

Crisis Management
Case Study 1
Class Action Litigation
Daniel R. Roach

Rocky Mountain Health System (System) is a 20-hospital system with \$3 billion in revenue. Like many healthcare systems, it has been the target of class action lawsuits alleging that its pricing, billing and collection activities are inconsistent with its tax-exempt status. After a thorough internal review of its past practices, and extensive discussion about the costs and risks of litigation, the hospital reaches a settlement with the plaintiff's counsel in the class action litigation. The decision to settle was in part triggered by the System's desire to reduce the constant attacks by labor and consumer advocacy groups on the System.

Key terms of the settlement include:

- A requirement that the System refund any payments made by an uninsured person to the hospital that exceed 65% of the hospital's charges. This provision is expected to cost the System \$5 million.
- A requirement that the System adopt and effectively implement a new payment assistance program that provides free care to uninsured persons whose income is below 200% of the federal poverty level and a discount to 150% of Medicare rates for all other uninsured patients.

The day after the settlement is preliminarily approved by the court, the law firm representing the uninsured class members issues a press release that the settlement is worth \$200 million.

1. Which constituent groups may need to be educated on the settlement?
2. What are some of the actions the System should consider in implementing the payment assistance program?
3. What information might be provided to the Board that will help the System better manage this crisis?
4. Develop five ideas that will enable the Board to monitor the effectiveness of the implementation of the new payment assistance program.

Crisis Management

Case Study 2

Financial Reporting

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Michael Jones is looking forward to a vacation. It has been a long year, and the upcoming cruise to Alaska has been one of the few things that had enabled him to weather a stormy year. Michael is president of St. Luke's hospital, a 400-bed hospital in the State of Confusion. St. Luke's is part of Coastal Health System. Coastal operates in 4 states, has roughly \$3 billion in annual revenue, a billion dollars in debt, and approximately 25,000 employees. It has struggled a bit financially, but appears to be on the road to recovery.

While the System had done well, it had been a tough year for Michael and St. Luke's. St. Luke's was struggling to meet its financial target. The hospital had started the year poorly but seemed to be making some progress. Unfortunately, about half way through the year, Michael received a phone call from the System SVP of Finance indicating that there appeared to be some discrepancies with the hospital's financial reporting. Further analysis by the System finance staff uncovered some irregularities in recording revenue. When the long time CFO of the hospital was asked to explain, he admitted that he had been ignoring System policies on revenue recognition and that revenue had been overstated by as much as \$6 million.

This revelation was a significant blow to the hospital management team, which had been under the impression that they were turning things around. The CFO was fired and the System's external auditor came in to investigate and evaluate the matter. By the time they completed their review, the auditors concluded that while the System policies on revenue recognition were appropriate, St. Luke's CFO had not followed the policy and as a consequence revenue was overstated by \$11 million. Instead of a modest gain, the hospital had a significant loss.

After months of turmoil, things finally were looking up at St. Luke's. Michael had hired a new CFO named Albert Robert King (A.R. King). Michael had worked with A.R. King for a number of years and had known him for more than 15 years. A.R. had worked in hospitals for 20 years—most recently serving as a regional finance VP for another similar sized healthcare system. From Michael's perspective, things seemed to be going well. A.R. King was working hard although he was a bit rough on the finance staff. The June 30th year end close seemed to be going well. It was now August 1 and Michael was boarding the cruise ship to Alaska for 14 days of well deserved R&R.

Meanwhile, A.R. King had been at work. Within days of coming to the hospital in mid-June, he had concluded that the hospital's financial targets for the coming year were impossible to hit because of flaws in the way A/R was recorded. While he hadn't

been able to take the time to learn how the underlying accounting systems record A/R or the methodology used by the System to value A/R, more than 20 years in healthcare finance told him there was a serious problem. In late July, A.R. met with the System Finance Director and System Finance VP to discuss his concerns and had followed-up the meeting with a brief e-mail regarding his concerns, copying the system's CFO. A.R. was told that he needed to familiarize himself with the hospital's A/R system and that he would need to follow the System's policy on revenue recognition. A.R. also discussed his concerns with the external auditors, who suggested he put his concerns in writing.

July 31st was a long night for A.R. It was nearly midnight by the time he hit the "send" button on his 25 page e-mail to the auditors – an e-mail containing his conclusion that the System A/R policy was severely flawed, resulting in an overstatement of revenue of nearly \$80 million for the System. The e-mail also alleged that System finance staff had ignored his concerns and told him to "cook" the books. The e-mail was copied to the chair of the System Audit Committee, who, unfortunately, had left two days earlier on a 21-day extended Alaskan cruise as well.

More than a week later the external auditors shared the e-mail with the System CEO. When the CEO couldn't reach of the Audit Committee chair, he calls you, the vice-chair. Within 36 hours you convene an emergency meeting of the Audit Committee to discuss the matter.

1. Develop a plan to investigate.
2. What facts in this case trouble you?
3. What hospital/system constituent groups need to be notified?

Crisis Management
Case Study 3
Quality
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BACKGROUND

St. Thomas hospital is a 400-bed hospital in a rapidly growing city in the Southwest. Its principal competitors are for-profit hospitals and a county hospital. Until about 4 years ago the hospital had operated at a break-even point, in part because of a poor payer mix and divided physician loyalties. However, the hospital's margins have significantly improved over the last few years as an orthopedic "Center of Excellence" has become a very lucrative venture for the hospital. The Orthopedic Center claims one of the most advanced ortho/neuro surgery suites in the world, has managed to attract two world-class ortho/neuro surgery teams and generates a margin of almost \$12 million annually for the hospital. The program has quality ratings that are in the top 10 percent in the country for similar programs.

St. Thomas is part of the 15 hospital Mountain West Health System (MWHS).

ISSUE

It's Sunday morning. You are sitting on the front porch reading the paper. A car pulls up, a young woman asks your name and if you are chair of the MWHS Board. She then hands you a summons and complaint that names you personally, along with all other MWHS Board members, St. Thomas, the hospital president, hospital chief medical officer (CMO), and nearly a dozen hospital management employees and physicians as defendants in a lawsuit.

The complaint alleges that the orthopedic surgery program at St. Thomas was plagued by medically unnecessary procedures, poor quality and that more than 500 patients have been injured as a result. The complaint also alleges that:

1. Hospital management, including the president and CMO were told that many of the procedures were unnecessary.
2. Hospital and System management were aware that several of the surgeons also named in the suit had significant financial ties to a device manufacturer whose products were frequently - and allegedly inappropriately - used in patients.
3. Despite evidence that care was unnecessary and substandard, St. Thomas and its medical staff failed to take steps to control the physicians who were providing unnecessary and sub-standard care.

4. The MWHS Board failed to fulfill its legal and fiduciary obligations to ensure the quality and necessity of services in St. Thomas and failed to ensure that processes were adequate to address issues of sub-standard medical practice.

You call the MWHS CEO and System counsel immediately. Over the next week you learn that the plaintiff has also filed a whistleblower suit alleging false billing and that the hospital received complaints about the quality and medical necessity issues on a number of occasions, but, according to the hospital president and hospital CMO, the medical staff investigation did not conclusively prove substandard care so it was reluctant to take action. The St. Thomas Board also received complaints but felt it could not act if the medical staff had not done so.

QUESTIONS

At your deposition in this case, plaintiff's counsel asks you the following questions:

1. What is your obligation as Chair of the MWHS Board to ensure quality in the hospital?
2. What specific mechanisms has MWHS implemented to ensure that services at MWHS hospitals are both medically necessary and consistent with applicable standards of care?
3. What mechanisms does the MWHS Board have in place to monitor the peer review activities in the hospitals and to act when the local medical staff, hospital management or local board fails to act?
4. What steps has the MWHS Board taken to ensure government payers are not billed for unnecessary or sub-standard services?
 - 4a. How does the board know those measures (steps) are effective?

How do you respond?