

# Tenet healthcare scandal

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## **Introduction**

Over the years, the healthcare industry has undergone through an exponential growth despite the tremendous market pressure. Tenet Healthcare Corporation is among the many organizations that the struggle for a position in the healthcare industry (Klaidman, 2010). However, this struggle has contributed to a series of legal and ethical scandals that have largely changed the reputation of the company. Based on theoretical and practical explanations, this paper seeks to critically analyze one of the most recent scandal involving doctors at Tenet Healthcare who carried out unnecessary heart surgeries on patients.

## **An Overview of the Company**

This company was established in 1967 under the name National Medical Enterprises by three lawyers and headquartered in Los Angeles, California. In its early years, the business policy of the company was mainly focused on building and acquiring medical facilities and related services in order to address the growing medical demands in the new market. In the late 1980s, the company diversified into specialty hospitals such as building nursing homes, and rehabilitation centers among other developments (Klaidman, 2010).

## **Tenet Healthcare before the scandal**

Following a series of fraud and legal troubles, the company changed its name to Tenet Healthcare Corporation in 1994 whose headquarters is based in Dallas. Tenet Healthcare operates a number of hospitals and other healthcare facilities that are mandated to provide healthcare services to its

customers. It is essential to mention the services provided by Tenet Healthcare are conducted through its subsidiaries (Klaidman, 2010). Tenet Healthcare Corporation owns and operates 69 acute-care hospitals, which provides services to urban communities in 13 states, in the United States. Some of the services provided by the company include acute care, respiratory therapy services, clinical laboratories, operating and recovery rooms, pharmacies and intensive care (California Nurse, 2002). The involvement of the company in recent legal and financial troubles has contributed to the falling of shares of Tenet Healthcare, from over \$50 a share in 1994, to \$8 a share today. The involvement of the company in a number of scandals contributed to the reduced profits in the 1990s. Nevertheless, a number of changes in the management of the company following the appointment of Jeffrey Barbakow as the chief executive in 1993 contributed to the recovery of the company (Klaidman, 2010). For six years, Tenet Healthcare Corporation tried to consolidate its position in the healthcare industry by buying hospitals around the country. This move contributed to the strong recovery that saw tenet healthcare redeeming itself from a \$425million loss in 1994 to a \$302 million profit in 2000 (Taylor, 2005).

### **The Unnecessary Cardiac Procedures Scandal Individuals or firms who knew about, participated in or condoned the behavior.**

Several individuals were linked to the scandal and specifically the physicians who were recruiting patients by paying them. This means that most of the employees and especially physicians knew about the scam. Moreover, Tenet

had been performing poorly in terms of finances, and this has been noted to be one of the reasons that prompted the corporation to enter into corrupt deals. During the past decade, Tenet Health Care Corporation has faced scandals pertaining to legal and financial matters. Its image had been tarnished, and thus a number of its customers were compelled to seek medical services elsewhere.

Moreover, it had influenced the number of uninsured citizens and reduced employer insurance cover. This gave rise to an excess number of individuals who were unable to cater for their medical services and hence resulted in a significant drop in Tenet's market. The scandal erupted in October 2002 following allegations from hundreds of patients who believed that many of the heart operations done to patients at the Redding Hospital, in California were unnecessary. After a series of investigation, it was found that Dr. Chae Moon and his counterpart Dr. Fidel Realyvasquez had allegedly carried out a number of cardiac procedures that were neither necessary nor indicated in the reports of over 700 patients. How was the scandal uncovered and by whom The scandal was uncovered when one of the patients, John Corapi, a 55-year old priest visited Redding Medical Center in California for a medical checkup. After consultation with Dr. Moon, Corapi was told that he needed an emergency heart bypass surgery. However, Corapi was not satisfied with the recommendation made by the two doctors (Taylor, 2005). It was at this point that he decided to seek for more opinion from five cardiologists who gave him a different answer from the one given by the two doctors at tenet Healthcare Corporation's Redding Medical Center. According to the cardiologists, Corapi did not require a heart surgery contrary to the opinion

given by the doctors at the Redding Medical Center. After reporting his case to the FBI, the federal authorities revealed that, hundreds of medical records of surgical patients did not support the need for surgery procedures (The Spark, 2002).

Furthermore, when the scandal was uncovered, it was revealed that many patients had become victims of unnecessary cardiac surgeries that left them with complications. According to Klaidman (2010), many patients suffered from a myriad of complications including stroke, heart attack and paralysis. As a result, many of the patients who had undergone unnecessary surgery now require assisted living and 95 of the patients succumbed to death. For that reason, the plaintiffs sued Tenet Healthcare Corporation for fraud, negligence, battery and elder abuse, since most of the patients ranged between 65 to 90 years of age. Additionally, the estates of the 95 patients who died sued the company for wrongful deaths (The Spark, 2002). Once the scandal was discovered, the investigation of FBI agent led by Michael Skeen invaded Tenet's Redding Hospital that is based in California. The FBI found out that most of the patients who were required to undergo cardiac operations had not fully qualified. In light of this, a number of the patients' hearts were in superb condition. After the FBI's probed, it carried further probing with an aim of authenticating the validity of the truth concerning the matter before taking further action.

What did they do with the information they uncovered? The information gathered by the FBI was used to sue the physician allegedly associated with the scandal. Tenet as a corporation was not charged. It gave the California State together with the federal government over \$50 million (Bejjani et al. ,

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2006). Additionally, Tenet Healthcare also paid an additional \$395 million to over 700 patients in order to settle litigation for the unnecessary surgeries (Taylor, 2005).

## **How Did The Company Reacted**

The need to change its image led to a number of reactions from the company. First, the company reacted by stating that, it was not involved in the scandal based on the point that, it was the doctors who were responsible for healthcare and not the hospital. In this case, it implied that only the patients implicated were under investigation and not the hospital (The Spark, 2002). It can be mentioned that, the company had nurtured a culture where fraud could easily be perpetrated without any serious actions being undertaken.

Following this scandal, the affected patients received their compensation. On the other hand, the company decided to sell Redding Medical Center which was later renamed Shasta Regional Medical Center (California Nurse, 2002). Despite the fact that the scandal involving Tenet Healthcare Corporation did not preclude criminal or civil charges against individuals, the company agreed to pay the fine in order to settle the allegations poised in the unnecessary heart surgery scandal. This implies that there was no civil trial in this case.

According to Currier and Eimermann (2010), civil trial refers to a court of law proceedings where the judge makes a deliberation about who wins. In this case, the judge examines the evidence provided in order to make a decision on whether the defendant should be held legally responsible for the

allegations put forward by the plaintiff (s). Civil cases usually involve civilians and organizations. On the other hand, a criminal trial refers to a court of law proceeding that is intended to settle criminal cases.

In this case, the government can sue a person on allegations of certain criminal activities. Additionally, the justice remains to be a principal aim of criminal trials, as opposed to civil trial, which usually seek to achieve a resolution to the dispute (Currier & Eimermann, 2010). With that said, there was no civil trial following the decision by the company to pay a fine to the government and the state of California and later an immense amount as compensation to the affected patients.

Even though, this scandal was revealed in 2002, it is said that it had taken place since the early 1990s. Therefore, many people became victims of this scandal (Taylor, 2005). First, the main stakeholders were directly or indirectly affected by the allegations based on how it painted badly on the corporate image of the company. Additionally, over 700 patients and their families were subjected to emotional, psychological and financial problems. The huge charges for the heart surgery required patients to pay a lot of money in the form of medical bills (Klaidman, 2010).

The shareholders were also affected because the share of the company dropped from \$50 per share in 1994 to \$8 in 2002. Lastly, the competitiveness and professional qualifications of the two doctors were also questioned thus making it difficult for them to secure employment in the future (The Spark, 2002). The case of Tenet Healthcare Corporation signifies the negative implications of scandals on the management of an organization.

As mentioned earlier, the company has been burdened by financial and legal troubles due to its involvement in a number of fraud and scandals.

In the end, the company suffered from the loss of public trust, investors' confidence and dwindling financial performance. The future of the company depends on how it will use its past in order to redesign its present as the second largest company in the US healthcare industry. How much money did the plaintiffs receive, other agreements As mentioned, reimbursement was made available to the government, patients and their loved ones. Towards the end of 2004, Tenet agreed that it would pay the patients who had been victims of the unnecessary heart surgeries over \$395 million. Do you feel it was fair?

There have been many instances of corporations deciding to continue unsafe practice because they calculate that not all of the number of people injured will bring legal action. Furthermore, the people who sue are not guaranteed a victory in court or can be settled out of court, for far less than a jury will award. With that said, no amount of money can bring the dead back. I think that the amount was not a fair one due to the fact that those doctors knew what they were doing. I do not agree with the reimbursement and I do not think the amount was fair because the families of the victims had to face a lot of pain.

Some of the pain and suffering: Immediate expenses associated with the death (medical & funeral), mental anguish to the survivors, Companionship, Loss of care and Loss of earnings in the future. Background Tenet Healthcare formerly was named National Medical Enterprises, ranks as the second largest hospital chain in the United States. The organization owns about 114  
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acute care hospitals and related businesses in 16 states. Boasting with over 57, 000 active personnel and over 13, 000 certified hospital beds, Tenet Healthcare Company is a force in the United States' healthcare delivery industry.

Awarding doctors with financial incentives as payment for their support has been ruled out under the state's stark laws; however, the marketplace cites this as a necessary form of clinching and maintaining that support. Tenet's hospitals stand accused of paying doctors for referring clients to them as a means of keeping their support. Illegal behavior The illegal behavior was its defrauding of its stakeholders who came to seek medical treatment (Wynne, 2008). The doctors admitted excessive numbers of patients being fully aware that their capacity was lower.

The doctors were also aware of the poor conditions in the hospitals but still went ahead to admit patients. In what type of court was Tenet Healthcare tried? The Tenet Healthcare scandal trial took place at the Supreme Court of Appeal in St. Louis Indiana, (circuit court) (Browsers, 2012 & The Federal Reporter. , 1997). All the trials including subsequent appeals took place in Court of Appeals, in St. Luis, Indiana; United State The case was forwarded to the superior court in San Diego under the presiding attorney, Carol C. Lam where Tenet subsidiaries were indicted, while Nazaryan's case was filed in the U. S. District Court (Wynne, 2007). After the case broke out, The Federal Bureau of Investigation (FBI) broke into one of Tenet's hospitals in San Diego, the Alvarado Hospital, and charged its administrator of 10 years. The charges were brought against Tenet Healthcare In the original indictment, Tenet Healthcare was aptly accused of fraud that was inclusive of illegally

admitting psychiatric patients to the institutes and hiking their charges (inflating the cost of admission and administration of medicine (Wynne, 2007). Provide key details about the trial and provide a timeline of key trial events.

After the raiding of the Redding hospital by the FBI agents in October 2002, it was revealed that Tenet Healthcare Corporation performed inappropriate and unnecessary surgeries on patients and also overbilled patients beyond the standard Medicare rates. As a result, a legal suit was initiated against the Corporations. The trial pitted Federal government of the United States versus Tenet Healthcare Corporations. As alleged by the government, the Corporations admitted patients who did not qualify for admission in rehab facilities.

This took place between May 15 2005 and December 31 2007. Besides this inappropriate admission, they were charged with soliciting high Rehabilitation fees. This was the qui tam claim that allowed William Meshel and Man Tai to establish a legal suit against the Corporation on behalf of the Federal government. In May 2006, Tenet went to court to dismiss these claims. After the government dismissed the claims of the appellant since they had zero impact on the pre-existing investigations of the government, an agreement bargain was reached with the government but the other suit remained pending. The other settlement between the government and Tenet Healthcare concerned 165 hospitals nationwide. A summary judgment was moved on April 2007, which included the appellant as the original source of the case. The summary judgment was made in favor of the Federal government.

As a result, Tenet accepted to pay the fines of overbilling of Medicare within its facilities after pleading guilty to the charges. What was the sentence? Did you feel it was fair? Justify our position. Tenet Corporation was guilty of overbilling, but the appellant who established the suit were unqualified to do so on the terms of qui tam. This was simply because they did not possess independent and original knowledge of Tenet's fraudulent activities and practices in Medicare. Consequently, Tenet had undertaken the responsibility of reparations of damages to both the government and its patients.

This sentence was not fair. Tenet had more liabilities on top of Medicare overbilling. A large number of its patients died due to unnecessary surgeries and rehabilitations. The appellant, acting in the public interest, had the right to make their case heard for justice to be done, something which the district court denied and dismissed. Did they differ from those in the original indictment? What was the verdict? They did not differ much from the original indictment in that they were the same issues that were evidenced in the first indictment; overbilling and malpractice.

The verdict was arrived at after Tenet pleaded guilty of overbilling its Medicare and admitting stable patients into the rehabilitation facilities. Tenet Healthcare Corporation was, therefore, found guilty of overbilling its medical services. It was also found that the qui tam of the two appellants was not tenable due to the fact that they were not the primary source of such information. The information was already in the public domain when they moved to court.

Tenet Healthcare corporations did not appeal in this case since it had passed a compromise with the government to pay the fines, an action that was supposed to redeem the image of the health care sector and to serve justice to the victims. This is because they had agreed to settle the fine, which is a sign of accepting that their activities were not acceptable and went against the law. They, therefore, accepted the liability of their ‘ profit-driven actions. The general basis for imposing liability in criminal law is that the defendant must be proved to have committed a guilty act whilst having had a guilty state of mind. The physical elements are collectively called the actus Reus and the accompanied mental state is called the mens rea. Moreover, it is the fundamental duty of the prosecution to prove both of these elements of the offense to the satisfaction of the judge or jury beyond reasonable doubt. In the absence of such proof, the defendant will be acquitted.

According to Cheeseman (2010) actus Reus is guilty act, which is the actual performance of a criminal act and mens rea is evil intent the possession of the requisite state of mind to commit a prohibited act. What constitutional protections do your subjects have? Equal protection and right to appeal for the accused and plaintiff, by the case brought against either party (Mann, 2008). The Tenet criminal trial encompasses several cases and conspiracies charged against the Tenet Healthcare Corporation.

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