

How To Prevent Your Medical Group From Getting Robbed Of Its Staff

by Mark F Weiss, J.D.

Ever watch those old black and white B-movie Westerns?

The bad guys would ride into town and rob the bank.

"Hands up! Give us all the money!" And then off they'd ride, carrying bags of cash.

What if the writers had put a different twist on how the bad guys robbed banks? Instead of grabbing all of the money and riding off with it, what if they just forced the banker out of the bank and took over the business? First Citizens Bank of Tumbleweed? No! First Bad Guys Bank of Tumbleweed? Yes!

Ha ha, someone is laughing. That's ridiculous, they say.

Unfortunately, it's not at all ridiculous. It happens all the time, except not at banks where it would be a crime but to medical groups, where it's just good business.

A hospital informs the emergency medicine group that's been providing services to it for the past 15 years pursuant to an exclusive contract that the contract won't be renewed next August. Instead, the group's physicians will be offered jobs with the hospital controlled medical group.

Or, a national group takes over the anesthesia contract at St. Mark's Community Memorial Hospital and tells the local group that it will employ all of its members, well, not exactly all, those who don't make the cut, like the local group's executive committee members, should start looking for jobs elsewhere. Again, what's bank robbery in the Old West is "just business" at the hospital.

But that doesn't mean that you have to make it easy for someone to drop a neutron bomb on your medical group, mooting your business structure and "liberating" your employees.

Groups interested in protecting their business (and note that this means both local groups as well as regional and national groups which are by their nature setting themselves up for the same danger) must

assess both internal and external strategies to defeat being robbed.

This includes things like covenants not to compete, the creation of fiduciary duties, placement fees, and nonsolicitation provisions.

Of course, there's another category of protection to consider. That's action taken over an extended period of time to reduce the chance that your group will ever be targeted for elimination.

No, the possibility can't be completely obviated. It's still the Wild West out there. But you can at least remove the "rob me" sticker that's on your back.

Is Your Medical Group Stealing From Its Future?

You get what you pay for.

If you try to get it without paying for it, you won't get much of it, at least not of high quality.

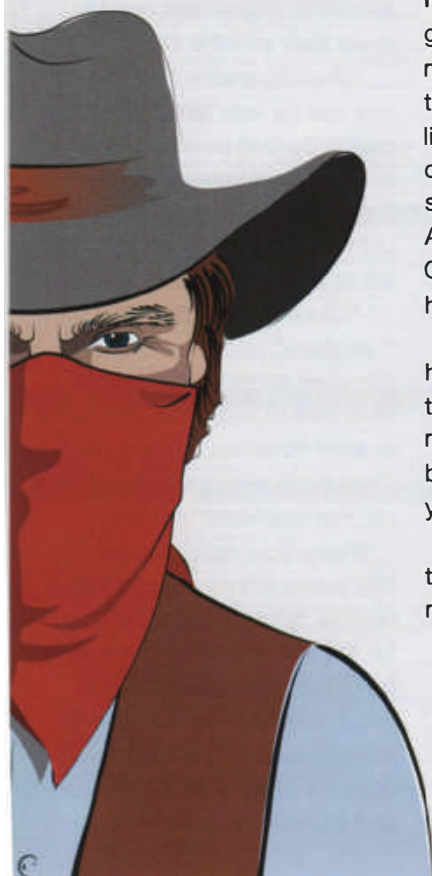
And you are probably stealing. The irony is that you are stealing from yourself, from your future.

Medical Group Compensation Plans

What does your medical group's compensation plan compensate for? The usual answer is "productivity," whether measured in units or minutes or by some other standard.

If your group compensates for X, you will get more of X. So if X is

continued on page 22



How to Prevent
continued from page 21

units, your group's physicians will be motivated to maximize their production of units.

But if your group compensates for X and also wants Y, you will get a lot of X and not very much, if any, Y

For many medical groups, Y is leadership. They want their group leaders to lead, but their compensation plans incentivize only the production of units.

Is it any surprise that the "leadership stuff" is relegated to the wee hours of the night or even to the wee hours of never? Is it any surprise that there's no actual leadership, only "consensus?" Is it any surprise that the leaders schedule business meetings at 7 pm or on weekends, signaling amateur status?

If you don't pay for leadership, you won't get much, if any, of it. You will create tension. You will create resentment. But you will not create leadership.

You'll be stealing from the leaders – either from their ability to generate units or from their time for themselves or with their families.

And, as a result you will get a very weak form of leadership, one that results in your group stealing from its own future in the form of poor decisions and lost opportunities.

You've got great plans to take over the region or to simply protect your position at one facility. You expect your leaders to achieve that goal. Yet you've incentivized them away from your goal. Don't blame them when you never get there. Blame yourself.

It's time to make sure that your group's compensation plan is in

synch with your group's business strategy and future.

When You Fail To Set Strategy

The jellyfish of the highway. You've seen them, too. Plastic shopping bags traveling a few feet off the ground, propelled by the wind of passing cars.

Without a purposefully developed strategy, a medical group is like one of those plastic bags. Pushed this way, then that, by outside forces. The hospital. The economy. The government.

Strategy is your entity's intended destination. It's setting the "to where" the business, just like those cars, is heading.

Most medical groups have no strategy. They're on the road of the plastic bag, their destination set by someone else. Their existence is patient by patient. Their existence is reactive to the hospital and to referral sources. Most won't survive.

We're at a point of unprecedented change in healthcare. Hospitals are struggling for survival. Many hospitals see mergers with other facilities and the rolling up of physician practices as solutions. But, at the same time, advances in technology threaten the not-so-distant future viability of hospitals and of traditional medical practice, both those aligned with hospitals and those remaining independent. Most hospitals and most medical practices will not survive in their present guise.

So, what are you going to do?

1. Get clear. Accept the truth of your current situation.
2. Correct the defects in your organizational structure, especially in regards to governance.

3. Permit the entity's leaders to lead. Allow them to set strategy, not just hold a worthless strategy retreat, and then direct its implementation.
4. Allow the entity's leaders the freedom to fail as long as they correct course. If they don't get the group headed in the right direction, then replace them with other leaders and give them the same freedom to try.

Speaking of freedom, you do have another choice: Let the wind of someone else's forward progress determine where you'll blow.

"Physicians, Lower Your Expectations" And Other Manipulation

The so-called expert said something like, "In the new economy, physicians need to lower their income expectations."

Why? To enable hospitals to hire you for less and increase their profit? So that payors can refuse to increase reimbursement? Because you are really a sacrificial lamb on the altar of patient care, set to be beaten to death by guilt?

"Lowered expectations" and "fair share" and "reasonable compensation" are concepts designed to allow someone else to steal from you. So, too, is, "Just practice medicine while we run the business."

Raise your expectations. Not because you are entitled to receive more for less or even for the same thing. But because by raising your expectations you'll look for, and implement, ways to expand your business opportunities, deliver more value, and increase your income.

Most of you won't do it. The world is filled to the brim with people who actually believe that their future is smaller, with people

who will, indeed, lower their expectations.

But that's OK, because you'll need someone to work for you.

Mark F Weiss is an attorney who specializes in the business and legal issues affecting physicians and physician groups on a national basis. He served as a clinical assistant professor of anesthesiology at USC Keck School of Medicine and practices with The Mark F Weiss Law Firm, a firm with offices in Dallas, Texas and Los Angeles and Santa Barbara, California, representing clients across the country. He can be reached by email at markweiss@weisspc.com. Complimentary resources are available at weisspc.com.

Are you my nurse?
continued from page 20

Yet despite the increase in representation, there still exists a discrepancy when it comes to pay, promotion, and research funding.

I am proud to write that women have fractured the ceiling of this previously dominated male field, however I still cannot say I feel secure in my role as a female physician. Being called a nurse constantly reminds me of the continued issues I have yet to face. Overpowering the glass ceiling and subsequent gender gaps will take much more than outnumbering men in the field.

As I continue to learn and practice I realize that I will experience these issues often. However, I also realize a couple of key things that will make my career as a female anesthesiologist as successful and fulfilling as possible. While being called a nurse is incorrect, because I am in fact a doctor, I should realize that the vast majority of interactions between colleagues and patients will be mutually respectful, fulfilling and rewarding, and this will only improve with time. Finally, and most importantly, increasing the number of women in medicine, especially in leadership and faculty positions, is critical for providing role models that will contribute to a diverse and well-balanced healthcare provider team. And at the end of the day, our ultimate goal as health care providers, regardless of whether that is as a physician, nurse, medical assistant, or pharmacist, is to work as a team that provides the best healthcare for all patients.

American Society of
Anesthesiologists

FASA

ASA® Fellow Designation Criteria Checklist

Becoming a Fellow of the American Society of Anesthesiologists® (FASA™) is a prestigious honor in the specialty as it indicates a superior level of service, leadership, advocacy and education – setting those apart from their peers. The criteria required for earning the FASA designation demonstrates a candidate's commitment to advancing the practice and securing the future of anesthesiology.

The criteria required for all candidates include the following elements:

✓	ASA member for immediate past 5 years
✓	ASA state component member for immediate past 5 years
✓	Unrestricted medical license(s)
✓	Board certified by the American Board of Anesthesiology or American Osteopathic Board of Anesthesiology
✓	Two letters of endorsement from an ASA Active Members
✓	CV and optional bibliography

The additional criteria enable the candidate to demonstrate their dedication in three areas – professionalism and leadership, advocacy, and education and scholarly activities. Candidates must meet six total requirements, with at least one from each of the categories. Selected requirements must have occurred within the past 5 years.

Professionalism and Leadership	
	Leadership or participation in ASA, ASA components, ASA committees or other ASA entity
	Participated in local/community leadership position/activities
	Held a hospital/practice location leadership position
	Held a leadership position with a subspecialty or any medical society
	Involvement in the ASA Foundations
	Held a Military/government leadership position
	Demonstrated medical volunteerism
Advocacy	
	Attended LEGISLATIVE CONFERENCE
	Active participation in state-level advocacy efforts
	Active participation in ASA advocacy efforts
Education and Scholarly Activities	
	Active involvement in teaching or mentoring activities
	Conducted research in anesthesiology
	Published in journals, web content or teaching materials
	Served as a board examiner, exam program development
	Involved in education program development (print, live, digital)
	Held a faculty position for ASA or other educational programs or meetings
	Served as an editor for publications
	Subspecialty or other medical board certification
	Participant in the Maintenance of Certification in Anesthesiology

Application fee \$350 (one-time)

*The Fellow designation only applies to ASA Active Members in good standing with ASA and the component society. If membership lapses greater than one year, reapplication is required.