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The Importance of Monitoring: Hospital Merger Promises That Were Broken

When promises to preserve services after hospitals merge are not part of legally binding agreements, they can be broken. Several communities have learned this lesson the hard way. Advocates need to be aware of the reasons why promises are broken. The accounts from communities where promises to preserve some or all reproductive services were broken after a merger was completed can serve as lessons to help advocates prevent the same situation from occurring in the future.

Reasons for Broken Promises

It is common for merging hospitals to offer assurances, or promises, that help to stem opposition from medical staff, community members and government officials. These promises invariably include assurances that the hospital, in requiring adherence to religious restrictions, will not interfere with physician/patient communications. Other common assurances include promises that the non-religious hospital will be able to maintain its identity, mission and reproductive services. Some communities have found those promises are broken and services are lost after the merger is completed.

Although assurances may be offered in good faith, without legally binding agreements there is no way to guarantee that these promises will not be broken in the future. There are three main reasons why this happens:

1. The Ethical and Religious Directives for Catholic Health Care Services are subject to change.

The Directives are issued by the U.S. Conference of Catholic Bishops. From time to time, the Bishops revisit the Directives and revise them, usually making the Directives more restrictive about what can and cannot be done at hospitals with Catholic sponsorship. So, what might be permissible today at a hospital could very well be ruled impermissible tomorrow.

Such a change happened when the Bishops issued their most recent revisions to the Directives on June 15, 2001. These revisions were crafted with the express purpose of trying to prevent Catholic entities from entering into business arrangements with nonsectarian hospitals that offer sterilizations (tubal ligations for women and vasectomies for men). Declaring sterilization to be “intrinsicly evil,” the Bishops directed Catholic

hospitals to essentially avoid cooperation with nonsectarian hospitals that offer sterilizations.

Within days of the change, a Catholic health system in Austin, Texas, (Seton Health Care), broke its longstanding promise to Austin city officials that sterilizations could continue to be provided in a city-owned hospital that Seton Health Care was leasing and managing.

Policies on end-of-life treatment decisions may be the next change in the Directives. In March of 2004, then Pope John Paul II announced that it is “morally obligatory” to continue the provision of artificial nutrition and hydration for patients in a persistent vegetative state. It is unclear how policies at Catholic institutions will be affected. However, the announcement should serve as a reminder that the Directives can be changed at any time.

2. Bishops are responsible for interpreting and applying the Directives within their dioceses. Because Bishops may have differing interpretations, changes can occur when a new Bishop is appointed.

An example of policies changed following installation of a new Bishop occurred in Carrington, North Dakota, where a Catholic hospital was given a “pastoral exception” so medical staff there could provide tubal ligations when a woman’s health would be harmed by a future pregnancy. (This situation is actually fairly common, as pregnancy can cause the life-threatening condition of preeclampsia or can intensify other medical conditions.) When the Bishop who issued this exception to the Directives was replaced, his predecessor demanded that the practice cease.

Similar changes can occur in any hospital that is required to follow the Directives. These rules are interpreted by the local Bishop, and thus, subject to various interpretations. If certain promises are made without being incorporated into a legally binding agreement, communities can find that assurances given to garner support for a proposed merger are only hollow promises.

3. Bishops can be overruled by or face pressure from higher Church authorities.

Although Bishops are generally given great autonomy in administering local affairs, their decisions can be, and have been, overturned by Vatican authorities.

For example, in Little Rock, the Arkansas Women’s Health Center (a group of 30 physicians) had been leasing space in St. Vincent’s Doctors Hospital to provide tubal ligations for women who delivered in the hospital. The local Bishop had approved the lease agreement as a way of providing continuing access to sterilization services for women following the merger of St. Vincent’s and Doctors Hospital in 1998. The arrangement was approved because the services were not being directly provided by the Catholic-affiliated hospitals. But, the Bishop’s decision was overturned one year later (in 1999) after Vatican officials stepped in and said the lease was in violation of Catholic

principles.

So, no matter who becomes the official interpreter of the Catholic Directives as applied at a given hospital – whether it is the local Bishop or a health system – either of those can be pressured by higher church authorities and ultimately overruled.

Examples of Broken Promises

Location: Paris, Texas

Promise: In 2001 Christus Health purchased McCuiston Hospital, combining it with the community's other hospital, Catholic St. Joseph's Hospital, to form St. Joseph Health System. Reproductive services were preserved at the formerly nonsectarian hospital by creating an entity within the hospital to provide services banned by the Catholic Directives.

Broken: Two years later, Christus attempted to remove maternity services from the formerly nonsectarian hospital which made it impossible for women to have a tubal ligation at the time they gave birth. Physicians and the community reacted with outrage, and the hospital experienced a decline in patient volume. Citing financial challenges and the lack of community and physician support, Christus has announced plans to sell the health system.

Location: Palm Beach, Florida

Promise: In 1995, non-Catholic Good Samaritan Medical Center and Catholic-sponsored St. Mary's Medical Center announced a merger that would form Intracoastal Health. The hospitals formed a "creative solution" that would preserve reproductive health services at Good Samaritan.

Broken: In 1999, Intracoastal announced that the maternity ward at the non-Catholic campus would be closed. This meant that only a Catholic maternity ward would remain and women would no longer be able to have tubal ligations when delivering a baby.

Location: Tampa Bay, Florida

Promise: Eight hospitals --only two of which are Catholic-- formed BayCare, a Consortium, promising financial strength for all and independence for each.

Broken: Community members learned that BayCare secretly banned abortions at all hospitals at the insistence of the Catholic hospitals and a Catholic nun was authorized to review end-of-life choices at all member hospitals.

Location: Niagara Falls, NY

Promise: In March of 1996, when Niagara Falls Memorial Center affiliated with Mount St. Mary's and their parent-company (the Daughters of Charity), the community was promised that all services would be maintained at Memorial.

Broken: In January of 1998, the hospitals' new joint board, Health System Niagara, MergerWatch Case Studies: Broken Promises December 2005

announced plans to shift almost all services from Niagara Falls Memorial to Mount St. Mary's in suburban Lewiston. This would have left many low-income people and the elderly in the downtown Niagara-Falls area without hospital services in their immediate area. Community outrage and reaction ended this merger in February of 1999.

Location: Long Beach, CA

Promise: When Catholic Healthcare West (a Catholic Health System) purchased Long Beach Community Hospital in 1998, they promised to use it as a community model and allow sterilizations and emergency contraception to remain at the hospitals.

Broken: Catholic Healthcare West announced it was going to close down Long Beach Community Hospital and consolidate services at St. Mary's, another local hospital that did not perform sterilizations or distribute emergency contraception to survivors of sexual assault.