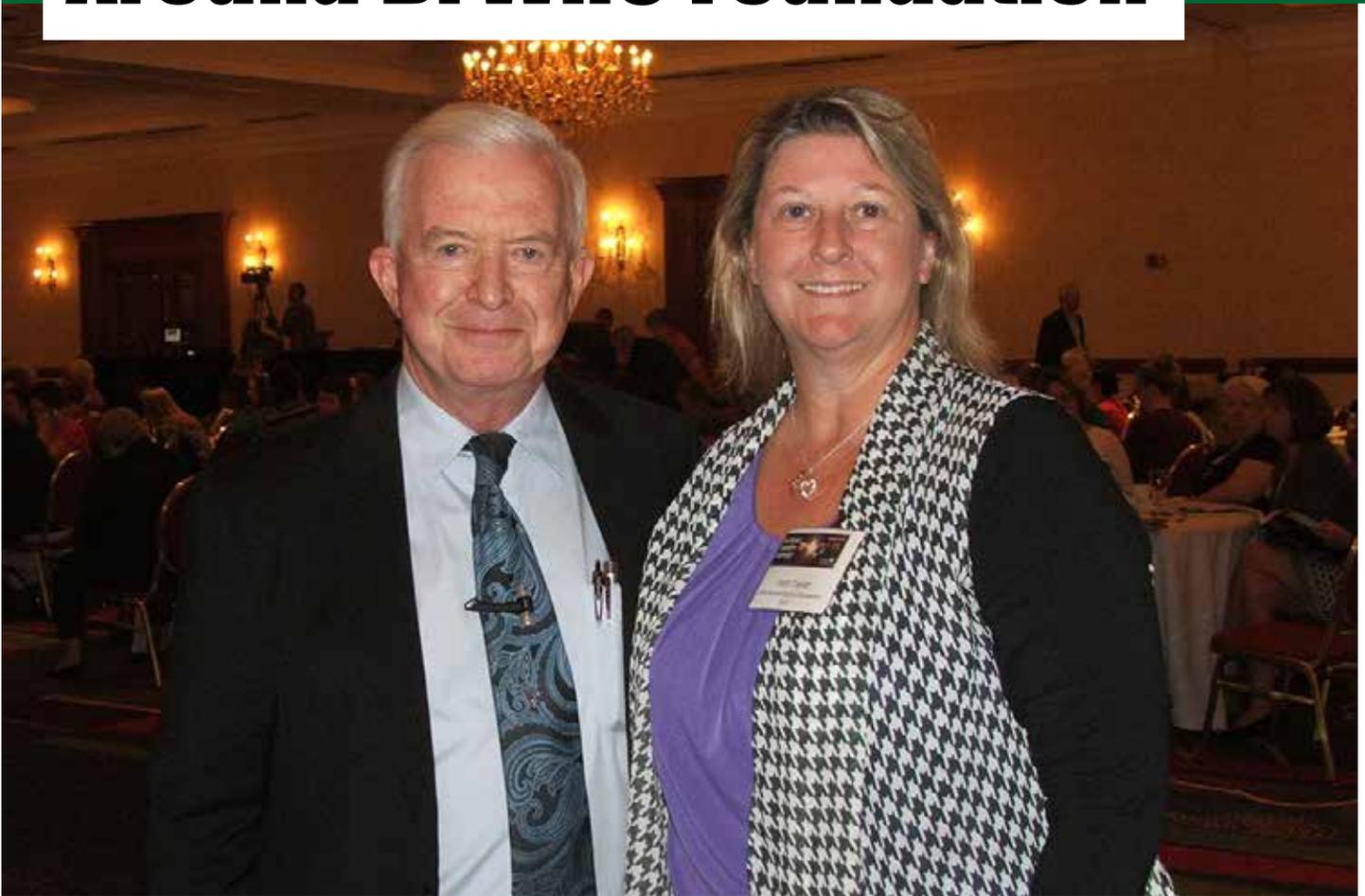
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Around DFWHC Foundation



John Nance and the DFWHC Foundation's Patti Taylor.

Patient Safety Summit attracts 300-plus

A FULL HOUSE OF 300-PLUS ATTENDEES participated in the Ninth Annual Patient Safety Summit, August 3 at the Marriott Las Colinas in Irving. The annual DFW Hospital Council Foundation event themed "Communication is Key," was highlighted by keynote speaker **John Nance**. The pilot, author and renowned business leader has been crucial in pioneering the recent renaissance in hospital patient safety. A founder of the National Patient Safety Foundation, Nance's creative presentation engaged the audience with true stories from the aviation industry on the importance of communication and teamwork.

Additional speakers included **Linda Stimmel**, regional managing partner of Wilson Elser, discussing "The Art of Apology;" **Karen Garvey**, president of safety and clinical risk management at Parkland Health & Hospital System detailing "Care for Caregivers;" **Dr. Oren Guttman** of the University of Tennessee Haslam College of Business with the topic "Cognitive Errors in Healthcare;" and **Marcie Williams** of Medical Protective discussing "TeamSTEPPS."

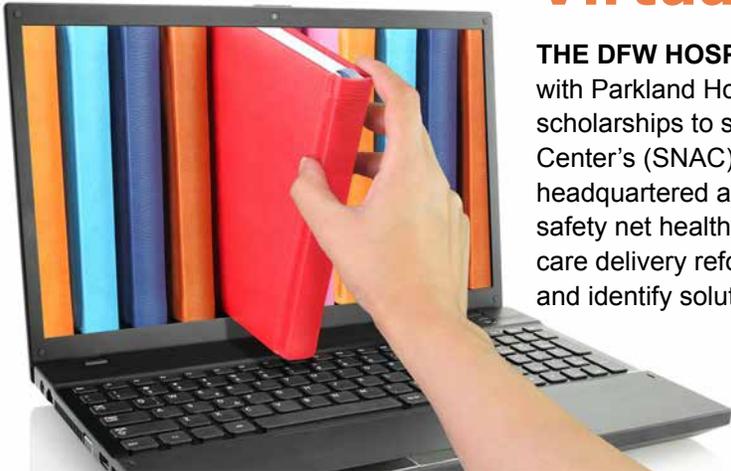
Ed Leigh, founder and director of the Center for Healthcare Communication, closed the summit with the presentation "Engaging your Patients."

Platinum sponsors were **Allied BioScience, Methodist Health System, Texas Health Resources** and **UT Southwestern Medical Center.** ■



Around DFWHC Foundation

Virtual learning collaborative



THE DFW HOSPITAL COUNCIL FOUNDATION IN COLLABORATION with Parkland Hospital & Health System and JPS Health Network received scholarships to support participation in a National Safety Net Advancement Center's (SNAC) virtual learning collaborative initiative. The SNAC, headquartered at Arizona State University, was established in 2015 to assist safety net healthcare organizations overcome challenges posed by payment and care delivery reform. Scholarships were awarded to foster learning environments and identify solutions. The learning collaborative will enable entities to identify key data management processes and report functions necessary to implement patient attribution and activation efforts. Work begins in January and runs through April 2017. Funding is made possible by the Robert Wood Johnson Foundation. ■

Discussion on opioids epidemic

THE NORTH TEXAS COMMISSION HOSTED "Opioids: The Silent Epidemic," July 15 at the TownPlace Suites in Grapevine. The luncheon attracted more than 100 attendees and was part of the Commission's series "To the Point, The Presidents." **Kristin Jenkins**, president of the DFW Hospital Council Foundation, introduced the panelists including **David Tesmer**, senior vice president at Texas Health Resources, **Barclay Berdan**, CEO of Texas Health Resources and **Dr. Paul Hain**, North Texas market president of Blue Cross Blue Shield. The event included an informational handout, "Prescription Opioids: What you Need to Know," detailing the serious risks of addiction when opioids are prescribed to patients following surgery. As noted during the meeting, it is estimated as many as 1 in 4 patients receiving prescription opioids in primary care struggle with addiction. ■



TQI hosts 5th Annual Meeting

THE DFW HOSPITAL COUNCIL FOUNDATION'S TEXAS QUALITY INITIATIVE (TQI) held its 5th Annual Meeting on June 30, with a breakfast event at The HEART Hospital Baylor Plano and dinner affair at Texas Health Harris Methodist Hospital Fort Worth. Highlights were keynote speakers **Dr. Merlyn Sayers** of Carter BloodCare and **Dr. James Edgerton** of Medical Center Plano. Dr. Edgerton presented the TQI Blood Conservation Protocol Statement, a document with recommendations to reduce the number of blood products used in cardiac surgery. TQI began in 2012 as a North Texas cardiovascular surgery collaborative. There are 28 participating hospitals from five systems. ■



Foundation database detailed in online story

RESEARCH SHOWS THAT CONGESTIVE HEART FAILURE PATIENTS using a patient portal offered by a hospital or physician practice have higher engagement rates, lower hospitalization and readmission rates, according to an online story penned by Joseph Goedert in Health Data Management. The research was achieved by utilizing data from the DFW Hospital Council Foundation's database, with 100,000 emergency room and outpatient visits among congestive heart failure patients in the Dallas-Fort Worth area analyzed. You can read the full story at <http://www.healthdatamanagement.com/news/portals-linked-to-lower-rates-of-hospitalization-readmission>. ■



TWITTER STUDY

THE DFW HOSPITAL COUNCIL (DFWHC) FOUNDATION'S HOSPITAL DATA was combined with real-time Twitter data to project population-level asthma ED visits and hospital admissions, according to a study presented at the Pediatric Academic Societies Meeting in May in Baltimore.

Researchers used Twitter data to isolate tweets from the DFW area, and only included asthma-relevant tweets in the analysis. They evaluated the chronological association between the number of asthma-relevant tweets and asthma ED visits/admissions data from the DFWHC Foundation, a network of more than 80 North Texas hospitals.

"Our research is innovative because it harnesses the power of Big Data from social media to address the problem of anticipating ED visits for a chronic condition in real-time conditions," said investigator Sudha Ram, PhD, director of the INSITE Center for Business Intelligence and Analytics at the University of Arizona.

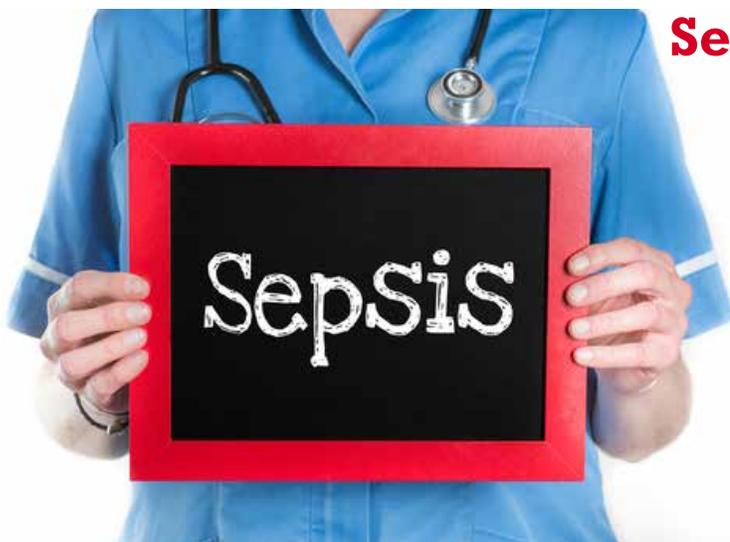
You can read the story at <http://www.healio.com/pediatrics/allergy-asthma-immunology/news/online/asthma-related-twitter-posts-forecast-ed-visits>. ■

Around DFWHC Foundation



Pathways to Work

THE DFW HOSPITAL COUNCIL FOUNDATION WORKFORCE CENTER, United Way of Metropolitan Dallas and Parkland Health & Hospital System co-hosted the best practices forum “Career Pathways in Healthcare” on June 7 at United Way. The event featured presentations by Larry Beck of the MedStar Good Samaritan Hospital and MJ Ryan of Partners HealthCare. Pathways to Work, coordinated by the United Way of Metropolitan Dallas, is a partnership between employers and training providers to equip individuals with skill training and credentials that lead to better paying jobs. ■



Sepsis Committee formed

THE DFW HOSPITAL COUNCIL FOUNDATION FORMED a Sepsis Committee in March, with representatives from Baylor Scott & White Health, Children’s Health System, Cook’s Children’s Health System, JPS Health Network, HCA North Texas, Methodist Health System, Tenet, Texas Health Resources and UT Southwestern. Best practice recommendations are being developed. Electronic health record triggers and alerts along with resources for hospitals to create a Sepsis program unique to the facility will be available by the end of the year. Sepsis is a life-threatening condition that arises when the body’s response to infection injures tissues and organs. About one million cases are reported a year in the U.S., with rates increasing over the past several years. ■

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SUCCESSFUL CONSUMER REPORTING AGENCIES rely on trusted vendors to assemble a compliance driven and accurate background report that can be relied upon to support your employment actions. GroupOne collects the background information from a wide range of sources including county and state courthouses, employers, databases, third-party vendors, schools and primary sources.

This list is a small representation of the items researched. As talent acquisition systems increase their demands for compliance-related information, consumer reporting agencies such as GroupOne will make adjustments to the sources used to obtain the data to improve reliability, accuracy and speed.

A major requirement expected by Fair Credit Reporting Act (FCRA) regulations, the group that governs GroupOne and its processes, is the need to obtain consent and release from the applicant to provide "permissible purpose" to run the background check. The expectation on applicants requires constant follow up from both the client and GroupOne. Failure to accurately note the name of an employer, dates at an education institution, or the listing of employers on applications will delay the requested information.

The varying numbers of resources involved in obtaining important pieces of information that impacts hiring, productivity and success is surprising to many. Each day your consumer reporting agency extends, bends and does what is necessary to ensure the data is collected as quickly and accurately as possible. The next time a vendor promises to provide a background report within an unrealistic time frame, you may want to ask how they obtain their data, who is conducting quality assurance and how fresh the data is.

GroupOne is expanding its vetting and validation of vendors to ensure our clients receive information that provides the substance needed to conclude their employment and talent acquisition. ■

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The GP1REPORT

Senator requests info from CRAs



AFTER RECEIVING COMPLAINTS FROM INDIVIDUALS AROUND THE COUNTRY who have had trouble removing erroneous information or even learning about what is contained in their specialty credit report, **U.S. Senator Claire McCaskill** in May continued to fight for consumers by pushing for more information from the little-known world of consumer reporting agencies (CRAs).

While consumers might be familiar with the three large credit bureaus — Experian, Equifax and TransUnion — the smaller CRAs typically only make themselves known to consumers after the consumers have been subjected to an adverse action, such as being denied housing, employment or even federal benefits. Although the Consumer Financial Protection Bureau has oversight authority over these CRAs, it is not required that the CRAs register with the agency, so there is no central list or database. It is estimated that 300 to 400 separate CRAs operate across the country today.

“Missourian’s credit history can mean the difference between having a job

or not, and having a home or not—and in many cases consumers in Missouri and around the country have little to no recourse when dealing with these shadowy credit reporting agencies,” McCaskill said. “We’ve seen far too many cases in this industry where completely inaccurate credit information harms consumers for years while they struggle to get it removed.”

The practices of CRAs are particularly impactful on seniors as the consumer reports are being used to screen for employment opportunities, housing leases and eligibility for government programs such as Social Security.

“Many consumers are unaware that specialty consumer reports are used in decision-making processes regarding employment, housing or government benefits until an adverse action is taken against them,” McCaskill wrote. “By the time a consumer learns of these reports, requests a copy and disputes any erroneous information, the opportunities they seek are often expired and some can find their lives in disrepair.”

McCaskill wrote to 21 CRAs that focus on issues impacting the aging community, specifically housing, employment and federal benefits. These companies are: Accurate Background Inc., American DataBank, Background Checks.com, Contemporary Information Corp., CoreLogic SafeRent, Early Warning Services, Employee Screen IQ, First Advantage, General Information Services, Inc., Hire Right, Info Cubic, IntelliCorp, Real Page Inc., Pre-Employ.com, Professional Screening & Information Inc., Sterling Backcheck, Screening Reports Inc., Tenant Data Services, Equifax Workforce Solutions/The Work Number, Trak-I Technology and TransUnion Rental Screening Solutions Inc./Smart Move.

As past Chairman of the Senate’s Consumer Protection Subcommittee, McCaskill has a history of fighting to ensure consumers are treated fairly by credit reporting agencies.

McCaskill and Republican Senator Susan Collins of Maine lead the Senate Special Committee on Aging, which leads discussion and debate on matters relating to older Americans. ■

The image shows a man from the waist up, wearing a dark suit jacket, a white shirt, and a dark tie. He is holding a roll of bright yellow caution tape around his waist. The word "CAUTION" is printed in large, bold, black letters on the tape, which is wrapped around him in a way that the word is repeated multiple times. The background is a soft, out-of-focus grey.

The GP1REPORT

Professional Plaintiff

applies for 562 jobs over 18 months

Excerpted from the National Association of Professional Background Screeners newsletter

CORY GROSHEK THOUGHT HE'D CAUGHT A BIG FISH, and he wasn't afraid to say it. In January 2015, Groshek sent a 2,300-word missive to representatives for Time Warner Cable, threatening to sue for violations of a consumer-protection law called the Fair Credit Reporting Act. The message relayed Groshek's confidence that he could win a huge verdict at trial — "think upwards of \$5-10 million," he wrote — unless the company paid him a six-figure settlement to go away.

"Make no mistake," wrote Groshek, 33, of Green Bay. "I have all of the leverage in this situation and TWC has none."

Within 18-months, Groshek applied to 562 jobs. But it doesn't appear he had any intention of keeping a job long-term. Instead, his aim seems to be to catch companies violating the law during the hiring process so he can threaten a class-action lawsuit and demand a settlement.

Documents show Groshek has used the tactic to extract at least \$230,000 in legal settlements from businesses. Groshek has admitted to threatening more than 40 companies — including

15 in Wisconsin — with class-action lawsuits, leading to claims that he is extorting businesses for technical violations of the federal law. The full extent of Groshek's efforts largely remained in legal shadows until May, when Time Warner Cable's lawyers filed a motion to dismiss the case. The company's lawyers wrote that Groshek admitted during a deposition that he has applied for hundreds of jobs, hoping to initiate the background check process that could lead to an FCRA violation.

Under the law, companies wishing to obtain an individual's consumer credit reports — a routine part of the hiring process — must make a "clear and conspicuous disclosure" of their intention to do so. In the deposition, Groshek said he has taught himself to spot when companies fail to properly make that disclosure, burying it in fine print. If Groshek sees the violation, he threatens to sue on behalf of all recently hired employees. Each employee could be entitled to up to \$1,000, giving Groshek leverage to negotiate a personal settlement.

So far, Groshek has threatened to sue at least 46 companies that performed a background check on him. About 20 companies paid relatively small settlements — between \$5,000 and \$35,000 — to cut off the threat. Three companies didn't

settle and have been sued in federal court by Groshek. The cases are pending. Officials at Great Lakes Higher Education, a student loan nonprofit, said Groshek's lawsuit "comes down to a one-sentence liability waiver" in a disclosure form.

"There is absolutely no indication anyone was harmed or confused by the sentence," company officials said in a statement to the *Milwaukee Journal Sentinel*. The company has agreed to a preliminary settlement of \$267,600, with Groshek getting \$7,200 and nearly 900 prospective employees getting \$300 each. Lawyers for Time Warner Cable have gone further. In a motion to stop Groshek from leading a class-action lawsuit, they argued Groshek doesn't care about the company's other employees, as evidenced by his demands for settlements paid only to him.

The technique, Time Warner Cable's lawyers wrote, has become "a successful business for Groshek." Lawyers and business officials who work in employment law believe there's a growing cadre of plaintiffs looking to take advantage of FCRA violations. According to WebRecon, a Michigan-based company that tracks consumer litigation, nearly 400 FCRA class-action lawsuits were filed in 2015, almost double the number filed in 2014. So far, the plaintiffs seem to be winning. Federal judges have routinely refused to dismiss FCRA lawsuits. Unable to get the cases tossed, companies have paid out seven-figure settlements in lawsuits like the ones filed by Groshek.

According to Groshek's Time Warner Cable job application, he graduated from Stevens Point Area High School in 2001 and earned an associate's degree from Mid-State Technical College in Wisconsin Rapids in 2003. He spent about seven years working as a customer service representative for WPS Health Insurance.

Then, in early 2014, Groshek learned about FCRA. According to a Time Warner Cable motion, Groshek admitted in his deposition that he "discovered the potential to bring FCRA claims after talking to an attorney" and "educated himself on FCRA requirements." In the October 2015 deposition, Groshek said he would scour employment websites, such as Career Builder and Indeed, and apply for hundreds of open positions.

When companies expressed interest in him and asked permission to perform a background check — typically after he received a job offer — Groshek would watch to see if they violated the FCRA's disclosure requirements. Groshek believed the FCRA required a separate, single-page disclosure of a company's intent to obtain consumer credit reports. Some companies, Groshek found, included the disclosure in other documents. Some companies included it in online applications.

Even if he got the job, Groshek would fail to show up or quit, then make his settlement demand, according to the court documents. During the deposition, Groshek conceded that he didn't lose out on a job with Time Warner Cable because of a faulty background check. Still, Groshek said his legal rights were violated — and that he should be compensated.

"And so in that regard," Groshek said, "I do believe that I did suffer, potentially, damages that could be remedied, that's granted in a court of law."

In court records, Groshek said he has threatened to sue companies as big as Target and Starbucks. He's threatened to sue six companies in Brown County, including a resort located two miles from his house, which records show he bought in December for \$140,000.

Groshek settled nearly every case without filing a lawsuit. Time Warner Cable didn't settle, and so when Groshek filed a class-action lawsuit, the company's lawyers could depose him and publicly disclose documents — including his demand for a settlement. The demand email shows that Groshek, who was offered an \$11-an-hour job with Time Warner Cable, threatened to file a class-action lawsuit on behalf of all of the company's recent hires. It also shows Groshek willing to abandon that plan if the company paid a settlement. In the email, Groshek trumpeted his knowledge of the FCRA, and that he had two law firms "which intend to work in tandem to promptly sue" Time Warner Cable if the company didn't immediately settle.

"I understand that you may be tempted to try to make this issue disappear for a token payment of, say, \$500 to \$2,500, but I will have you know that such offers would meet my definition of 'lowball' offers, and thus will be rejected," Groshek said.

In court records, Time Warner Cable's lawyers have argued Groshek shouldn't be allowed to sue because he intentionally initiated any alleged violations. They've also alleged Groshek violated state extortion laws. The email, they wrote, "confirms that he may try to duplicitously use their rights as 'leverage' to line his own pockets."

Time Warner Cable's claim that Groshek broke the law was met with skepticism by Milwaukee-based U.S. District Judge Rudolph Randa, presiding over the case. In a July 2015 order on Time Warner Cable's motion to deny class-action status, Randa wrote he "doubts that the Milwaukee County District Attorney would devote time and resources to prosecuting Groshek on the tenuous theory that a pre-suit settlement demand qualifies as extortion." Randa also noted that any pre-suit settlement wouldn't have stopped other Time Warner Cable employees from suing the company.

No future court dates have been set in Groshek's case against Time Warner Cable, which is preliminarily scheduled for trial in February. Judging by his email to Time Warner Cable's lawyers, Groshek has little doubt that he'd prevail should his case ever reach a jury.

"I would prefer that we avoid what could be a multi-year trial," Groshek wrote. "But if Time Warner Cable wishes to be combative and fight a losing battle, I am more than willing to do whatever is necessary to see that justice is served in this situation." ■

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