

HOSPITAL CEO TURNOVER: WHAT YOU MUST KNOW AND DO TO PROTECT YOUR ANESTHESIA GROUP

Mark F. Weiss, JD

The Mark F. Weiss Law Firm, Dallas, TX, Los Angeles and Santa Barbara, CA

You and I are sitting in the hospital boardroom directly across from the hospital's CEO.

We're negotiating the last few points on the renewal of your group's exclusive contract.

Perhaps we're pushing for something minor in the scope of things, but it's still important to your group. For example, it could be for continuing the funding of the surgeon satisfaction program, an element of our locking strategy at the facility.

Or, perhaps we're pushing for something major, such as the ability to delay the mandated 7:00 a.m. start time in all ORs on the third Wednesday of each month, the date of the anesthesia department meeting.

The CEO leans forward and says, "I'll make sure that the funding continues and I can give you start time flexibility on that one day a month, but I can't put it in the agreement. You've known me for years. Trust me on this. You have my word."

"Trust me." Those are famous words from a hospital CEO. And maybe, just maybe, you can trust them. In fact, let's say that you absolutely can. But, can you trust their successor? And are you willing to take the chance?

ASSESSING THE ODDS

Earlier this year, the American College of Healthcare Executives (ACHE) released its annual hospital CEO turnover report. (<https://www.ache.org/pubs/Releases/2017/2017-Hospital-CEO-Turnover-Rate.cfm>)



As reported by the ACHE, hospital CEO job *insecurity* has held steady for the past three years at an 18 percent turnover rate. Although down from the record high of 20 percent in 2016, the current hospital CEO insecurity rate is among the highest in the past two decades.

That means that there's almost a 20 percent chance that your hospital's CEO won't be on the hospital's payroll a year from now, whether they're sitting across the table from you or sitting in their office two floors away. In fact, according to the ACHE report, depending on where in the U.S. you're located, the chances could be as high as 67 percent that they'll soon be gone.

ACHE President Deborah J. Bowen states that the data "underscores the importance of those organizations having

succession plans to successfully manage C-suite changes." Gee, that sounds great and all MBA-like.

But what about from your perspective; that is, from the perspective of an anesthesia group leader? What does the high level of CEO job insecurity mean for you?

Here are a few thoughts:

1. Trust, but verify . . . in writing.

If you have any type of contract with a hospital, no matter how much you trust "CEO Sally" to be a woman of her word, *contractual promises must actually be in the contract.*

That's because when Sally's successor, "Sam," takes over, he'll look at your contract and won't see, or be bound by, anything not actually in it.

So remember words like these when CEO Sally says, "Trust me." "Yes, Sally, I

trust you, I really trust you. But I don't know who your successor might be, and I can't trust them." And if, despite your best efforts, you can't get those promises in writing, at least don't fool yourself. They're not enforceable.

2. Build wide relationships.

You must develop relationships with as deep a bench of hospital administrators, board members and key medical staff members as possible.

When the current CEO leaves for their new position in the food service industry, you'll need their backing when the CEO's replacement arrives. In fact, one of them might even become the new CEO.

3. Understand human nature.

New CEOs like to put their own stamp on things. That means thinking about doing a request for proposal (RFP) for anesthesia services...just because they can. Or it means skipping an RFP and simply replacing you with the XYZ group, because they were at the new CEO's old facility.

You can't control the outcome, but only attempt to influence it. See point number two, above.

And, as a corollary, always run your group's business and deliver services as if your future depends upon it. That's because it does. But understand that, even



if you've done everything right, you can't be certain that the new CEO won't disrupt the relationship.

4. Don't bet on just one horse.

The days of being loyal to just one hospital ended long before hospitals ended being loyal to anesthesia groups.

Spread your risk. Grow your group's business to provide services at multiple facilities. If the new CEO decides not to renew, or, even worse, terminate, your contract, you don't want it to mean the termination of your group's existence.

5. Play both offense and defense.

At the same time that you focus on playing offense, growing your group's business per point number four, you've got to practice defense, too.

Take steps to protect your group from encroachment by both external and internal competition. Note that "internal" means both internal to the group and to the hospital.

So, for example, engage in locking strategies (such as the above-mentioned surgeon satisfaction program), consider the use of not-to-compete covenants and other protective measures, and build anti-staffing provisions into your exclusive

contracts, employment agreements and subcontracts.

6. Think on the bright side.

If your hospital's CEO is a jerk, remember that every cloud has a silver lining. There's a one in five or better chance that they won't be with you for long. So, buy "Good Luck!" and "Happy Retirement!" cards at a discount when they're on sale.

Hospital CEOs always want you to cut costs and they'll appreciate your foresight. Just don't let them know ahead of time. 



Mark F. Weiss, JD

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 and Los Angeles and Santa Barbara, CA, representing clients across the country. He can be reached at markweiss@advisorylawgroup.com.

