www.weisspc.com

Page 1 of 4

Published in Anesthesiology News

May 2008

CREATIVE DESTRUCTION: CHANGING THE GROUP - THINK OF ANESTHESIA PRACTICE

BY: MARK F. WEISS, J.D.

I recently read a letter from a physician to the editor of a well known health care magazine. The letter was

prompted by an article that included a rather straightforward statement to the effect that physicians could

increase their income through active competition—that is, by providing better care and service than their

peers.

The reader took great offense at that statement. He accused the article's author of not understanding

how the health care system works. Rates and terms are dictated by the payors, both private and public,

not by physicians, he argued. Physicians have no bargaining power, and the best and worst doctors

receive the same fees.

So who's right? They both are—and that's the problem.

At its heart, the issue involves a paradigm. Paradigms are accepted models for thinking about something,

and although paradigms can be useful, their great downside is that they frequently paralyze the ability to

www.weisspc.com

Page 2 of 4

think beyond their bounds.

The dominant business and financial paradigm for many physicians, especially anesthesiologists and other hospital-based specialists, is that they are a commodity, a valuable one, perhaps, but a commodity nonetheless. They believe that the market views their services as fungible. Hospitals can dictate with whom these physicians must contract and payers have near total control over the rates they are paid. In a very real sense then, the author of the letter to the editor is indeed correct, *at least in his own mind*

and in the minds of the majority of physicians agree with him.

But there are other paradigms operating in today's health care market. The dominant paradigm among cosmetic surgeons is that competition is wide open. Among these specialists, the thinking goes, better performance results in more patients and higher professional fees. The dominant paradigm among physicians who have developed "wellness center" practices is that patients will pay significant sums for combined allopathic and complementary medical preventive care, in addition to fees for the treatment of disease.

I'll concede that these paradigms might not be directly transferable to anesthesia practice. But the larger point is that paradigms are thought patterns; they need not necessarily be correct to inform decisions and guide actions. And, they can shift. Business and financial paradigms, unlike scientific paradigms, can change "just because."

www.weisspc.com

Page 3 of 4

For example, 30 years ago exclusive anesthesia contracts did not exist. Most anesthesiologists practiced independently in open-staff hospital departments. Insurance was an indemnity product and health maintenance organizations, if they existed at all, were simply a blip on the radar.

Fast forward to today. Consistent with the dominant paradigm operating in anesthesiology, much of anesthesia practice is now indeed a commodity. Managed care pressures continue to mount, hospital closures take their toll and competition from nurse anesthetists increases.

However, the choice of accepting the dominant paradigm as the unchangeable truth can assure its permanence. Anesthesiologists face either a hard future of increased commoditization or the difficulty of revamping their business and financial relationships, a process that might succeed or might fail.

Don't Go Gently

The economist Joseph Schumpeter wrote in *Capitalism, Socialism and Democracy*, that capitalism "is by nature a form or method of economic change and not only never is but never can be stationary. And this evolutionary character ... incessantly revolutionizes the economic structure from within, incessantly destroying the old one, incessantly creating a new one. This process of Creative Destruction is the essential fact about capitalism."

If anesthesiologists are ever to break out of the current paradigm, it will not be by benchmarking to the best practices of other groups headed downward in the same maelstrom. Nor will it be by continuing to operate within an end-stage, commodity-based paradigm. Having a future largely depends on the willingness to explore ways of drastically changing anesthesia's business and financial models.

www.weisspc.com

Page 4 of 4

Some forward thinking anesthesiologists and anesthesia groups are engaging in practices that challenge current paradigms:

- Anesthesiologists have become active owners of ambulatory surgical facilities, both in order to
 establish protected work sites and to profit from the move of cases from the hospital setting.
 www.weisspc.com
- Many groups have bucked the trend of pledging exclusivity to one hospital and have established geography-based, as opposed to facility-based, practices that serve multiple hospitals.
- Anesthesia group leaders have leveraged their intellectual capital by establishing consulting practices to aid other anesthesia groups as well as hospitals.

Examples such as these are not necessarily meant to be prescriptions for action; rather, they are illustrations of cracks in the current paradigm.

Being on the cutting edge of creative destruction is not for everyone. There are great risks and there may be no reward. However, mastering one's own fate is generally preferable to being the fodder in someone else's reality.

Mark F. Weiss is an attorney who specializes in the business and legal issues affecting anesthesia and other physician groups. He holds an appointment as clinical assistant professor of anesthesiology at USC's Keck School of Medicine and practices with The Mark F. Weiss Law Firm with offices in Los Angeles and Santa Barbara and Dallas. He can be reached by email at markweiss@weisspc.com and by phone at 310-843-2800.

To receive complementary copies of our articles and newsletters, visit www.weisspc.com.