

# Ethics and Integrity in Healthcare Quality Practice



NAHQ Annual Meeting  
September 2011

# Objectives Today

- Define a challenge to ethics and integrity in healthcare quality practice – ***Susan Goodwin***
- Review what NAHQ has done to explore the issue – ***Cindy Barnard, Michael Callahan***
- Share preliminary recommendations and solicit your thoughts – ***Grena Porto***



# The Issue of Ethics and Integrity in Healthcare Quality Practice



Susan Goodwin  
President, NAHQ

# The Issue

**Intimidation, retaliation against, and prosecution of healthcare quality professionals have profound deleterious effects on the safety and quality of the entire healthcare system.**



# A Shocking Headline

HealthExecNews.com 

Healthcare Management News and Insights



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## Nurse faces 10 years in prison for reporting doc's malpractice

February 9, 2010 by Carol Katarsky

Filed under: [Ethics](#), [Healthcare Human Resources and Staffing News](#), [Hospital Management](#), [Practice Management](#), [Special Report](#)

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# More Headlines Ensued...

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
PECOS DIVISION

ANNE MITCHELL, and  
VICKILYN GALLE

Plaintiffs,

vs.

WINKLER COUNTY AND  
THE WINKLER COUNTY MEMORIAL  
HOSPITAL, STAN WILEY,  
INDIVIDUALLY, AND IN HIS  
OFFICIAL CAPACITY AS  
ADMINISTRATOR OF THE WINKLER  
COUNTY MEMORIAL HOSPITAL,  
ROBERT L. ROBERTS JR.,  
INDIVIDUALLY, AS AS SHERIFF,  
OF WINKLER COUNTY, TEXAS,  
ROLANDO G. ARAFILES JR.,  
INDIVIDUALLY,  
SCOTT M. TIDWELL, INDIVIDUALLY,  
AND IN HIS OFFICIAL CAPACITY AS  
COUNTY ATTORNEY, AND  
MIKE FOSTEL, INDIVIDUALLY, AND  
IN HIS OFFICIAL CAPACITY AS  
DISTRICT ATTORNEY

CIVIL ACTION NO. P-09-CV-037

**FILED**  
AUG 28 2009  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

Defendant

1.

counsel, bring

Defendant W

(individually

## Sheriff Charged in Texas Whistle-Blowing Case

By KEVIN SACK

Published: January 14, 2011

A state grand jury in Winkler County, Tex., has indicted the sheriff, the county attorney and a hospital administrator for their roles in orchestrating the prosecution of two whistle-blowing nurses after



## Former Winkler County hospital administrator Stan Wiley takes plea in

## Courthouse News Service

Wednesday, June 15, 2011 Last Update: 7:48 AM PT

### Texas Sheriff Convicted of Official Repression

By DAVID LEE



25



DALLAS (CN) - A West Texas sheriff was convicted Tuesday of retaliating against two nurses who complained to the state medical board about a doctor they worked with, who was the sheriff's friend.

Winkler County Sheriff Robert Roberts, 56, was convicted in Midland State Court of retaliation and misuse of official information, both felonies, and official oppression, a misdemeanor.

In an agreement reached with prosecutors at the close of the punishment phase of his trial, Roberts was sentenced to 4 years of felony probation and 100 days in jail on the official information and retaliation charges, and fined \$6,000.

By BETSY BLANEY

Administrator accused of retaliating against a nurse on Monday and could testify in trials for a nurse who was charged with

Monday to a misdemeanor charge of abuse of power. Roberts was sentenced to 100 days in jail and fined \$2,000. As part of the

plea deal, Wiley agreed to cooperate with the prosecution of the three remaining defendants.

# NAHQ's Role

- Leadership
- Protecting integrity
- Raising awareness
- Influencing policymakers



# Environmental Scan (External)

- Transparency and accountability
  - Serious adverse events
  - Infections
  - Value-based purchasing
  - Hospital-acquired conditions
  - Medical necessity enforcement
  - RAC
- ***For the first time, quality measures do drive revenue***





# Environmental Scan (Internal)

- Reduced operating margins
- Production pressure
- Complexity, clinical and operational
- Quickly changing rules
- Erosion of trust



# Professional Dilemmas

- “Up-coding” quality performance
- Clinical/ documentation workarounds
- Suppressed acknowledgement of adverse events
- Public accountability (reportable events)
- Medical necessity concerns unrecognized
- Peer review functionality
- Steep gradient of authority
- Harassment or insidious intimidation

# Healthcare Quality Professional Leadership Development Model



# Desired Healthcare Culture/Environment

## For patients/communities

- Patient-centered care
- Data integrity
- Transparency in quality of care and patient safety

## For healthcare professionals

- Respect and trust
- Safe work environment
- Internal and external chain of command
- Meaningful improvement
- Protection from intimidation, retribution, or harassment

# NAHQ Task Team



Cindy Barnard  
Team Leader

# NAHQ Task Team

- Cindy Barnard, Team Leader
- Susan T. Goodwin
- Lee Hamilton
- Claire M. Davis
- Sandra W. Jones
- Colleen M Gallagher
- Ruth Nayko
- Roya Nassirpour
- Grena Porto
- Joan Kram, NAHQ Staff

## Review and Comment:

- *Michael Callahan*
- *Barbara Youngberg*
- *Susie White*



# Professional Dilemmas

- “Up-coding” quality performance
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# NAHQ Member Feedback

- Lack of authority in QI/QM
- Organizational resistance
  - Gaps in peer review
- Not an infrequent problem: 1-2x/ year?
- Not just *physician* performance and behavior issues





# Your Concerns

- We have a culture that hides quality concerns
- Medical peer review committees fail to hold their colleagues accountable... staff fails to report serious adverse outcomes...



# Your Concerns

- Nothing is done about these issues...
- I was put on discipline...
- Shoot the messenger...
- I was asked to resign...



# Protecting Robust QM & Peer Review

- Peer Review is profoundly important and can be highly effective
- Privilege and confidentiality are deserved and necessary, and should be protected
- But we must assure integrity



# The Issue

**Intimidation, retaliation against, and prosecution of healthcare quality professionals have profound deleterious effects on the safety and quality of the entire healthcare system.**



# Understanding The Problem

- There is an *Ethics Problem*
  - Lack of sufficient recognition of potential harm to patients from disregard of quality processes
- There is a *Practical Problem*
  - Lack of standards, structures, and mechanisms to assure reliable operation of the quality process



# NAHQ Task Team

Inputs	Outputs	Plans
Member input Literature review Experience	Code of Ethics Standards of Practice	NAHQ educational efforts
	Call to Action	National communications
	Identified need for broader professional engagement	Thought Leaders' Panel and associated outputs



# NAHQ Actions

- Code of Ethics
- Standards of Practice
- Educational Resources

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**Code of Ethics and Standards of Practice**  
for Healthcare Quality Professionals

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# Working Toward A Call to Action

< Logos of endorsing orgs, such as ACPE, AHIMA, AMA, ANA, AONE, ASHRM, The Joint Commission, NAMSS, NAPH, NPSF >





# High-Priority Aims

- Improve culture of quality/safety
- Prevent intimidation
- Mitigate severity/impact on patient care
- Protect the professional
- Advance professionals' effective pursuit of their responsibilities



# Legal Perspective



Michael Callahan, Esq

# Legal Perspective

- External pressures to monitor/maintain quality
  - Joint Commission/CMS/accreditation standards
  - Doctrine of Corporate Negligence/Respondeat Superior



# Legal Perspectives

- Existing Legal Tools
  - Code of Conduct Policy, Disruptive Behavior Policy, Conflict of Interest, Medical staff bylaws
  - State peer review confidentiality and immunity protections
  - Within a Patient Safety Organization, special privilege



# Legal Perspectives

- Health Care Quality Improvement Act '86
  - Immunity protections for professional review
  - Data bank reporting
- State common law protections for “good faith” reporting, voluntary or mandatory
- State and federal whistleblower protections



# Legal Perspectives

The goal is to encourage full disclosure and acknowledgment in a protected environment without fear of reprisal or ability to use disclosure for disciplinary purposes



# Legal Perspectives

- Do we need ***new*** structures and processes to protect patients and healthcare professionals?
- and
- How do we build and foster the will and commitment to act vigorously to protect patients and healthcare professionals?



# Legal Perspective

- Reflect on your own organization
- To what extent do existing legal protections (including regulatory and accreditation requirements) advance your ability to conduct quality evaluation with integrity?





# The Call to Action



Grena Porto  
Task Team Member

# The Call to Action

- Problem
- Recommendations
  - Provider organizations
  - Individual healthcare professionals
  - Accreditation/regulatory agencies
  - Professional associations



# The Issue

**Intimidation, retaliation against, and prosecution of healthcare quality professionals have profound deleterious effects on the safety and quality of the entire healthcare system.**



# Call to Action: Provider Organizations

1. Protect the quality and safety of care
  - Establish zero tolerance for intimidation and retaliation; Build and sustain a just culture
2. Protect patients and healthcare staff
  - Respond effectively to any threats and disruptive behavior that undermine quality/safety evaluation; support staff; and listen to patients/families

**DRAFT**



# Call to Action: Individual Providers

- Implement principles of patient safety and quality of care
- Adhere to professional codes of conduct
- Report substandard or unsafe care
- Encourage patients and families to
  - play an active role in promoting safe care
  - share their concerns with appropriate providers and organizations

**DRAFT**



# Best Practices: Beyond Providers

- Advocate for and enact comprehensive, robust legislative solutions (i.e., protections for whistle-blowers)

**DRAFT**



# Call to Action: Patients and Families

- Patient complaints can be reliable indicators of potential quality problems.
  - Create patient family councils or advisory groups
  - Engage patients and families in patient safety activities.

**DRAFT**



# Call to Action: NAHQ and Others

- Provide educational resources and disseminate best practices
- Support research to develop new strategies/techniques to improve culture of safety and integrity in healthcare quality

**DRAFT**





# Is This a Robust Solution?

- Improve culture
- Prevent intimidation
- Mitigate severity/impact on patient care
- Protect the professional
- Advance professionals' effective pursuit of their responsibilities



# What Can Leaders Do?

- Promote the principle that intimidation/retaliation is not tolerated at your organization
- Begin to develop infrastructure
- Advance a just culture
- Adhere to high standards of professionalism



# Our Goal

Provide safe, high quality care, with  
Integrity of practice in quality evaluation  
and improvement, in  
A just, transparent, and supportive  
environment



# Discussion

- ***The draft Call To Action is for YOU***
- Do we have the problem statement right?
- Is the Call to Action robust? Complete?
- Does it speak to YOUR needs?
- Will it advance professionalism?
- Will it make care safer, better?
- What are YOUR needs and ideas?



~ Thank you ~

Susan Goodwin, President, NAHQ

Cindy Barnard, Chair, Task Team

Michael Callahan, Esq

*Partner, Katten, Muchin, Rosenman, LLP*

Grena Porto, *Principal, QRS Healthcare Consulting,  
LLC*