Washington Healthcare News

wahcnews.com

Articles, Interviews and Statistics for the Healthcare Executive

VOLUME 4, ISSUE 7 JULY 2009

Certificate of Need Strategy

Lessons Learned from Recent Washington Court Cases

By Brian W. Grimm
Partner
Dorsey & Whitney LLP

Washington courts have recently issued several significant decisions relating to the state's Certificate of Need (CN) laws. Collectively, these decisions illustrate that a CN applicant must fully understand each step of the CN process, and how each step relates to the others, in order to adopt the correct strategies, avoid procedural pitfalls, and maximize the likelihood that its application will be granted and survive legal challenges. These decisions also illustrate the corollary point that other interested persons, who may oppose issuance of a CN, must also have a thorough understanding of the process in order to participate most effectively at each stage.

Overview of the CN Process

The CN laws require a healthcare provider to obtain a license from the state, a CN, to establish many types of new facilities and services. This regulatory structure is intended to control costs and ensure that the healthcare system is developed in a planned, orderly manner, by regulating whether, when, and where new facilities and services may be established.

The process begins when a CN applicant files a letter of intent with the Department of Health (the Department), which describes the project. After filing a letter of intent, the applicant will file its CN application. The application is then subjected to a thorough review process by the professional staff of the Department's CN Program. This may include written screening questions and responses, a public hearing, and submission of rebuttal materials by the applicant itself and other parties.

A CN application must satisfy four general criteria to be granted: need; financial feasibility; structure and process of care; and cost containment. Specific statistical methodologies exist for evaluating "need" for some, but not all, types of projects. A CN will be granted or denied by the Department based on whether it satisfies these criteria.

If its application is denied, a CN applicant often will commence an "adjudicative proceeding," an administrative process conducted by a health law judge, an administrative law judge employed by the Department. The adjudicative proceeding frequently will include an evidentiary hearing, during which

Please see> Lessons, P4

Inside This Issue

Washington Healthcare News
wahcnews.com | Articles, Interviews and Statistics for the Healthcare Executive

Publisher and Editor
David Peel
Contributing Editor
Nora Haile
Contributing Writer
Roberta Greenwood
Business Address
631 8th Avenue
Kirkland, WA 98033
Contact Information
Phone: 425-577-1334
Fax: 425-242-0452
E-mail: **dpeel@wahcnews.com**
Web: **wahcnews.com**

TO GET YOUR COPY

If you would like to be added to the distribution, go to our web site at www.wahcnews.com, click on the "subscribe" tab at the top of the page and enter all information requested. Be sure to let us know whether you want the hard copy or the web version.

LETTERS TO THE EDITOR

If you have questions or suggestions regarding the News and its contents, please reply to dpeel@wahcnews.com.

Letter from the Publisher and Editor

Dear Reader,

According to a recent article by the Associated Press, over 90% of all economists believe the recession will be over prior to the end of 2009. The article also said they believe the unemployment rate will continue to rise until the end of 2009, plateau and then begin dropping in the first or second quarter of 2010.

The unemployment rate is a lagging indicator in a recession because employers don't begin hiring until they're certain the recession is over. Assuming the economists are right about the end of the current recession, there will soon be an increase in business volume. To meet this new work load, many employers will ask their employees to work longer and harder. Is there a better way to manage an increasing work load while proof accumulates the current recession has ended? Of course there is.

The **Consultant Marketplace** page of the **Washington Healthcare News** web site is a great place to find Consultants to stabilize your staffing levels until certain it's time to hire new permanent employees. Here you will find over 65 different northwest firms that can provide many different services to healthcare organizations.

These services include organizational development, process improvement, technology, finance, accounting and many others. Another benefit of engaging consultants now is they will be there to train your new employees when hired.

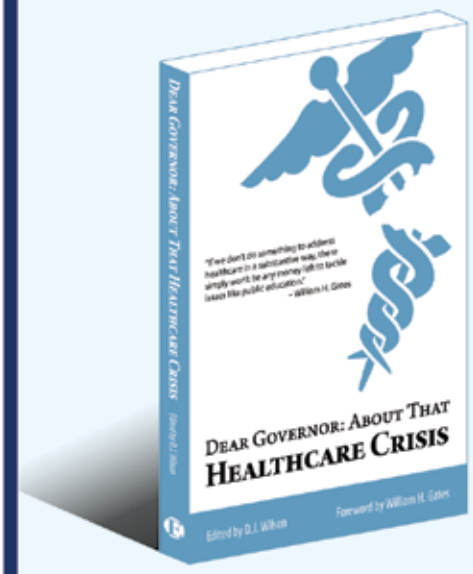
See the **Consultant Marketplace** at **www.wahcnews.com/consultant** for all services available. Your current employees will thank you for it!

David Peel, Publisher and Editor

Washington Healthcare News 2009 Editorial Calendar

Month and Year	Theme of Edition	Space Reservation	Distribution Date
January 2009	Urban Medical Clinics	December 1, 2008	December 22, 2008
February 2009	Human Resources	January 2, 2009	January 19, 2009
March 2009	Rural Hospitals	February 2, 2009	February 23, 2009
April 2009	Insurance Carriers	March 2, 2009	March 23, 2009
May 2009	Information Technology	April 1, 2009	April 20, 2009
June 2009	Rural Medical Clinics	May 1, 2009	May 25, 2009
July 2009	Facilities	June 1, 2009	June 22, 2009
August 2009	Human Resources	July 3, 2009	July 20, 2009
September 2009	Finance	August 3, 2009	August 24, 2009
October 2009	Community Health Centers	September 1, 2009	September 22, 2009
November 2009	Urban Medical Clinics	October 1, 2009	October 19, 2009
December 2009	Urban Hospitals	November 2, 2009	November 23, 2009

Dear Governor: About That Healthcare Crisis



Washington State's Leaders Discuss Healthcare Solutions

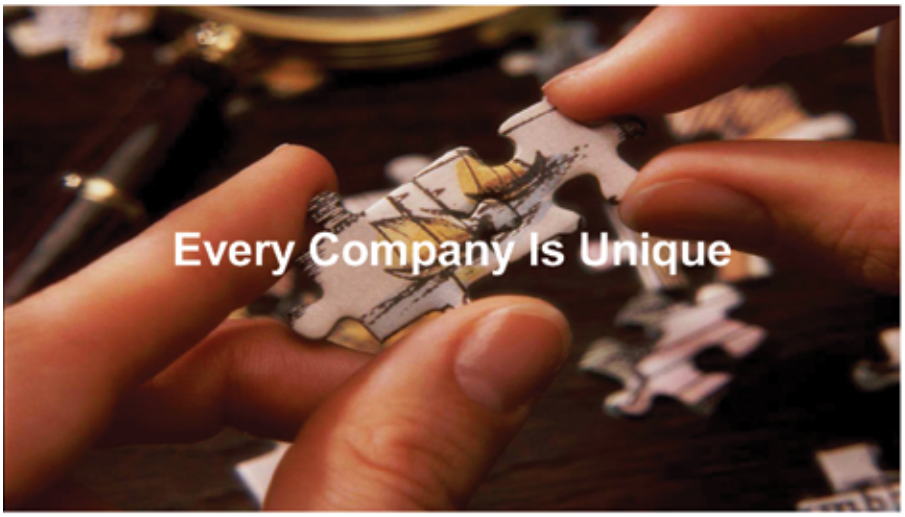
This is our healthcare community. Changes in the marketplace and in policy are forcing providers to be more agile.

In this book, 22 key leaders including politicians, providers, civic leaders, union leaders, and healthcare executives share their expertise on how our state can adapt.

"Dear Governor: About That Healthcare Crisis" is currently available at amazon.com, Barnes & Noble, and other local bookstores.

Now Available
amazon.com
BARNES & NOBLE BOOKSELLERS
and other independent bookstores

For more information visit www.edmondspublishing.org or call (425) 361-2118



Prime Advisors, Inc.® is focused on managing customized investment grade bond portfolios.

Our systematic and disciplined approach to the complexities of managing investment portfolios gives us a unique ability to develop customized solutions that integrate investment strategy with the operational demands of hospital associations, insurance companies and health plans.

For more information contact Ryan Leahy at (425) 202-2018 or Ryan.Leahy@primeadvisors.com

PAI

Prime Advisors, Inc.

- **Specializing in Managing Customized Bond Portfolios**
- **Manage $8.9 Billion in Core Investment Grade Fixed Income as of April 30, 2009**
- **Headquartered in Redmond, WA**

Prime Advisors, Inc.®
22635 NE Marketplace Drive, Suite 160
Redmond, WA 98053

WWW.PRIMEADVISORS.COM

< Lessons, from P1

the parties will present witness testimony and other evidence. At the end of the adjudicative proceeding, the health law judge will issue the Department's final decision on the application. If the health law judge denies the CN, the applicant may seek "judicial review" of the Department's decision in the courts.

This is a complex and often lengthy process, made more complicated by the fact that interested persons, often competitors of the CN applicant who would prefer that the CN not be granted, may seek to participate. In two of the three cases discussed below, for example, the Department initially granted the applicants' requests, and the subsequent adjudicative proceedings were commenced by interested persons who sought to have the Department's initial decisions reversed.

As these recent court cases illustrate, a CN applicant must employ correct strategies at each step of the CN process in order to maximize its chances of success. This is particularly true where competitors are involved, who could subject the application to years of legal challenges even if the CN is granted.

The Application Record: *University of Washington Medical Center v. Washington State Department of Health* (Washington Supreme Court, 2008)

In *University of Washington Medical Center v. Washington State Department of Health*, the Washington Supreme Court issued its first decision in a CN case in thirteen years. The existing, exclusive provider of liver transplants in Washington appealed the Department's approval of a CN application by another hospital to establish a second liver transplant program in the state.

The existing provider argued that the Department improperly restricted the evidence that it could present during the adjudicative proceeding, following the initial approval of the CN. It argued that the health law judge should have permitted additional, new evidence regarding whether a second liver transplant program was needed.

The Supreme Court held that the health law judge has considerable discretion to determine the scope of admissible evidence in an adjudicative proceeding, and that she did not commit reversible error by limiting the new evidence that the existing provider could present in this case.

A key lesson from this decision is the importance of building a thorough evidentiary record during the application phase. If anything is left out, there may not be an opportunity to present it during later proceedings.

The Adjudicative Hearing: *DaVita, Inc. v. Washington State Department of Health* (Washington Court of Appeals, 2007)

DaVita, Inc. v. Washington State Department of Health involved competing CN applications by DaVita and Olympic Peninsula Kidney Center to open dialysis centers. The Department initially granted DaVita's application and denied Olympic's application, but this decision was reversed by the health law judge, who awarded the CN to Olympic.

The Department's initial decision in favor of DaVita was based on its findings that this would allow patients choice of providers and create competition, because Olympic already operated dialysis centers in the area. However, the health law judge found that the DaVita center would not allow significant patient choice, and that there was no evidence that it would create price competition or lower fees. The health law judge therefore found that Olympic's application was superior based on financial feasibility and cost containment factors. This decision was affirmed on appeal.

In its opinion, the Court of Appeals clarified that the health law judge was not acting as a reviewing officer, but rather was the Department's final decisionmaker, and was not obligated to give any particular deference to the CN Program's evaluation. The Court of Appeals also held that a CN applicant bears the burden of proof with respect to its application in the adjudicative proceeding, even if the Program has already awarded it the CN.

A key lesson from this decision is that even if a CN is awarded by the Department, based on the CN Program's evaluation, the CN applicant is going to have to prove its case again if the decision is appealed to a health law judge. The health law judge becomes the Department's decisionmaker, and owes no particular deference to the CN Program's decision, and the CN applicant will bear the burden of proving to the health law judge that it should be awarded a CN.

The Appeal: *MultiCare Health System v. Washington State Department of Health* (Washington Court of Appeals, 2008)

MultiCare Health System v. Washington State Department of Health

Please see> Lessons, P6

Do your retirement plans have the right tools to deliver a secure retirement?

- Do you have the right funds, the right pricing, the right relationships?
- If you manage an **employee retirement plan** (defined contribution, defined benefit or executive deferred compensation plan) **we can help**
- **Take the tour** at www.mchenrypartners.com and call us for a second opinion

We can help.

800 638 8121
www.mchenrypartners.com

McHenry PARTNERS

IT'S NOT ABOUT ADVERTISING.

IT'S ABOUT RECRUITMENT.

For 20 years we've helped clients in healthcare achieve recruitment goals. And as a result, we have a strong point-of-view about how it should be done.

Instead of thinking of them as patients, we think of them as members. Our **Me2.0** change process combines Social Media with traditional media, creating rich, two-way relationships that get you new patients and turn them into the best referring partners you'll ever have.

Can we help you?

palazzo intercreative

Contact Richard at 206.328.5555 ext. 203 | www.palazzo.com

<Lessons, from P4

involved an application for a Determination of Non-Reviewability (DNR), or a determination by the Department that no CN is needed for a particular project. In this case, the applicant asked the Department to determine that a proposed ambulatory surgery center, the use of which would be limited to an employed-physician group, was not subject to CN review. The Department agreed, and issued the DNR.

Another provider then wrote to the Department, objecting to the request for a DNR. After approximately five months of discussions between the applicant, the opponent, and the Department, the opponent commenced an adjudicative proceeding challenging the DNR. In the adjudicative proceeding, the health law judge determined that the proposed ambulatory surgery center was, in fact, subject to CN review, and reversed the Department's initial DNR.

The Washington Court of Appeals found that the opponent's application for an adjudicative proceeding was untimely and therefore the health law judge had no jurisdiction to conduct an adjudicative proceeding. Accordingly, the Court vacated the health law judge's decision and reinstated the Department's initial DNR. The applicant was thus permitted to open its ambulatory surgery center, without having to obtain a CN.

A key lesson from this decision is that use of the Department's formal procedures and strict compliance with any deadlines to seek review are essential. If a party does not invoke the proper review procedure, and do so within the applicable time limits, it may lose the opportunity to challenge a decision on its merits.

Conclusion

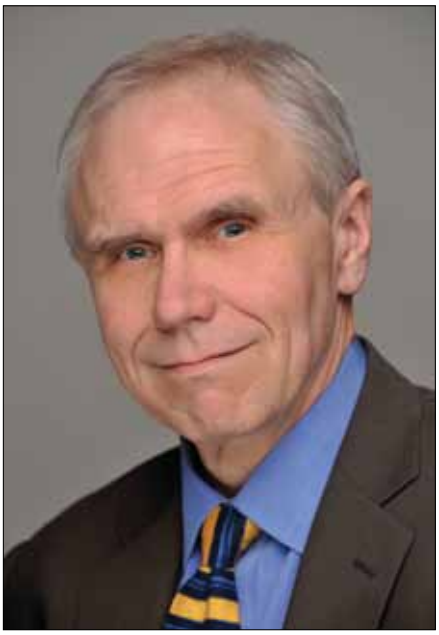
The CN application process, and the administrative and legal proceedings which may follow a CN decision, contain a number of potential pitfalls. CN applicants and other interested parties must recognize the particularities of each step in the process in order to maximize their chances of obtaining a favorable result at the end of the day.

Brian W. Grimm is a partner in the Seattle office of Dorsey & Whitney LLP. He regularly represents healthcare providers with respect to CN matters, including the prevailing parties in the University of Washington Medical Center and MultiCare Health System cases described above. He can be reached at 206-903-8800 or grimm.brian@dorsey.com.

Current Topics & Trends in DB Retirement Plan Management

Part 2 - Five Things to Avoid

By Ward M. Harris
Managing Director
McHenry Partners



Review

Last month, we discussed key issues related to challenges in defined benefit retirement plan management. The skills, perspectives and business agendas of consultants, advisors and service providers were suggested as potential conflict fulcrums, along with the distraction of the markets and the challenges of running the core business of the plan sponsor.

We also addressed the challenges of a traditional DB decision model which may fail to align business, liability and asset issues into a combined and integrated strategic plan. The result? Lost opportunities to better manage the employer/sponsor's risks while pursuing the objectives of the plan.

Top 5 Pension Mistakes

With the help of many contributors from the "buy-side" (plan sponsors and professional staff) and from the "sell-side" (consultants, advisors, vendors and related professionals), here is our list of most often seen risks to plan and sponsor health:

1. Sponsor Inertia - Many DB programs predate the current management, staff and business realities of healthcare plan sponsors and their participants. How do you keep your plan aligned with your organization's current business objectives?

2. Poor Strategic Planning – Inertia can lead to complacency and failure to "keep it fresh." How can you efficiently and effectively stay focused on the long game?

3. Overreliance on Trusted Advisors – No one is good at everything. Are you asking your professional advisors or vendors to perform in roles outside of their core competencies or business models?

4. Resource Mis-Allocation – We believe that 80% of the expense, effort and time invested by plan sponsors and their staff produce (at best) only 20% of the risk adjusted return available to the plan. How can you get the "best" risk-adjusted return on your investment of time, money and effort?

5. Failure to Execute – Example: Two years ago, many plans were overfunded. Today the reverse is true. How do you walk the line between strategic and operational decisions to take advantage of opportunities and circumstances?

Subscriber Webcast: On June 25th, McHenry Partners will host a national Webcast on defined benefit plan management – "Crisis or Opportunity?" Guest speakers will include Phil Leader, a consulting actuary with Principal Financial Group; Bill Small, an investment consultant and advisor with Highland Capital Advisors (Seattle);

and Glenn Jensen, an investment consultant and advisor with New England Retirement Consultants (Boston). Attendance is complimentary for subscribers, but reservations are required. Call or email Ward Harris for your electronic ticket.

Next Month: "DB Retirement Plan Management: Part 3 – "How Do You Measure Success?"

Ward Harris is Managing Director with McHenry Partners, a national investment consulting firm. A Seattle native with 30 years of experience in investments for corporate and not-for-profit organizations, Ward has served clients in consulting and management roles at Union Bank of California, Schwab Institutional and Rogerscasey, Inc. He can be reached at 1-800-638-8121 or ward.harris@mchenrypartners.com.

Tri-Cities Cancer Center

Celebrating a New Medical Oncology Wing in Kennewick

Continuing the 15-year legacy of providing cancer care close to home to residents of the Tri-City area, Taylor Gregory Broadway Architects (TGBA) and the Tri-Cities Cancer Center celebrated the opening of a 25,000 square foot medical oncology wing in March, 2009. This $7 million expansion provides not only much needed space for current treatment services, but also allows for additional services and programs in the future.

The third expansion to the Cancer Center, located at 7350 West Deschutes Avenue, Kennewick, Washington, was built from the beginning with the patient in mind. As Kent Gregory, AIA and founding Principal of TGBA explains, this project was designed to provide patients who endure sometimes lengthy and painful medical procedures a place of contemplative beauty. "From the first view of the building, patients and staff are welcomed to a facility that encourages compassionate and comfortable care," Gregory says. "An incredible steel sculpture greets patients in an uplifting gesture and artwork has been incorporated throughout the facility to enhance each clients time in treatment."

Artist Bernie Hosey created the largest steel-art installation on the West Coast; the 126 foot long structure of rusted steel beams soars across the vestibule of the building in a sweeping arch – giving all who enter a sense of optimism and hope. "We designed this facility as a serene setting," Gregory explains, "and Bernie has captured the hope we aimed to instill as each client enters the lobby to begin treatment."

Incorporating a modern exterior design with warm interior materials and colors was also central to the design concept, reinforcing the environmental aspects of the Tri-Cities area to create a peaceful, restful care center. Oncology (or infusion) treatments can last anywhere from twenty minutes to over six hours says Gregory and TGBA designed the new facility to maximize the patients ability to relax and remain calm during the treatment session.

Tom Cothran, Executive Director of the Cancer Center, says that this new expansion increases the ability to treat cancer patients close to home – and in a facility that en-

Please see> Tri-Cities, P12

Tri-Cities Cancer Center, Kennewick, Washington

<Tri-Cities, from P10

hances their experience. "As our community grows, as the need for cancer care grows, so must we. We owe it to our community to be here for anyone who needs the best cancer care close to home."

Leasing space to Columbia Basin Hematology and Oncology (CBHO), the Tri-Cities Cancer Center provides comprehensive care at one location. Patients no longer have to travel long distances for care, Cothran explains, while communication between doctors and medical professionals is increased – all factors that improve the patient experience.

"This expansion was designed to provide the efficient movement of patients from exams to infusion," Gregory explains. "We developed an efficient medical diagram that includes an open layout, houses exam rooms on one end,

administrative offices in the center and infusion suites at the opposite end. Patients are treated in private cubicles, each with a window view."

Doubling the available space for medical oncology services, the new expansion features floor to ceiling windows on three sides, bathing the interior areas with natural light. The infusion cubicles are outward facing and patients can gaze into a garden-like setting that is enclosed in a privacy wall. Cement sculptures created by Nicolas Gadbois are incorporated into the wall, giving patients another contemplative setting.

"We understood that the need for this expansion to blend with the existing facilities would require an 'understated building'," Gregory says. "Working with Bouten General Contracting of Spokane, we were able to accomplish that while creating a working partnership with local artists to design and deliver a space that is functional, convenient, and hopefully comforting for patients."

Cothran agrees, adding that the Tri-Cities Cancer Center began as a community effort to provide comprehensive, state-of-the-art cancer care close to home. "This expansion continues that dream – from the very beginning, our communities have felt a strong sense of ownership in the center. Even our serenity garden, located adjacent to the entrance of the building, is a gift from Leadership Tri-Cities, Class XIV."

"It really is all about the quality of patient care," concludes Gregory. "We designed a facility that supports patients as they face difficult treatment options; our intent was to create an infusion center that was functional, unique, patient-centric and offered each client a private oasis of healing."

To learn more about TGB Architects, visit their web site at www.tgbarchitects.com, send an email to Info@TGBArchitects.com or call (425) 778-1530.

Family Leave and Attendance Policies

Can They Coexist in Healthcare Facilities?

By Keelin Curran
Member
Stoel Rives LLP

By Daniel Swedlow
Associate Attorney
Stoel Rives LLP

Washington State healthcare facilities face special challenges regarding managing employees in compliance with family leave laws. Healthcare employers, with their 24/7 scheduling needs, count on their employees to attend work reliably. Healthcare employers often use no-fault attendance policies to provide a disincentive for employees to miss work.

Family leave laws can limit usefulness of attendance policies

Since the enactment of the federal Family and Medical Leave Act ("FMLA") in 1993 and the subsequent passage of family leave laws in many states, the use of such leave by employees has grown. Washington State has mandated leave for pregnancy disability, family and medical reasons, domestic violence, and spousal military leave. Washington is one of the more liberal states with regard to family leave entitlements.

State and federal family leave is usually protected from attendance policy enforcement. Employers may not retaliate for use of family leave, and thus may not utilize attendance discipline when an employee takes such leave.

An employee with one year of service, who works more than 60% of full-time hours for a larger employer, is generally entitled to 12 weeks of unpaid FMLA leave each year for certified medical conditions or to care for family members with such conditions (as well as parental and military family leave). Employees with paid leave can use it during FMLA leave.

Washington State's Family Care Act requires employers to allow an employee of any tenure to use accrued paid leave, for "family care" purposes, such as the care of sick children and seriously ill spouses, parents, parents-in-law, and grandparents. This law has a special impact on the heavily unionized healthcare industry, which provides more generous paid leave benefits than other industries.

For chronic conditions where intermittent leave is medically necessary, FMLA allows employees to utilize such leave on short notice and in as small as one-hour increments. Use of intermittent family leave (Washington family care leave, like FMLA leave, is often used intermittently) has left Washington healthcare employers that provide generous paid leave with difficult choices to make about how to best manage their workforces to obtain reliable attendance. Indeed, in some healthcare facilities in Washington, upwards of ten percent of the employees have a medical certification on file allowing use of FMLA intermittent leave.

Washington healthcare employers find that their traditional no-fault attendance policies are rendered toothless where an employee uses intermittent FMLA or family care leave. While most employees use leave responsibly, a certain percentage of employees will abuse family leave. Family leave laws do provide exceptions to the bar on discipline where such leave is abused.

Tools to address leave management issues

Employers can use these strategies to improve employee attendance

in compliance with family leave laws:

1. Modify paid leave and family leave policies and procedures to (a) comply with changes to FMLA, (b) provide a notice protocol for short-notice use, and (c) allow for medical certification and verification of the need for short-notice use of leave.
2. Train managers taking short notice absence calls to use a script that seeks sufficient information to determine whether the absence may qualify for family leave. Consider using a phone line for reporting the need for leave.
3. Require medical certification of the need for leave.
4. Scrutinize the medical certification. New FMLA certification forms require the employee's healthcare provider ("HCP") to provide more detail regarding intermittent leave. Review intermittent leave requests and follow up by (a) making sure that such requests provide complete information, (b) clarifying requests with the HCP where necessary, and (c) seeking a second opinion where required.
5. Each new leave year, seek a new certification for intermittent leave conditions.
6. Track leave used by type. Attendance discipline should be used for non-family leave.
7. Review leave usage for pattern absences and other signs of abuse. Where abuse is suspected, require recertification and provide the HCP with an attendance summary to determine if leave usage is consistent with the employee's condition.
8. When family leave entitlements are exhausted, consider whether a disability interactive process is required, and otherwise proceed with regular application of attendance policy.

Careful management of the family leave notice and certification processes will allow healthcare employers to better manage their 24/7 workforces.

Keelin Curran is a member of Stoel Rives LLP with over 20 years of experience advising private and public employers on a range of complex employment issues. Keelin can be reached at (206) 386-7537 or kacurran@stoel.com.

Daniel Swedlow is an associate in Stoel Rives' Labor and Employment practice group. Daniel can be reached at (206) 386-7598 or daswedlow@stoel.com.

The Risks and Rewards of Healthcare Facility Construction

By Sharon Hartzel, CIA
Senior Manager
Moss Adams LLP

By Shirley Komoto, CIA, CHC
Senior Manager
Moss Adams LLP

The healthcare industry has spent about $150 billion on facility construction over the past five years, and spending will continue even in this tough economy. The challenge of today's tight money has a silver lining—the market is more competitive, and prices of construction labor, materials, and supplies are starting to come down. The key to effectively moving forward with facility construction is to scrupulously identify and aggressively manage your construction risks.

Risks include the possibility of suffering harm or loss and can impact the achievement of your construction project objectives, including schedule, scope, or budget. Some examples of project risks:

- **Contractor risks** may result from contractors' failure to perform their work because of factors that are either within their control (for example, technical competency) or outside their control (such as weather or labor strikes).
- **Technology risks** may result from a failure to integrate technically complicated emergency systems, high-tech equipment, or seismic requirements in new state-of-the-art facilities.
- **Schedule risks** may result from inadequate planning, poor communication, delays in decision making, failure to identify long-lead equipment ordering requirements, changes in scope, or unanticipated events (such as the discovery of asbestos in the wing you plan to renovate).
- **Complexity risks** may result from renovations conducted while facilities continue to operate, adding complexity to planning, phasing, infection control, patient care, jump space, and move-in conditions.
- **Compliance risks** may result from inadequate accounting for earmarked funds as required by lenders or donors.
- **Multiple stakeholder risks** may result from conflicts between administration, executives, doctors, nurses, researchers, patients, designers, major donors, and others.

All projects have risk or exposure that may affect whether your construction project is delivered on time, on budget, and with the desired program elements. Healthcare projects often have more risk because of their unique engineering, construction, and equipment requirements. Common exposures we've found in healthcare construction include inadequately defined project requirements, scope creep, overcharges, and costly practices. We also encounter excessive change-order costs, claims and disputes, and duplicate or unallowable charges. Too often we see inaccurate project financial records and reports, inadequate review of project expenditures, and noncompliance with contract billing requirements.

Here are several practices we recommend to help reduce your construction project exposures:

First and foremost, build the right team. Your project managers and support staff must have the appropriate construction expertise to achieve project success. Where the

work is highly complex or technical in nature, pursue long-term relationships with preferred service providers to supplement your team.

Second, create a solid project control environment that will enable your project delivery team's success. This includes well-defined reporting lines, key project controls that are specified in policies and procedures, and third-party audits to ensure project costs are compliant and measure the performance of project controls. In addition, establish communication processes so that team members and project stakeholders can understand construction performance and make timely decisions.

Third, plan the project well to attain desired results. Ensure your contractor is working with your design team to achieve desired constructability and prevent unnecessary change orders. Rely on your construction auditor to support your contract negotiations, securing beneficial contract terms and rates, and to build in contract charge controls. Where possible, standardize major design elements to cut down permit review time and aggregate buying power by planning bulk purchases. Conduct constructability reviews as well as value engineering and risk analyses. Releasing bid packages early and phasing contracting can help make the numbers manageable, especially when costs are escalating. And vigilant claims management can reap huge benefits at the back end of a project.

We're also finding that independent audits of construction expenditures and performance are becoming an integral and unavoidable part of quality assurance for healthcare construction projects at project inception, periodically during construction, and at project close-out. These construction audits on average produce savings of $15 for every $1 spent on audit fees.

Building cutting-edge healthcare facilities is essential to our society's quality of life. But we need to develop wisely and responsibly. That's why prudent risk management must be part of the process. If implemented properly, it can serve as a valuable and much-needed dose of preventive financial medicine.

Sharon Hartzel, CIA, is a Certi-

Please see> Construction, P20

The Evolving Nature of Ethics and Compliance in the Healthcare Industry

By Scott Desmond
Compliance Officer
Harborview Medical Center

For better or worse, in the American business environment ethics and best expectations gradually become supplanted by government regulations. Witness the defense industry scandals of the 1980's and the promulgation of the Federal Sentencing Guidelines in 1991. In the late 1990's, the Centers for Medicare and Medicaid (CMS) began issuing "voluntary compliance guidance" for different segments of the healthcare industry. But in the years since then, a spate of new regulatory activity has transformed compliance from a voluntary activity to one that is mandated. How healthcare organizations can anticipate and respond to the interplay between ethics and regulatory compliance is one focus of "Healthcare Regulatory Compliance," a UW Extension Outreach Certificate Program. Consider the example of quality in healthcare.

In Latin, it is *"primum non nocere"* but most of us are more familiar with the English translation: "First, do no harm." Since the days of the Greeks and Romans, this dictum, codified (to a degree) in physician oaths over the years, has sufficed to assure the public that healthcare was focused on safety and quality—upholding ethical precepts of "doing good."

But in 1999, the Institute of Medicine (IOM) rocked the healthcare industry and the consumer's confidence with a landmark report titled *"To Err is Human: Building a Safer Health System."* With the report's cataloging of "preventable" errors, the IOM undermined the moral high ground, previously entrusted to the healthcare industry under the "first, do no harm" standard. Ethical practice in healthcare now required one to attend to the delivery system's inherent flaws and diligently study outcomes to improve quality. Following the report, a variety of patient safety initiatives were proposed, and patient advocacy groups joined the movement to ensure that there would be no turning back. A follow up IOM report in 2001, *"Crossing the Quality Chasm"* laid a broad framework for how to improve healthcare quality.

However, in a 5-year follow up to the 1999 IOM report, authors, Leape and Berwick asked: *"Five Years After to Err is Human: What have We Learned?"* They concluded: "The groundwork for improving safety has been laid in these past five years, but progress is frustratingly slow." The authors called for "public outrage, reformed reimbursement policies, and regulation" to address the shortfall in improving safety and quality.

Enter the federal government. In the five years following the Leape and Berwick progress report we have seen a flurry of regulatory and reimbursement initiatives in an effort to accelerate the pace of improvements.

- In 2003, the Medicare Modernization Act authorized CMS to begin demonstration projects related to pay for performance. For the first time, Medicare could consider quality in its reimbursement strategy, not just quantity.
- In 2003, JCAHO (now The Joint Commission) required hospitals to follow 11 safety practices; now that list numbers 20 National Patient Safety Goals.
- At academic institutions residency training hours were limited to reduce fatigue-related errors.
- In 2007, Medicare altered its voluntary hospital quality reporting program and began reducing payments to hospitals that did not participate.
- In 2007, as required by Congress, Medicare introduced the Physician Quality Reporting Initiative (PQRI)—incentivizing physicians for reporting on specified quality measures.
- The Deficit Reduction Act of 2005 prodded Medicare to (in 2008) stop paying for "hospital acquired conditions."

Medicare recently emphasized its intention to further meld quality and reimbursement initiatives. In a recently released "roadmap" related to value based purchasing (VBP), CMS writes:

> "Development of quality measures is essential for all VBP programs because VBP aligns payment more directly to

the quality and efficiency of care provided, by rewarding providers for their measured performance across the dimensions of quality."

The transition from "voluntary" adherence to quality principles to the current, highly regulated quality environment illuminates how society cedes its ethical aspirations to mandated compliance expectations. These are the kinds of topics we consider in the UW Program.

The course examines this push-pull between ethics and federal/state legislation, and addresses how organizations can position themselves to develop ethical cultures and anticipate the directions that ethics and regulatory compliance may take. Quality, safety, privacy, financial relationships, research, and other topics are all considered within this framework.

While it remains debatable whether

Please see> Evolving, P20

<Construction, from P17

fied Internal Auditor with over 20 years of experience that includes providing management consulting and internal audit services to public, private, and not-for-profit organizations. Sharon has led teams of consultants and auditors to assist management in assessing organizational risks and evaluating and enhancing internal controls to support process improvement and cost efficiencies as part of audit engagements. Formerly, Sharon has served as Internal Audit and Corporate Compliance Director at two not-for-profit acute care hospitals. Sharon can be reached at Sharon.Hartzel@mossadams.com.

Shirley Komoto, CIA, CHC, is a Certified Internal Auditor and is certified in Healthcare Compliance. She has helped clients assess, design and implement changes to mitigate risks, reduce costs, streamline operations and improve the way they work in creative and value added ways. Shirley has over 20 years of experience working with public companies, healthcare organizations, and government agencies, including 15 years in the healthcare industry. Shirley can be reached at Shirley.Komoto@mossadams.com.

<Evolving, from P19

it was ever enough to "do no harm" the government is clearly saying: those days are over. Healthcare organizations that adopted an ethical approach to "doing the right thing for patients" likely were addressing quality concerns all along, and no doubt found it easier to transition into the new, more regulated environment.

Bibliography/Sources

CMS Roadmap for Implementing Value Based Purchasing in the Traditional Medicare Fee-for-Service Program

Five Years After To Err Is Human: What Have We Learned? Lucian L. Leape, M.D., Donald M. Berwick, M.D., Journal of the American Medical Association, May 18, 2005, 293 (19): 2384–90

The Institute of Medicine. *Crossing the Quality Chasm: A New Health System for the 21st Century.* Washington, D.C. 2001.

The Institute of Medicine. *To Err is Human: Building a Safer Health System,* National Academy Press; Washington, D.C. 1999

Scott Desmond is the Compliance Officer for Harborview Medical Center in Seattle, WA. He is also an instructor with University of Washington Extension's Healthcare Regulatory Compliance Certificate Program.

Classifieds

To advertise call 425-577–1334
Visit **wahcnews.com/classifieds** to see more items.

Office Machines	Real Estate	Real Estate	Real Estate	Real Estate
2007 Konica-Minolta Bizhub 6500C Color Printer available for business to take over lease and service contract. The Laser Electrostatic Transfer Method is used to produce color and the maximum output is 65 full color copies per minute. This printer was used by the Washington Healthcare News to print its 6,000 booklets each month prior to outsourcing printing in December of 2008. Service performed by Pacific Office Automation. Includes Fiery Controller, Booklet Finisher, Scanner and 512 mb Memory Upgrade. This printer has a 100,000 copy maintenance cycle and very low overage charges. This machine is like new and ready to help your business now. Contact David Peel at 425-577-1334.	**Priced Below Market! Seller Financing Available.** Can be Sold or Leased. Furnished. Exceptional. Build-out Private Offices and Open Work Space. Matae. Includes 3 Commercial Spaces Common/Workout/Recreation Area. 3 Stories of Secured Underground Parking. Total Square Feet: 1,278 rsf. Offered by Charlie Hampton, Vice President of Grubb & Ellis. Charlie executes the leasing strategy and negotiates for the most favorable lease transaction terms on behalf of his clients. He provides his clients with market research, leasing assumptions and analysis, and assists companies in evaluating current market conditions. View current listings: www.grubb-ellis.com/charlie.hampton.	**Real Estate Development for Healthcare Professionals (with Ownership Opportunities) located at SE Sunnyside Road & 143rd in Clackamas, Oregon.** A proposed 27,000-33,000 Square Foot Medical Office Building; Monument Signage on Sunnyside Road. Parking: 4/1000 with covered spaces available. The electric & plumbing systems are designed to maximize flexibility for the unique requirements of medical professionals and their equipment.Projected opening is scheduled for 2010. For more information please contact Marc Jenquin at (503)544-5124 or jcwinc@hotmail.com.	**Healthcare Development with Ownership Opportunities: On the corner of Southwest Barrows Road and Southwest Murray in Beaverton, Oregon.** Two-story 27,000 Square Foot Class A Medical Office Building with parking underneath. Lease Rate: $34/ Square Foot Full Service. Parking: 3.9/1,000 Total 106 Spaces. Lease Term: 10 year. Tenant Improvement Allowance: $25/ Square Foot Rentable area. Signage: Monument by owner, building signage allowed. For more information please contact Marc Jenquin at (503)544-5124 or jcwinc@hotmail.com.	**1800 9th Ave Suite 1100 for Sublease in Seattle. 1,289 RSF on the 11th Floor.** Rate is $25.00/sf gross. Sublease Through Dec 2010. Two Private offices. Conference Room. Work Room & reception. Offered by Charlie Hampton, Vice President of Grubb & Ellis. Charlie executes the leasing strategy and negotiates for the most favorable lease transaction terms on behalf of his clients. He provides his clients with market research, leasing assumptions and analysis, and assists companies in evaluating current market conditions and the best possible solution for their real estate requirements. View current listings: www.grubb-ellis.com/charlie.hampton.

Career Opportunities

To advertise call 425-577–1334
Visit **wahcnews.com** to see all available jobs.

Growing community.

Building careers.

Building Community. Building Careers.

† Enumclaw Regional Hospital

Find your career at **www.FHSJobs.org**

Franciscan Health System (FHS), ranked #6 in the Nation on the prestigious *Verispan* "Top 100" annual list of the most highly integrated, most efficient and best-performing health care networks in the nation, is currently seeking a **Med/Surg – Critical Care Manager for Enumclaw Regional Hospital in Enumclaw, Washington, a rural critical access facility**.

We offer competitive pay and excellent benefits such as generous paid time off. For more information about this position and to apply, call **Human Resources at (360) 802-3293 or visit us at www.FHSJobs.org and click on "Enumclaw Regional Hospital" then click on "Career Opportunities" on the right hand side.** EOE

Visit wahcnews.com to see all available jobs

The Vancouver Clinic

Lab/Pathology Manager

The Laboratory Manager is responsible for the operations of laboratory testing for outpatients, including hematology, chemistry, urinalysis, microbiology, and serology. Our lab conducts over 1 million tests per year. Responsible for evaluating equipment and software upgrades, and implementing new lab programs that enhance the functional operation of the Lab, as well as control costs and enhance profitability. Must ensure compliance with all regulatory programs such as OSHA and CLIA. Conducts the normal duties of a manager such as hiring, coaching, and developing employees. BS in clinical lab-related discipline, MT (ASCP) or equivalent, and previous management experience preferred. Requires the ability to understand department/lab financials and the implications of different decisions. Must be able to work successfully with physicians and other organizations in the local area in order to provide quality patient care. If you are interested, please apply on-line **http://www.thevancouverclinic.com/**

Career Opportunities

Supervisory Nurse Manager

Madigan Army Medical Center is a Joint Commission of Accreditation of Healthcare Organizations accredited state-of-the-art 243 bed facility. Madigan's job vacancies are Federal Government positions (must be a U.S. Citizen). The Madigan staff is a military and civilian team who has the privilege of caring for American heroes every day.

We are currently seeking a Supervisory Nurse Manager. This position provides administrative and supervisory roles for a 4-bed Pediatric Intensive Care Unit and a 4-bed Adult Progressive Care Unit. Responsible for schedules, performance evaluation of approximately 34 staff members (civilian, military and contract employees), budget, and other administrative duties.

Requirements: Minimum BSN required, minimum of one year administrative experience, PICU experience preferred. Current RN license require.

Relocation may be offered. Please forward resume to:

Madigan Army Medical Center
Sandy Jones, Nurse Recruiter
Civilian Personnel Division
9040 Fitzsimmons Drive
Tacoma, WA 98431-1100
Email: Sandra.Jones1@us.army.mil
Fax: (253) 968-1119

ALASKA NATIVE MEDICAL CENTER

Director of Medical Staff Office

JOB SUMMARY: Responsible for coordinating all medical staff activities and acting as liaison to medical staff, nursing and administration. Providing administrative support for medical staff functions and to the medical staff leadership, including elected and appointed medical staff organization representatives to enable them to fulfill their duties and obligations as defined by regulatory and licensing agencies and Medical Staff Bylaws and accompanying documents. Must provide orientation and training to enable staff to perform the functions to which they are assigned. Establishment of work standards and quality controls.

MINIMUM EDUCATION QUALIFICATION
A Bachelor's Degree in Business Administration or other related field. Progressively responsible professional work-related experience, education, or training may be substituted on a year-for-year basis for college education.

MINIMUM EXPERIENCE QUALIFICATION
Non-supervisory – Four (4) years of relevant work experience. An equivalent combination of relevant education and/or training may be substituted for experience.
AND
Supervisory - Four (2) years involving employee supervision. An equivalent combination of relevant education and/or training may be substituted for experience.

MINIMUM CERTIFICATION QUALIFICATION
CPSC, CMSC, CPHQ or CPMSM Certification required.

To apply visit **www.anmc.org** and click on "Careers".

One team. One passion. One patient at a time.

Team MedicineSM is a unique interdisciplinary approach which supports a collegial atmosphere. Our staff works together to provide VMMC's own brand of health care through mentoring, partnerships and communication. The result? Superior health care for every patient we treat and a workplace like no other.

We have the following leadership opportunities available:

- **Administrative Director – Cancer Institute**
- **Director, Regulatory Programs**
- **Major Gifts Officer**
- **Clinic Director, Urology**
- **Clinic Manager, Neurology & Neurophysiology Lab**
- **Clinic Manager, Cardiology**

Virginia Mason offers a competitive compensation and benefits package including relocation assistance, and an atmosphere of shared governance and respect. Visit us online at **www.VirginiaMason.org**. EOE/AAE.

VIRGINIA MASON TEAM MEDICINE℠

Seattle, Washington

Operations Supervisor - Pediatrics

The Vancouver Clinic

Founded in 1936, The Vancouver Clinic is a multi-specialty clinic located in Vancouver Washington, just north of Portland Oregon. The Clinic is a privately held, physician-owned clinic, with over 650 staff members and 185 providers. The Clinic is one of the region's principal health care providers, offering extensive services to our patients. Responsible for supervising minimum of 25 Medical Assistants, RN's, Patient Services Reps, Surgery Schedulers and Referral Coordinators. Requirements: Minimum 2-3 years supervisory experience in a medical office setting, medical business office setting, or insurance industry setting. Knowledge of clinic operational areas. Strong leadership skills. Strong interpersonal and problem solving skills, and the ability to confront and address issues with staff. PC utilization and software skills required. Ability to assess performance of employees. Ability to select, train, and develop qualified staff. If you are interested, please apply on-line **http://www.thevancouverclinic.com/**

Creative and Customized Solutions for the Workplace

STOEL RIVES LLP
ATTORNEYS AT LAW

At Stoel Rives, we understand that the success of your enterprise depends on the people who make up your organization. That's why we focus on providing creative and customized solutions to help you manage your work force. Whether you need to update a handbook, negotiate with a union, set up a tax-qualified benefit plan or defend an employment claim, our nearly 50 employment, labor and benefits attorneys have the experience and resources you can count on.

To find out more, visit
www.stoel.com/laborandemployment

(206) 624-0900

Washington *Alaska* *California* *Colorado* *Idaho* *Minnesota* *Oregon* *Utah*

Is your retirement plan in good hands?

If not, perhaps it is time for a second opinion.

- McHenry provides investment risk and asset management services to corporate employers and not-for-profit institutional investors
- Even if you have an existing brokerage or advisory relationship, our benchmarking services can help ensure that your policies and practices are both effective and efficient
- **Take the tour** at www.mchenrypartners.com and call us for a second opinion

We can help.

800 638 8121
www.mchenrypartners.com

McHenry PARTNERS

Prsrt Std
US Postage
Paid
Olympic Presort

Over 6,000 healthcare leaders in the Northwest receive the Washington Healthcare News each month. As a healthcare organization, doesn't it make sense to target recruiting to the people most qualified to fill your jobs?

To learn about ways the Washington Healthcare News can help recruit your new leaders contact David Peel at dpeel@wahcnews.com or 425-577-1334.

Washington Healthcare News

wahcnews.com | *Articles, Interviews and Statistics for the Healthcare Executive*