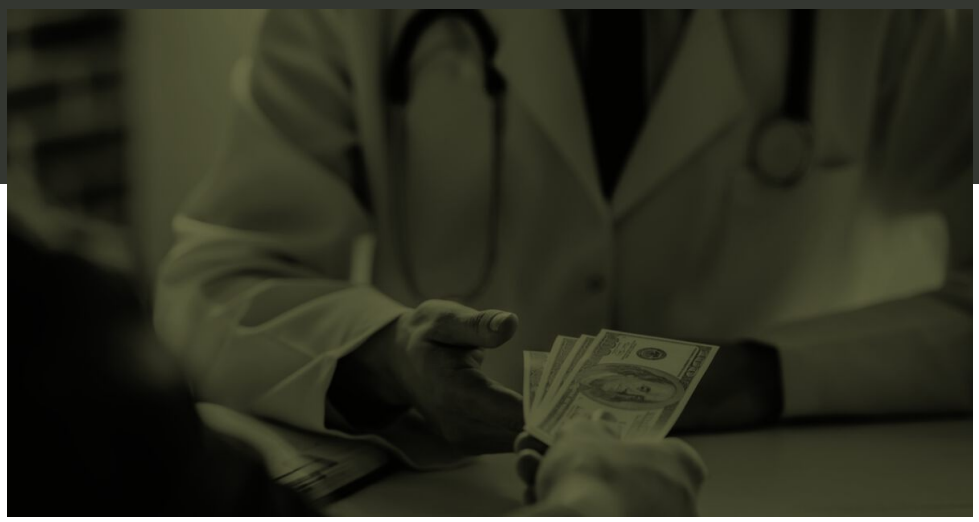
NONPROFITS: GOVERNANCE

Conflicts Scandals at Major Medical Centers

04.11.19 | Linda J. Rosenthal, JD



Major **scandals at two prominent nonprofit medical institutions** erupted in the fall of 2018, capping an already tough year that had seen "an endless stream of improprieties" rocking "U.S. healthcare."

In the nonprofit world, the matter of avoiding actual or potential conflicts of interest is high on the list of key governance issues. It's tawdry and unethical; sometimes illegal. But, in the healthcare field, it takes on added significance. "In healthcare, there's **no such thing as a victimless conflict** of interest, writes Robert Pearl, M.D. in ***Shame, Scandal Plague Healthcare Providers In 2018***. "Whenever clinicians or researchers take the bait [of perks] it's patients who are put at risk."

Memorial Sloan Kettering Cancer Center

Reports surfaced in late summer 2018 that the chief medical officer of the prestigious Memorial Sloan Kettering Cancer Center had failed to disclose serious conflicts of interest with drug companies. Among them was news of his giving "overly favorable reviews" of drugs of Swiss firm Roche after he had received some $3 million in direct payments from the company for several years. When confronted with this information, Dr. Jose Baselga characterized his "disclosure lapses" as "**unintentional**." He "stepped down" or was fired or shown the door in some manner, depending on who you ask.

Compounding these troubles just a month later, in October 2018, Kettering's chief executive officer, Dr. Craig B. Thompson was **caught up in additional revelations** about the medical center. The New York Times broke stories about "**insider deals** among hospital officials and **undisclosed industry relationships**." This official – likewise – "resigned" or was fired or shown the door. He also stepped down from the boards of pharmaceutical giant Merck and Charles River Laboratories. The New York Times broke stories about

Harvard/Brigham and Women's Hospital

Harvard University and its affiliated Brigham and Women's Hospital **"came forward with information"** that one of its high profile physician/researchers, Dr. Piero Anversa, had "falsified and/or fabricated data in at least 31 medical journal publications." In his capacity as director of the Brigham Center of Regenerative Medicine, he was in a position **to manipulate evidence and data** about "the efficacy of cardiac stem cells used for patients with heart failure." Also uncovered was the related information that Dr. Anversa and his laboratory had received millions of dollars in grants from for-profit companies and "established their approach as the clinical standard."

Entrenched Behavior in Medical Field

"These were **big stories with no small implications.** These scandals are not the work of a few bad apples; the problems are endemic and deeply embedded in medical culture. When it comes to the questionable ethics of accepting money and perks from drug and device companies, doctors and hospital administrators routinely look the other way."

Dr. Pearl is a former healthcare CEO who teaches at Stanford and writes about problems in the healthcare field. When he was head of the Permanente Medical Group, the nation's largest medical group, he established a zero-tolerance policy for outside payments from industry. In 2005, a colleague "designed and orchestrated **the industry's strictest conflict-of-interest policy**." It worked, despite predictions it would fail. Just two of the 5,000 physicians working there "left as a result of the new policy."

This full and complete ban, and a corresponding policy of complete transparency, is necessary, Dr. Pearl writes, because "behavioral economics demonstrates that gifts, no matter how small, **create an unconscious sense of obligation**." And the temptation is relentless: "every undisclosed payment, free sample or all-expenses-paid trip is an attempt to manipulate."

Easier than Most Problems to Fix

Dr. Pearl's message is hopeful, though; his approach will work, although for some it may seem a difficult pill to swallow. He asserts that most of healthcare's biggest problems – "high costs," "poor clinical quality," "cumbersome IT," and "widespread medical error" are hard to fix. "**Not so with conflicts of interest**. In fact, the answer is quite simple: Ban outside payments and demand total transparency."

More specifically, he proposes four rules that, based on his experience, he believes can work across-the-board in the healthcare field:

- Adopt a policy that doctors may not accept anything at all from drug or device firms.
- Create an ethics committee to address questions and concerns.
- Ensure that all research funding coming from any source be made to the institution and not to individual researchers.
- Make all individuals disclose any past payments before the new policy is put into effect.

Conclusion

This is an intriguing take on the issue of conflicts of interest in the healthcare sector: The problem is clear and the fix is straightforward.

In most other corners of the nonprofit world, the conflicts issue is not so straightforward. There seem to be an endless number of possible behaviors that should not occur, depending on the

particular facts and circumstances in each case. An important first step is adopting a written policy on the subject, but developing a comprehensive document that anticipates all possible problems can be challenging.