

# The Healthcare Company: Learning from Past Mistakes?

In 1968 Dr. Thomas Frist, Sr., Jack C. Massey, and Dr. Thomas Frist, Jr., founded the Hospital Corporation of America (HCA) to manage Park View Hospital in Nashville, Tennessee. The firm grew rapidly over the next two decades by acquiring and building new hospitals and contracting to manage additional facilities for their owners. The firm merged with Columbia Hospital Corporation to become Columbia/HCA Healthcare Corporation in 1994, and Columbia founder Richard Scott became chairman and CEO of the combined companies. By 1997 Columbia/HCA Healthcare Corporation had grown to become one of the largest health-care services companies in the United States, operating 343 hospitals, 136 outpatient surgery centers, and approximately 550 home-health locations. It also provided extensive outpatient and ancillary services in thirty-seven states, as well as in the United Kingdom and Switzerland. ~~The firm's comprehensive network included more than 285,000 employees and used economies of scale to increase profits.~~

Columbia/HCA's stated mission was "to work with our employees, affiliated physicians and volunteers to provide a continuum of quality healthcare, cost-effectively for the people in the communities we serve." Its vision was "to work with employees and physicians, to build a company that is focused on the well-being of people, that is patient-oriented, that offers the most advanced technology and information systems, that is financially sound, and that is synonymous with quality, cost-effective health-care." Columbia/HCA's goals included measuring and improving clinical outcome and patient satisfaction as well as reducing costs and providing services with compassion. With these goals, the company built the nation's largest chain of hospitals based on cost effectiveness and financial performance. It competed by capitalizing on its size and creating economies of scale in the internal control of its costs and sales activities. The focus was bottom-line performance and new business acquisitions.

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We appreciate the work of Mike Thomas, who helped draft this edition of the case. This case is for classroom discussion rather than to illustrate either effective or ineffective handling of an administrative, ethical, or legal decision by management. All sources used for this case were obtained through publicly available material and the HCA website.

However, a number of critics charged that health-care services and staffing at Columbia/HCA often took a back seat to the focus on profits. For example, the company employed shorter training periods than competing hospitals provided. One former administrator reported that training that typically should take six months was sometimes accomplished in as little as two weeks at a Columbia/HCA hospital. In addition, the company was accused of “patient dumping”—discharging emergency-room patients or transferring them to other hospitals when they are not yet in stable condition. In 1997 officials at the Department of Health and Human Services Inspector General’s Office indicated that they were considering imposing fines on Columbia/HCA for an unspecified number of patient-dumping cases. Additionally, the corporate watchdog INFACT publicly challenged the company’s practices, inducting Columbia/HCA into its “Hall of Shame” for corporations that manipulate public policy to the detriment of public health.

## **ETHICAL AND LEGAL PROBLEMS BEGIN**

In late July 1997, Fawcett Memorial Hospital in Port Charlotte, Florida, a Columbia/HCA hospital, became the focal point of the biggest case of health-care fraud in the industry. A government investigation resulted in the indictment of three mid-level Columbia/HCA Healthcare Corporation executives for filing false cost reports for Fawcett, which resulted in losses of more than \$4.4 million from government programs. The government alleged that Columbia/HCA had gained at least part of its profit by overcharging for Medicare and other federal health programs; that is, executives had billed the government for nonreimbursable interest expenses. Other concerns were alleged illegal incentives to physicians and the possible overuse of home-health services. Federal investigators accused Columbia/HCA of engaging in a “systematic effort to defraud government health care programs.” In a seventy-four-page document, federal investigators quoted confidential witnesses who stated that Columbia/HCA’s former CEO, Richard Scott, and former president, David Vandewater, were briefed routinely on issues relating to Medicare reimbursement claims that the government charged were fraudulent. Samuel Greco, Columbia/HCA’s former chief of operations, was also implicated in the scandal.

One of the issues was whether Columbia/HCA had fraudulently overstated home-health care laboratory-test expenses and knowingly miscategorized other expenditures so as to inflate the amounts for which it sought reimbursement. For example, Columbia/HCA’s Southwest Florida Regional Medical Center in Fort Myers reportedly claimed \$68,000 more in property taxes than it paid. Moreover, documents showed that the hospital had set aside money to return to the government in case auditors caught the inflated figure. Technically, expenses claimed on cost reports must be related to patient care and fall within the realm of allowable Medicare reimbursements. However, medical billing can be confusing, chaotic, imprecise, and subject to interpretation. Hence, it is not unusual for hospitals to keep two sets of accounting books. One set is provided to Medicare, and the other set, which includes records for set-aside money, is held in case auditors interpret the Medicare cost report differently than the hospital does. Some believe it is appropriate for a hospital to set aside money to re-

return to the government if the hospital in good faith believes the Medicare cost claims are legitimate. However, if administrators believe strongly or know that certain claims are not allowable yet still file the claims and note them in the second set of books, charges of fraud may result.

Confidential witnesses said that Columbia/HCA had made an effort to hide from federal regulators internal documents that could have disclosed the alleged fraud. In addition, Columbia/HCA's top executive in charge of internal audits had instructed employees to soften the language used in internal financial audits that were critical of Columbia/HCA's practices. According to FBI agent Joseph Ford, "investigation by the [Federal Bureau of Investigation] and the [Defense Criminal Investigative Service] has uncovered a systematic corporate scheme perpetrated by corporate officers and managers of Columbia/HCA's hospitals, home health agencies, and other facilities in the states of Tennessee, Florida, Georgia, Texas, and elsewhere to defraud Medicare, Medicaid, and the [Civilian Health and Medical Program of the Uniformed Services]." Indicted Columbia/HCA officials pleaded not guilty, and defense lawyers for Columbia/HCA tried to diminish the importance of the allegations contained in the government's affidavits.

## DEVELOPING A NEW ETHICAL CLIMATE AT COLUMBIA/HCA

Soon after the investigation was launched, Dr. Thomas Frist, Jr. was hired as chairman and CEO of Columbia/HCA. Frist, who had been president of HCA before it merged with Columbia, vowed to cooperate fully with the government and to develop a one-hundred day plan to change the troubled firm's corporate culture. Under the Federal Sentencing Guidelines for Organizations (FSGO), companies that have effective due diligence compliance programs can reduce their fines if they are convicted of fraud. For penalties to be reduced, however, an effective compliance program must be in place before misconduct occurs. Although the ESGO requires that a senior executive be in charge of the due diligence compliance program, Columbia/HCA's general counsel had been designated to take charge of the program.

After a hundred days as chairman and CEO of Columbia/HCA, Frist outlined changes that would reshape the company. His reforms included a new mission statement as well as plans to create a new senior executive position to oversee ethical compliance and quality issues. Columbia/HCA's new mission statement emphasized a commitment to quality medical care and honesty in business practices. It did not, however, mention financial performance. "We have to take the company in a new direction," Frist said. "The days when Columbia/HCA was seen as an adversarial or in your face, a behind-closed-doors kind of place, is a thing of the past." (It has been claimed that some managers viewed Columbia/HCA's corporate culture as so unethical that they resigned before the fraud investigation had even started.)

Columbia/HCA hired Alan Yuspeh as the senior executive to oversee ethical compliance and quality issues. Yuspeh, senior vice president of ethics, compliance, and corporate responsibility, was given a staff of twelve at the corporate headquarters and

assigned to work with group, division, and facility presidents to create a “corporate culture where Columbia workers feel compelled to do what is right.” Yuspeh’s first initiatives were to refine monitoring techniques, boost workers’ ethics and compliance training, develop a code of conduct for employees, and create an internal mechanism for workers to report any wrongdoing.

Because of the investigation, consumers, doctors, and the general public lost confidence in Columbia/HCA, and its stock price dropped more than 50 percent from its all-time high. The new management seemed more concerned about developing the corporation’s ethical compliance program than about its growth and profits. For instance, at a conference in Phoenix, Arizona, twenty Columbia managers were asked to indicate by a show of hands how many of them had escaped taunts from friends that they were crooks. Not a single hand went up. The discussion that followed that question did not focus on surgery profit margins. It focused on resolving the investigation and on the importance of the corporation’s intangible image and values.

### **COLUMBIA/HCA LAUNCHES AN ETHICS, COMPLIANCE, AND CORPORATE RESPONSIBILITY PROGRAM**

Columbia/HCA released a press statement indicating that it was taking a critical step in developing a company-wide ethics, compliance, and corporate responsibility program. To initiate the program, the company designated more than five hundred employees as facility ethics and compliance officers (ECOs). The new ECOs began their roles with a two-day training session in Nashville. The local leadership provided by these facility ECOs was thought to be the key link in ensuring that the company continued to develop a culture of ethical conduct and corporate responsibility.

As part of the program, Yuspeh made a fifteen-minute videotape that was sent to managers throughout the Columbia/HCA system. The tape announced the launching of the compliance-training program and the unveiling of a code of ethics that was designed to effectively communicate Columbia/HCA’s new emphasis on compliance, integrity, and social responsibility. Frist stated that “we are making a substantial investment in our ethics and compliance program in order to ensure its success” and that “instituting a values-based culture throughout this company is something our employees have told us is critical to forming our future. The ethics and compliance initiative is a key part of that effort.”

Training seminars for all employees, conducted by each facility’s ECO, included introductions to the training program, the Columbia/HCA code of conduct, and the company’s overall ethics and compliance program. The training seminars also included presentations by members of senior management and small-group discussions in which participants discussed how to apply the new Columbia/HCA code of conduct in ethics-related scenarios.

Although the company wanted individuals to bring their highest sense of personal values to work each day, the purpose of the program was to help employees understand the company’s strict definition of ethical behavior rather than to change their personal

values, Columbia/HCA's ethical guidelines tackled basic issues such as whether nurses can accept \$100 tips—they cannot—as well as complicated topics such as what constitutes Medicare fraud. In addition, the company developed certification tests for the employees who determine billing codes. In 1998 a forty-minute training video was shown to all the firm's employees; it featured three ethical scenarios for employees to examine. Columbia/HCA apparently recognized the importance of ethical conduct and quality service to all of its constituents.

## RESOLVING THE CHARGES

In 1997–1998, Columbia/HCA Healthcare settled with the Internal Revenue Service (IRS) for \$71 million over allegations that it had made excessive compensation and “golden parachute” payments to some one hundred executives. As a result of the settlement, the IRS, which had sought \$276 million in taxes and interest, agreed to drop its charges that Columbia/HCA had awarded excessive compensation by allowing the executives to exercise stock options after a new public offering of Columbia/HCA stock. Frist had reportedly earned about \$125 million by exercising stock options after that public offering, and seventeen other top executives each made millions on the deals.

In August 2000, Columbia/HCA became the first corporation ever to be removed from INFACT's Hall of Shame. The executive director of INFACT announced that Columbia/HCA had drastically reduced its political activity and influence. For example, the corporation has no active federal lobbyists and has a registered lobbying presence in only twelve states. According to INFACT's executive director, “This response to grassroots pressure constitutes a landmark development in business ethics overall and challenges prevailing practices among for-profit health care corporations.”

In December 2000, Columbia/HCA announced that it would pay the federal government more than \$840 million in criminal fines and civil penalties. The company agreed in June 2003 to pay \$631 million to settle the last of the government's charges that it had filed false Medicare claims, paid kickbacks to doctors, and overcharged at wound-care centers. No senior executives of the company have ever been charged with a crime. However, the company has paid out a total of \$1.7 billion in fines, refunds, and lawsuit settlements after admitting that it had, through two subsidiaries, offered financial incentives to doctors in violation of antikickback laws, falsified records to generate higher payments for minor treatments or treatments that never occurred, charged for laboratory tests that were never ordered, charged for home-health care for patients who did not qualify for it, and falsely labeled ads as “community education.” KPMG, the firm's auditor, denied any wrongdoing on its part but agreed to pay \$9 million to settle a whistle-blower lawsuit related to the charges. Columbia/HCA also signed a “Corporate Integrity Agreement” in 2000 that subjected the firm to intense scrutiny until 2009. In the same year, the company was officially renamed HCA—The Healthcare Company.

In January 2001, Frist relinquished the title of CEO to focus on other interests but remained involved in corporate strategy as chairman of HCA's board of directors. Jack Bovender, Jr. (formerly CFO) replaced him. Of the fraud investigation, Bovender

said, “We think the major issues have been settled,” although the company still has some “physician relations issues and cost report issues” to resolve in civil actions involving individual hospitals. Since 1997 the company has closed or consolidated more than one hundred hospitals. It is currently composed of locally managed facilities that include 175 hospitals and 80 outpatient surgery centers in twenty-four states, England, and Switzerland.

## HCA'S COMPLIANCE PROGRAM AT WORK

Today, HCA spends \$4 million a year on its ethics program, which includes an ethics and compliance committee of independent board directors, two separate corporate committees that draft ethics policy and monitor its use, and a twenty-member department that implements the program. In all, twenty-six executives oversee ethics and compliance for a variety of issues, ranging from taxes to pollution to the Americans with Disabilities Act.

The ethics compliance program set up by Yuseph includes seven components: (1) articulating ethics through a code of conduct and a series of company policies and procedures; (2) creating awareness of these standards of compliance and promoting ethical conduct among everyone in the company through ethics training, compliance training, and other ongoing communication efforts; (3) providing a twenty-four-hour, toll-free telephone hot line to report possible misconduct; (4) monitoring and auditing employees' performance in areas of compliance risk to ensure that established policies and procedures are being followed and are effective; (5) establishing organizational supports for the ethics compliance effort; (6) overseeing the company's implementation of and adherence to the Corporate Integrity Agreement; and (7) undertaking other efforts such as clinical ethics and pastoral services.

Training continues to play a major role in helping employees understand HCA's new focus on ethics and legal compliance. Every new employee is required to undergo two hours of “orientation” on the firm's code of conduct within thirty days of employment. At that time, new employees receive a copy of the code of conduct, participate in training using videotapes and games, and sign an acknowledgment card. All employees complete one hour of refresher training on the firm's code of conduct every year.

HCA's new ethics hot line helps the firm identify misconduct and take corrective action where necessary. For example, in the spring of 2002, an anonymous caller to the toll-free line accused a hospital supply clerk of stealing medical gear and reselling it online through eBay. After investigators verified the complaint, the clerk was fired. Since its inception, the ethics program has fielded hundreds of such ethics-related complaints.

The effort to change HCA's corporate culture quickly and become the model corporate citizen in the health-care industry was a real challenge. This health-care provider learned the hard way that maintaining an organizational ethical climate is the responsibility of top management. As Bovender says, “Internal controls can always be corrupted. We've tried to come up with a system that would require a lot of people to conspire. It would be very hard for Tyco-type things to happen here.” HCA seems to

have recovered well from all of its problems, and at the time of writing, this case a number of companies were trying to acquire it, an indication that they view it as a great business opportunity.

## QUESTIONS

1. What were the organizational ethical leadership problems that resulted in Columbia/HCA's misconduct?
2. Discuss the strengths and weaknesses of HCA's current ethics program. Does this program appear to satisfy the provisions of the Federal Sentencing Guidelines for Organizations and the Sarbanes-Oxley Act?
3. What other suggestions could Columbia/HCA have implemented to sensitize its employees to ethical issues?

SOURCES: Columbia/HCA Healthcare Corporation, *1996 Annual Report to Stockholders*; "Columbia/HCA Launches Ethics and Compliance Training Program," AOL News, February 12, 1998, <http://cbs.aol.com>; "Columbia/HCA to Sell Part of Business," *Commercial Appeal*, June 3, 1998, B8; "Corporate Influence Curtailed," *PR Newswire*, August 2, 2000; Kurt Eichenwald, "Reshaping the Culture at Columbia/HCA," *New York Times*, November 4, 1997, C2; Kurt Eichenwald and N. R. Kleinfield, "At Columbia/HCA, Scandal Hurts," *Commercial Appeal*, December 21, 1997, C1, C3; "Ethics, Compliance, and Corporate Responsibility: Introduction," HCA, <http://cc.hcahealthcare.com/> (accessed April 24, 2003); "HCA Tentatively Agrees to Multimillion Fraud Settlement," *American Medical News*, January 27, 2003, [www.ama-assn.org/sci-pubs/amnews/pick\\_03/gvbf0127.htm](http://www.ama-assn.org/sci-pubs/amnews/pick_03/gvbf0127.htm); "History," HCA, <http://hca.hcahealthcare.com/CustomPage.asp?guidCustomContentID=C2E6928A-D8B1-42AF-BA44-6C2B591282D5> (accessed April 24, 2003); "INFACT Urges Columbia/HCA to Remove Itself from the Hall of Shame," *PR Newswire*, [www.prnewswire.com](http://www.prnewswire.com) (accessed May 27, 1999); Lucette Lagnado, "Columbia Taps Lawyer for Ethics Post: Yuspeh Led Defense Initiative of 1980s," *Wall Street Journal*, October 14, 1997, B6; Tom Lowry, "Columbia/HCA Hires Ethics Expert," *USA Today*, October 14, 1997, 4B; Tom Lowry, "Luss Warning Hits Columbia/HCA Stock," *USA Today*, February 9, 1998, 2B; Duncan Mansfield, "HCA Names Bovender Chief Executive," January 8, 2001, Yahoo! News, [http://biz.yahoo.com/apf/010108/hca\\_change\\_2.html](http://biz.yahoo.com/apf/010108/hca_change_2.html) (accessed January 16, 2001); Charles Ornstein, "Columbia/HCA Prescribes Employee Ethics Program," *Tampa Tribune*, February 20, 1998, 4; Eva M. Rodriguez, "Columbia/HCA Probe Turns to Marketing Billing," *Wall Street Journal*, August 21, 1997, A2; Neil Weinberg, "Healing Thyself," *Forbes* online, March 17, 2003, [www.forbes.com/forbes/2003/0317/064.html](http://www.forbes.com/forbes/2003/0317/064.html); Chris Woodyard, "FBI Alleges Systemic Fraud at Columbia," *USA Today*, October 7, 1997, 1B.