SEPTEMBER, 2012

Meadowlands Hospital and the State of New Jersey:

Failures of Oversight Put Profits Before Patients at a Community Hospital

Health Professionals and Allied Employees

www.hpae.org ▪ **201-262-5005**

110 Kinderkamack Road, Emerson, NJ 07630

All documents, the full paper and updates are available electronically at www.hpae.org/meadowlandsinfo

HPAE

SEPTEMBER, 2012

Meadowlands Hospital and the State of New Jersey:

Failures of Oversight Put Profits Before Patients at a Community Hospital

CONTENTS

SUMMARY

The accelerated introduction of for-profit hospitals in New Jersey over the past five years presents a challenge for patient care advocates, state legislators, government regulators, consumers and health professionals. The availability, quality and affordability of health care in our communities is threatened if and when these hospitals cut services and staff; conduct 'insider-dealings' with affiliates, investors and board members; cancel insurance contracts as a business strategy; violate patient care regulations, and undermine health care workers' rights.

Yet, as this paper will detail, state regulators have lagged behind in their willingness or ability to monitor and oversee the activities of for profit hospitals, and ultimately put a stop to violations of laws and regulations designed to safeguard patient care.

At Meadowlands Hospital, under the ownership of a privately-held for-profit group of investors (MHA) since December of 2010, citations and fines appear to be just a small cost of doing business for the owners. Even after state and federal agencies found serious violations of patient care and safety at the hospital, after reported investigations by insurance companies and government agencies, and after a publicized draft audit was reported to include numerous examples of financial failings, exorbitant profit-taking and insider-dealing among hospital board members, no effective penalties or remedies have been invoked.

The Record

August 1, 2012

Questions arise at for-profit hospital

First-year audit faults Meadowlands finances

By MARY JO LAYTON
STAFF WRITER

A year after a for-profit company took over Meadowlands Hospital Medical Center and vowed to shore up its finances, the hospital posted a 10 percent profit – more than four times the state average – and paid its investors

A recent story in *The Record* made Meadowlands Hospital an advertisement for the crucial and immediate need for transparency and accountability in for-profit health care, and for stricter regulations and oversight of the state's for-profit health care industry (First-year audit finds fault in for-profit hospital's finances, 8/1/2012, available on HPAE's website at www.hpae.org/meadowlandsinfo).

Laws like the 'Community Healthcare Assets Protection Act' (CHAPA) and the Certificate of Need (CN) and hospital licensing regulations are designed to provide oversight, guidelines and monitoring for transfers of ownership from not-for-profit to for-profit hospitals, and, when necessary, to invoke sanctions or remedies against a hospital that is violating patient care standards or state or federal laws or regulations. In the case of Meadowlands Hospital, measures and remedies at the disposal of the NJ Department of Health (DOH) and the Office of Attorney General (OAG) include establishing initial conditions on the sale of Meadowlands Hospital to MHA; requiring monthly, quarterly and annual financial accountings; surprise inspections upon complaint; fines for licensing violations; intervention in the case of financial 'triggers'; curtailing admissions; and finally, establishment of a monitor at the hospital, or appointing a receiver or temporary manager.

To date, it appears that Meadowlands' owners have violated a number of CHAPA and CN conditions, yet sanctions have been few and far between, and many of the practices continue.

MHA owners, family members and the principals of its myriad related affiliated companies have spread their business and their political contributions far and wide as they've acquired other real estate, hospital ownerships, and ambulatory surgery centers. In 2011 and 2012 alone, individuals connected to MHA and its affiliates have donated more than $260,000 to elected officials and candidates, and have hired lobbying firms to oppose new laws that would further regulate their business practices.

This paper will describe the principal owners of MHA and their web of companies; their business practices; the history of violations of licensing laws and regulations; a snapshot of their finances and reporting irregularities for 2011; and apparent violations of the conditions set when they purchased Meadowlands Hospital. And we will chronicle the missed opportunities for state regulators to protect the public health and suggest steps the State of New Jersey can take to improve its oversight of for profit hospitals.

BACKGROUND/HISTORY

On January 8, 2010, HPAE, a health care union of 12,000 nurses and health professionals including 450 frontline staff working at Meadowlands Hospital in Secaucus, NJ, part of the not-for-profit Liberty Health System (LHS), learned of the impending sale of their hospital to private, for-profit investors calling themselves MHA LLC.

NJ law and regulations, when vigorously enforced, provide strong protections for preserving the quality and accessibility of health care when a community hospital is sold. Before the sale can be finalized, NJ's CHAPA and CN regulations[1] require the Attorney General and the DOH Commissioner to scrutinize extensive and detailed information from the buyer and the seller. Both the Commissioner and the Attorney General are given broad authority to impose conditions on the sale in order to protect the public health. The public has the right to review all the documents, voice their concerns at public hearings, and suggest conditions to be placed on the sale. Ultimately, the NJ Superior Court decides whether to approve the sale with the recommended conditions.

In addition, the DOH Commissioner can require the buyer to demonstrate compliance with any conditions imposed.[2]

NJ's CHAPA requires the OAG, in conjunction with the DOH to determine if the sale is "in the public interest". To be "in the public interest", the sale must preserve the quality; availability and accessibility of health care in the affected communities and protect the value of the hospital's charitable assets. CHAPA authorizes the OAG to recommend conditions to be placed on the sale of the hospital.

"In the midst of financial turmoil facing many hospitals, we have been notified that Liberty has entered into an agreement with a buyer for Meadowlands Hospital. As representatives of the 450 nurses and health care workers at Meadowlands Hospital we intend to assure that our community continues to receive the health care services they need and deserve, and that the contract rights of our members are protected during the pending sale of our community hospital by Liberty Health.

Our priority is and will remain protecting the health care of this community, and towards that end, we have already reached out to attorneys representing the potential buyers to make sure that the interests and rights of our patients and caregivers are protected."

HPAE

– Ann Twomey, President
January 8, 2010

NJ's Certificate of Need (CN) regulations require the NJ DOH to scrutinize the proposed transfer of a hospital's license before granting its approval, including looking at

- The financial viability of the hospital post-sale;
- The impact of the sale on the quality and accessibility of health care services in the community; and
- The buyer's 'character and competence', including their track record at other facilities.

1 N.J.A.C.8:33-4.9 and 4.10
2 N.J.A.C.8:33-4.16

When HPAE and other health care advocates reviewed the CHAPA and CN materials submitted to the DOH and the AG, serious questions emerged as to the character and competence of MHA's principals and its myriad of affiliated and related entities; MHA's business plan; and the financial and operating projections for the hospital after the sale to MHA. Among the concerns HPAE and others raised with the OAG and DOH were:

"Character and Competence" of the MHA Principals

MHA LLC has a complicated ownership structure. It is 100% owned by Complete Medical Project Management (CMPM) LLC, which is owned by ATRP LLC (80%) and passive investors (20%) in a complex web of ownership by various entities and individuals in varying percentages. Four individuals hold large interests in MHA: Pavel Pogodin, Anastasia Burlyuk, Richard Lipsky MD, and Tamara Dunaev. Dr. Lipsky and Ms. Dunaev are the sole managers of ATRP, CMPM and MHA. (www.hpae.org/meadowlandsinfo).

> **NorthJersey.com**
>
> Friday, August 13, 2010
>
> **NJ raises concerns about proposed sale of Meadowlands Hospital in Secaucus**

By the time of the CN and CHAPA review process, the DOH was very familiar with the track record of the MHA principals at other NJ facilities they owned and operated. Perhaps most striking was the Department's exercise of its rarely used authority to curtail admissions in response to conditions at the Lipsky-owned Xanadu Adult Medical Day Care Center in March 2010. Xanadu had failed to disclose that it had hired an Administrator and a Marketing Director with criminal records and as a result, the DOH had denied the facility the right to participate in Medicaid. Subsequent inspections of the facility found it was operating without a full-time administrator, a pharmacy consultant and a consultant dietician and was not conducting required assessments of its medically-vulnerable program participants (Go to the HPAE website at www.hpae.org/meadowlandsinfo to view a complete list of violations).

In addition, three ambulatory surgery centers owned and operated by the MHA principals were cited for numerous violations of state and federal regulations intended to protect patient safety and patients' rights, including:

- Failure to have a Director of Nursing and an Administrator on-site during operations;
- Failure to evaluate patients prior to discharge and to provide telephone follow-up consultation after surgery;
- Failure to properly sterilize, disinfect, decontaminate, and store surgical instruments and equipment;
- Failure to follow federal CDC Guidelines for hand hygiene;
- Failure to ensure there was a physician-signed order before medications were given;
- Failure to ensure that anesthesia equipment was safely maintained;
- Failure to notify patients of their rights before a surgical procedure is performed and to ensure patients' rights to privacy.

There were clear warnings based on violations at facilities owned by MHA principals that went unheeded when the DOH granted a license to MHA for Meadowlands Hospital (www.hpae.org/meadowlandsinfo).

Opiate Detoxification Institute

The DOH also knew of Dr. Lipsky's work as a practitioner of rapid and ultra-rapid anesthesia-assisted opiate detoxification. In what would prove to be foreshadowing of his business model at Meadowlands Hospital, these procedures have met with significant criticism from federal and state agencies and professional organizations[3], and are not covered by insurance. The National Institute on Drug Abuse, part of the National Institutes of Health (NIH), concluded in October 2006 that, "We now have several rigorous studies indicating that anesthesia-assisted detox – a costly and risky approach – offers no advantage over other methods".[4]

A few months later, the NJ Department of Human Services, Division of Addiction Services announced that, "An extensive literature search determined that UROD [ultra rapid opiate detox] and ROD [rapid opiate detox] procedures are controversial and may pose considerable risk to patients. Therefore, at the present time the Division does not sanction the use of such procedures."[5] Nevertheless, Dr. Lipsky continues to maintain state registration of his Opiate Detoxification Institute, Inc. since 2003.[6]

State tax liens

The DOH was also was aware that several MHA-related entities were delinquent in paying their ambulatory care assessment fees.[7]

Vogster Entertainment LLC

Tamara Dunaev, Pavel Pogodin and his wife Oksana Matyukhina, are the principals of Vogster Entertainment LLC,[8] a venture-funded video game development company and creator of CrimeCraft: Bleedout; CrimeCraft: Gang Wars, and Robocalypse: Mobile Mayhem. CrimeCraft was "Refused Classification" by the Australian Classification Board, which will not classify games that "depict, express or otherwise deal with… drug misuse or addiction… in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults."[9] Recently-filed documents with the DOH reveal that Meadowlands Hospital paid nearly $1M to Vogster in 2011 for software development, computer hardware, and website maintenance and support.[10]

3 http://www.asam.org/1ROD-UROD%20-%20%20REV%20OF%20OADUSA%204-051.pdf

4 http://www.drugabuse.gov/NIDA_notes/NNvol21N1/Study.html, accessed on July 21, 2010.

5 http://www.state.nj.us/humanservices/das/information/AB-ROD%20and%20UROD.pdf, accessed on July 21, 2010.

6 NJ State Business Gateway Service, Business Entity Status Report, Business ID Number 0100899249.

7 Response to DHSS Completeness Question 20, Apr. 14, 2010.

8 NJ State Business Gateway Service, Business Entity Status Report, Business ID Number 0400105250. Ms. Matyukhina is the wife of Mr. Pogodin.

9 http://www.kotaku.com.au/2009/11/drug-use-the-reason-for-crimecraft-banning/

10 Draft 2011 Audited Financial Statement of Meadowlands Hospital

Financing and Ownership

HPAE repeatedly raised concerns over the complex ownership structure and raised questions over the financing and financial projections for MHA, including the 43% guaranteed return on investment promised to the "preferred investors", amounting to nearly $2M annually.[11]

There was also widespread concern over the fact that MHA's ability to close the deal was contingent upon receiving a $5M Promissory Purchase Note from Liberty, covering one-third of the purchase price. Because of "concerns with the insubstantiality of MHA's financing and the risk that it would place on the repayment of the Promissory Purchase Note", the Attorney General's Office asked Navigant Consulting to review the initial financing arrangements. Based on the Navigant review and MHA's responses to the concerns that were raised, the Attorney General's Office required several changes in the financing arrangement so as not to "place the nonprofit seller's charitable assets at risk".[12]

These concerns appear to have been well-founded, as we learned upon reviewing the Draft 2011 Audited Financial Statement for Meadowlands Hospital (The Draft Audit is available on HPAE's website at www.hpae.org/meadowlandsinfo).

Warning Signs

From the outset, HPAE and others alerted the DOH to warning signs that MHA LLC was not committed to maintaining Meadowlands Hospital as the full service, acute care general hospital the community had been relying on for decades, but rather was looking for a new venue for their outpatient surgery services.

- MHA LLC's initial proposal to LHS, dated June 24, 2009 called for LHS, MHA LLC and Meadowlands Hospital to embark upon a real estate venture, coupled with Same Day Surgery and Rehab Practice Joint Ventures, and envisioned a hospital with "a reduced level of service lines. The idea would be to work-out with DOH an arrangement pursuant to which MH [Meadowlands Hospital] can direct to JCMC [Jersey City Medical Center] any and all services beyond the minimum services required of MH to maintain its acute care license". Liberty did not pursue that proposal.[13]
- In the same letter, MHA LLC Managing Partner Richard Lipsky MD wrote: "…would also be willing to discuss acquiring MH outright. In this regard, we are prepared to pay, at a minimum, $5,000,000. We also would be prepared to pay additional amounts based on the level of clinical streamlining that DHSS would permit us to undertake".
- Based on the information they had before them, the Liberty Board of Trustees during their deliberations expressed concern that Dr. Lipsky's intent was to turn Meadowlands Hospital into a specialty hospital focused on pain management and rehabilitation.[14]
- In a Dec 17, 2009 Status Report, the LHS Senior VP and General Counsel to the Board of Trustees clarified certain provisions of the Asset Purchase Agreement between Liberty and MHA LLC and stated:

"There is a provision that requires the buyer to apply for a license to operate Meadowlands as an acute care hospital. It is not a covenant that they will continue to operate Meadowlands as an acute care hospital for any specified period of time".[15]

11 Response to DHSS Completeness Questions, Apr. 14, 2010, Attachment F.

12 Office of the NJ Attorney General to Judge Oliveri, Nov. 10, 2010 (OAG CHAPA Recommendation) p.43-4.

13 Exhibit 18-1 of the CHAPA file.

14 OAG CHAPA Recommendation) p.10.

15 CHAPA Exhibit 7-493

- Materials submitted in response to DOH "Completeness Questions", part of the CN review process, showed continued Obstetrics and Pediatrics admissions thru 2012, but at notably declining levels, while projecting increases in medical/surgical services, ER visits, and Same Day Surgery.[16]
- The Attorney General, in his submission to the Superior Court, noted that it was "striking" that, unlike in other prior hospital conversions, the Asset Purchase Agreement between MHA and Liberty omitted any contractual commitment from MHA to maintain the hospital as an acute care general hospital for a period of years; make capital improvements to the hospital; maintain current levels of staffing, clinical care and charity care; employ all current employees at current levels of compensation and seniority; and have a community advisory board.[17] Ultimately, the DOH, with the urging of HPAE and other advocates, required aspects of these provisions as Conditions to the license transfer.

There were warnings to regulators, before the license transfer, that the MHA business model was likely to focus on same day surgery, rather than a full-scale hospital. No one, however, fully anticipated the nature and extent of the pain management program that MHA would implement, or the way in which profits would soar, while the hospital was starved for cash.

After reviewing all the documents submitted to the DOH and the OAG, HPAE leaders and health advocates determined that the only chance of assuring quality care and continued service to the community would be if the DOH and the OAG imposed strong conditions on the sale and if HPAE could negotiate a contract with MHA that would retain safe staffing levels and other protections for continuity of staff and services.

On December 1, 2010 the NJ Superior Court approved the sale of Meadowlands Hospital to MHA LLC[18] incorporating the Conditions imposed by the DOH in the CN transferring the license to MHA[19] and the Conditions imposed by the OAG under CHAPA. By then, HPAE and MHA had reached a collective bargaining agreement covering nurses and health care workers.

16 Response to DHSS Completeness Questions April 14, 2010 Attachment C.

17 OAG CHAPA Recommendation, p.31.

18 Order for Final Judgment, Superior Court of NJ, Chancery Division: Hudson County Docket No. HUD-C-175-10.

19 http://www.state.nj.us/health/bc/documents/shpb10/shpb_cn_meadowlandshosp_medicalcenter.pdf

Summary of Conditions Placed on the Sale of Meadowlands Hospital to MHA by the NJ Department of Health and Senior Services:

- Maintain the hospital as a general hospital for at least seven years and maintain all clinical services and community health programs. Any change or reduction has to have the approval of the NJDHSS and an analysis by a 'Community Advisory Group';
- Provide services to all, regardless of ability to pay or payment source;
- Establish a Board of Directors responsible for maintaining quality of care, to include local community members and physicians who are not employees or owners;
- Adopt policies to prevent conflicts of interest among Board members, complying with best practices;
- Submit financial reports to the DHSS, including investments in the hospital, debts, liabilities and transfers of funds to their affiliates, subsidiaries, and owners;
- Develop a Community Advisory Group (CAG) for community input, to include local officials, community residents and labor union representatives;
- Report to DHSS and the CAG on quality measures and recommendations for improvement;
- Endeavor to maintain insurance and HMO coverage, and inform the DHSS and Department of Banking and Insurance of any changes to insurance contracts;
- Hire substantially all existing employees and offer equivalent health insurance coverage;
- Meet with the DHSS Commissioner at regular intervals to discuss the hospital's condition and compliance with the terms of the CN;
- Conduct an outreach self-evaluation.

WHO IS MHA?

MHA's structure is complicated. CMPM owns MHA LLC; ATRP LLC, WK Meadowlands and Investors own CMPM; Innovative Health Management and Tampa Associates own ATRP. Overall, the four principals at the center of this box own 74% of MHA (according to a CN application submitted to the DOH 5/2/2011). A diagram of MHA's full structure is available at www.hpae.org/meadowlandsinfo.

WK Meadowlands WK is the 'Preferred Equity Member' of MHA, it receives guaranteed payments of over $160,000/mo. Companies related to Julien Blumenthal and Saul Kuperwasser financed at least one other 'Lipsky operation'.

Innovative Health Management
Innovative Health Management is owned directly and indirectly by Dr. Lipsky, his relatives, Anastasia Buryluk and Nick Rentas. It is a Florida LLC.

Pavel Pogodin

Anastasia Burlyuk

Tamara Dunaev

Richard Lipsky

Individual Passive Investors
See list on page 11.

Tampa Associates, LLC
According to records from Florida Department of State, Tampa Associates is registered by Mark Manigan in Florida and managed by Ms. Dunaev and Mr. Pogodin. It is owned by TVsons and Danika, both Florida LLCs.

SELECTED COMPANIES WITH LINKS TO MHA OR ITS PRINCIPALS

1. Roseland Ambulatory Surgery Center (RASC)
RASC is an ASC managed by Lipsky as CEO. According to MHA's 2011 Draft Financial Statements, the Hospital bought over $500,000 worth of equipment and supplies from RASC. For more on RASC, www.hpae.org/meadowlandsinfo.

2. Bergen Ambulatory Surgery Center (BASC)
BASC is administrated by Ms. Dunaev and owned in part by Ms. Dunaev and the wife of Mr, Pogodin. According to MHA's 2011 Draft Financial Statements, the Hospital bought almost $250,000 worth of equipment from BASC. For more on BASC, www.hpae.org/meadowlandsinfo.

3. Essex Surgery Center
Note that Essex has been sold and renamed. Essex was a former Surgery Center owned by ELR Realty but managed by Dr. Lipsky. For more on Essex, www.hpae.org/meadowlandsinfo.

4. Orphan Drug Professional Services
According to the Centers for Medicare & Medicaid Services, Orphan Drug Professional Services is a Pharmacy that shares an address and a CFO with Columbus LTACH. Mikhail Lipsky lists himself as a Principal of the company on LinkedIn. It was registered in NJ by MHA stakeholder Debra Lienhardt.

5. Columbus MedRealty, LLC
One of several 'MedRealty' companies owned in part by Dr. Lipsky. Columbus counts among its holdings the property that houses Columbus LTACH (per the 2011 Financial Statements of St. Michael's Medical Center) and a stake in Columbus LTACH itself (per documents submitted to the DOH).

6. ELR Realty
ELR is one of several real estate companies controlled by Dr. Lipsky's family. ELR is owned by Dr. Lipsky's ex-wife and his daughters. It holds a stake in several companies linked to Dr. Lipsky and owns property in NY & NJ.

7. Compassionate Care Centers of America Foundation, Inc.
CCCAF was the focus of several articles in the Star-Ledger in 2011. According to the articles, CCCAF was one of 6 medicinal marijuana clinics 'approved' by the DOH. Ms. Burlyuk is the foundation's Vice-President and the hospital's foundation is listed as a beneficiary. One article claimed the paper's inquiries caused an "influential player" and uncle of "scam artist" Solomon Dwek to be removed from the organization.

8. Vogster Entertainment, LLC
According to a 2009 lawsuit filed by Vogster in New York, the company is a "developer and publisher of video and computer games and other interactive products that was formed in 2005." The Hospital paid Vogster nearly $1 million in 2011 for software development, computer hardware and website development.

9. Columbus LTACH
According to documents submitted to the DOH, Columbus is owned in large part by Dr. Lipsky. MHA has a small indirect stake in the LTACH through Saint James – Columbus MedRealty. It is located in the facility which formerly housed Columbus Hospital.

10. Essex Pain Management Group
The Group's CEO is Dr. Lipsky. Its website (no longer active) advertised pain management services at multiple locations in NJ.

11. Xanadu Adult Daycare
Xanadu was founded by MER Associates, a company owned by Mikhail Lipsky. For more on Xanadu, www.hpae.org/meadowlandsinfo.

INDIVIDUAL PASSIVE INVESTORS (PER CHART ON P.10)

- Charles Nicola, D.C.
- Anastasia Burlyuk
- Dalia Levinsky
- Yury Treskunov
- Ronald Rosenfeld
- WS II LLC
  - Mark Manigan
  - Debra Liendhardt
- TV Sons, LLC
- John Ingallinera
- Margarita Rudnick
- Joseph Lorber
- GL Health Management
  - German Katsnelson
  - Leo Yudkin
- Victor Mora
- Alexander Slipets
- Marina Lozovsky
- Grigory Rasin M.D. and Yelizaverta Rasin
- Richard Lipsky M.D.
- Shaya Ackerman LLC
  - Shaya Ackerman
  - Aliza Ackerman
- Ambulatory Surgical Consultants
  - Charles Conzentino
- Meadowlands Hospital Holdings, LLC
  - Raj Mukherji
  - William Michael Murphy
- Global Venture Holdings LLC
  - Pavel Kapelnikov
  - Global Consultants, LLC
    - Dmitry Suprunov
    - Anna Suprunov

Main Sources of Information for the Chart (p.10)

1. Brittain, Amy. N.J. medical marijuana center official booted over ties to con man Solomon Dwek. The Star Ledger: September 18, 2011. Accessible at http://www.nj.com/news/index.ssf/2011/09/nj_marijuana_center_official_b.html.
2. New Jersey Division of Revenue, Business Status Reports and Business Filings
3. Florida Division of Corporations Annual Reports and other corporate filings
4. Certificate of Need applications and related documents and correspondence with the DOH
5. Court records related to appropriate cases, including:
   - United States District Court, Eastern District of New York: Vogster Entertainment, LLC v. Gary Mostovoy, Mikhail Vaysman and John Does 1-5.
   - Superior Court Of New Jersey, Appellate Division, Docket No. A-0979-11t4: Felix Mangual v. Lazar Berezinsky.
   - Superior Court Of New Jersey, Appellate Division, Docket No. A-0433-09t1: Selective Insurance Company of America, et. al. v. Hudson East Pain Management Osteopathic Medicine and Physical Therapy, Essex Surgery Center L.L.C., Essex Pain Management, Tower West Chiropractic, Giordano Chiropractic, and Advanced Neurological Orthopedic Associates, Defendants-Appellants, and Sente and Ferraro Chiropractic.

THE BUSINESS MODEL IN ACTION

Upon taking over Meadowlands Hospital, MHA immediately implemented a business plan based on pain management same-day surgery procedures, and experimental autism treatments and brain injury programs.

Comparing NJ Cost Report data submitted by Meadowlands Hospital to the DOH from before and after the change of ownership (2010 vs. 2011) shows stark changes in Meadowlands operations. Here are some of the highlights taken directly from NJ Cost Report forms:[20]

- Registered Nursing Services, Licensed Practical Nursing and Nursing Attendants (in employee-hours) fell by 28%, 53% and 32% respectively [Form C6]. This number is consistent with reports of cuts in bedside nursing care.
- Same Day Surgery Visits rose from 1,868 to 18,577 (almost 900% increase) [Form B6]
- Gross Revenues from Same Day Surgeries rose by 881% from $41 million to $404 million [Form E]
- Same Day Surgeries contribution to the 'bottom line' grew from 10% to 44% of Total Gross Revenues (as a result, inpatient services fell from 74% of Total Gross Revenues to 45% despite a rise in Inpatient gross revenue of 31%) [also Form E]

Almost as soon as MHA took ownership, pain management procedures for auto accident victims took center stage at the hospital, pre-empting other procedures in the operating rooms.

News reports and a NJ Senate Health Committee hearing revealed that State and insurance company officials were investigating MHA's pain management program practices.[21] Investigators reportedly were looking at whether MHA was taking advantage of a loophole in the law, which limits what same-day surgery centers may charge, but does not regulate what hospitals may charge for most outpatient care.[22] For example, state regulations limit same-day surgery centers' charges for administering steroid injections to an accident victim's lower back to $3,800. Meadowlands Hospital reportedly charged $67,715, while another hospital charged $4,458, a more typical price, for a steroid injection in the lower back.[23]

Meadowlands Hospital reportedly charged $67,715, while another hospital charged $4,458, a more typical price, for a steroid injection in the lower back.[23]

Around the same time, the NJ Department of Banking and Insurance (DOBI) issued regulations tightening payment limits for 2000 procedures, including those most commonly performed at Meadowlands Hospital, and the rule became known as the 'Meadowlands Rule'. Despite support from insurance industry trade groups[24], DOBI later withdrew most of the regulation.

20 Cost Report data was obtained through a NJ Open Records request

21 President of Meadowlands Hospital Medical Center defends billing practices before N.J. Senate committee http://www.nj.com/news/index.ssf/2011/09/president_of_meadowlands_hospi.html

22 N.J. looks to close fee loophole utilized by Meadowlands Hospital Medical Center, Sept 19, 2011 http://www.nj.com/news/index.ssf/2011/09/nj_looks_to_close_fee_loophole.html

23 Ibid.

24 Ibid.

Meadowlands Hospital's owners also came under scrutiny for plans to implement programs to treat autism, coma and traumatic brain injury using hyperbaric oxygen therapy. Resonant of Dr. Lipsky's anesthesia-assisted opiate detoxification program, these hyberbaric treatments are not covered by insurance and their effectiveness has not been medically established.

After legislators and reporters raised questions about the treatments, Meadowlands withdrew its application to DOH to use hyperbaric therapy to treat autism and terminated Philip DeFina, the Vice President for rehabilitation at Meadowlands and the scientific adviser for its Rehabilitation Institute and Neuroscience Center.[25]

nj.com

TUESDAY, JANUARY 10, 2012

Meadowlands hospital neuroscientist fired over controversial autism treatment

Quality of Care and Violations: Nurses as Whistleblowers

The conditions in the hospital compelled a 35-year nursing veteran and president of the HPAE local union at Meadowlands Hospital, JoAnne Dudsak, to 'blow the whistle' to authorities. JoAnne attended a meeting with the DOH Assistant Commissioner and staff to report on the conditions at the hospital on June 23, 2011. Within the week, JoAnne was summarily fired. Only after a firestorm of protest from advocates, legislators and elected officials was JoAnne re-hired. Concerned that "access to care and patient safety are seriously threatened" and that "close and frequent scrutiny of operations is essential", and citing violations of the letter and intent of several CN Conditions the Department had placed on Meadowlands Hospital, HPAE followed up the initial meeting and wrote to then-Acting DHSS Commissioner William Conroy on June 29, 2011 requesting the appointment of a health care monitor at Meadowlands Hospital (Available in full at www.hpae.org/meadowlandsinfo).

Following reports from nurses and staff, the DOH inspected the hospital and confirmed the reports, citing the hospital for serious patient safety violations.[26]

Summary of DHSS Inspection and Deficiencies at MHMC, July 2011

July 29, 2011: Survey took place July 6, 2011.

1. **Sterilization:**
   - Failure to follow facility policy; manufacturer's guidelines and standards of the Association for the Advancement of Medical Instrumentation (AAMI);
   - Failure to store sterile supplies so as to maintain sterility;
   - Operating rooms were not clean; failure to follow policy and procedure re: cleaning between surgical cases.
2. **Operating room policies** – Pre-Admission testing: failure to perform pre-admission testing for same day pain management cases.
3. **Operating room policies** – Informed consent: failure to obtain completed written informed consent prior to anesthesia administration for same day pain management cases.

25 Meadowlands hospital neuroscientist fired over controversial autism treatment, Jan 10, 2012 http://www.nj.com/news/index.ssf/2012/01/meadowlands_hospital_neuroscie.html

26 Meadowlands Hospital Medical Center skipped tests, did not ensure enough nurses were on duty, report says Aug 10, 2011. http://www.nj.com/news/index.ssf/2011/08/meadowland_hospital_medical_ce.html

4. **Operating room policies** – Updated history & physical: failure to obtain an updated history and physical for same day pain management patients.
5. **Outpatient and Preventive Services** – Failure to provide outpatient pediatric services. DOH regulations require a hospital to provide outpatient and preventive clinic services for all inpatient services.
6. **Central supply/Sterilization:**
   - Failure to follow AAMI standards relating to sterilization of re-usable medical devices;
   - Failure to follow AAMI procedures when transferring items sterilized in the OR;
   - Failure to monitor and store sterilized materials so as to ensure sterility.
7. **Infection Control:**
   - Failure to include the Director of Surgical Services on the Infection Control committee as required by DOH regulations;
   - Failure to implement handwashing policies, as recommended by the US Centers for Disease Control and Prevention.
8. **Nurse Staffing:**
   - Failure to have an acuity system or other patient data base with objective data for determining proper staffing, as required by DOH regulations;
   - Failure to post staffing levels as required by DOH regulations.

HPAE reiterated a request that DOH install a monitor at Meadowlands Hospital, after reviewing the deficiencies cited by the Department in its July 2011 inspection, in an August 1, 2011 letter to Acting Commissioner Conroy. Concerned over what appeared to be a "threatening and hostile work environment for staff and an unsafe and hostile medical environment for patients", NJ Appleseed Public Interest Law Center also wrote to the Department in support of HPAE's request for a monitor on August 2, 2011. (Both letters are available at www.hpae.org/meadowlandsinfo)

Citing a "serious and imminent threat to public health and patient safety", Senator Joseph Vitale wrote to Acting DOH Commissioner Conroy on August 10, 2011 requesting that the Department appoint a health care monitor at Meadowlands Hospital, to be paid for by the Hospital. www.hpae.org/meadowlandsinfo

NEW JERSEY SENATE

JOSEPH F. VITALE
SENATOR, DISTRICT 19 (MIDDLESEX)
569 RAHWAY AVENUE
WOODBRIDGE, NEW JERSEY 07095
E-MAIL: senvitale@njleg.org
WEBSITE: www.senatorjoevitale.org
(732) 855-7441
FAX (732) 855-7558

"I am deeply concerned by what the Department found at Meadowlands Hospital... the deficiencies cited... pose a serious and imminent threat to public health and patient safety." – 8/10/11

In September 2011, the NJ Senate Health Committee held a hearing to examine the rise of for-profit hospitals in NJ, their impact on quality of care and patient safety, and the financial secrecy under which these hospitals, including Meadowlands, operate. JoAnne Dudsak was among those testifying and she reiterated the call for a monitor.

STATEMENT OF JOANNE DUDSAK, RN

September 19, 2011

Senate Health Committee Hearing on For-Profit Hospitals

"My name is JoAnne Dudsak and I want to thank you for the chance to speak with you today about my experiences working at Meadowlands Hospital under for-profit ownership. I have worked at Meadowlands for more than 35 years.

As you have already heard, my hospital is front and center in the debate over for-profit ownership of our community hospitals, and how that affects patient care, services, and accountability – and from my point of view, my crucial right and obligation as a Registered Nurse to stand up for my patients and my profession.

As soon as I began advocating for my patients and my colleagues at Meadowlands, I was targeted for discipline, and in fact, dismissed. Very shortly after I participated in a meeting at the NJ Department of Health and Senior Services, raising concerns over what I believed were violations in meeting state standards for protocols, policies and practices affecting patient care, I was fired.

Because of the outrage expressed by my co-workers, my union, elected officials here today, and the DHSS, I was re-hired. Of course, my union rights were paramount in my quick return to work, rights that not every RN or health care professional has.

The investigation and inspection report of the NJ Department of Health and Senior Services is the confirmation that when we transfer our community hospitals to for-profit ownership, we must provide on-site monitoring on a consistent and regular basis. If we had done that at Meadowlands, we might have prevented the deficiencies, which included failure to perform pre-admission testing and informed consent; and failure to follow policies for sterilization, infection control and nurse staffing.

We still need a monitor at Meadowlands, as we continue to see what we believe are violations of patient safety laws and regulations – and an overall decline in staffing and services in favor of a pain-management practices that provides large profits for the owners. We need a monitor as well, to make sure that our staff can report these issues directly and quickly, without fear of retaliation."

At no time has the Department formally responded to any of these requests for a health care monitor at Meadowlands Hospital.

Violations Continue at Meadowlands Hospital Medical Center

The DOH conducted another inspection of Meadowlands Hospital on behalf of the federal government in November 2011. That inspection uncovered numerous deficiencies including:

1. Failure to follow state regulations and facility policy for administration of Oxytocin during obstetrical deliveries: Oxytocin was administered without prior examination and evaluation of the patients by a physician.

2. Failure to ensure that dialysis services that are provided under contract follow both facility and contractor policies and procedures, including documentation of patient assessment prior to beginning a dialysis treatment: Pre-dialysis safety checks were not documented prior to starting patient treatment;

Pre-treatment pain assessment was not documented prior to starting dialysis treatment; cleaning of the dialysis station between patients did not follow protocol.

3. Failure to ensure that medications were administered in accordance with physician's orders.
4. Failure to ensure that medications were stored in locked storage areas.
5. Failure to ensure that expired or unusable medications were not available for patient use.
6. Failure to properly maintain the intravenous medication preparation room in the pharmacy in order to assure the safety and well-being of patients.
7. Failure to properly store and monitor sterilized materials in the OR.
8. Failure to properly clean OR equipment between surgical cases.
9. Failure to properly dispose of personal protective equipment after use.
10. Failure to provide appropriate discharge planning evaluations: for a homeless patient and an 86-yr old patient living alone.
11. Failure to ensure that respiratory therapy treatments are performed in accordance with physician's orders: patient did not receive prescribed inhalation therapy.

The DOH also conducted an on-site Rehabilitation Unit Prospective Payment System Survey for the exclusion of 30 beds. In order to be excluded from the prospective payment system (PPS), a rehabilitation unit must meet certain requirements. Meadowlands failed to meet the following requirements:

1. Failure to maintain medical records for the rehab unit that are separate from the hospital records.
2. Rehab Unit Medical Director's credentials do not meet State licensing requirements; Unit does not have two full time physiatrists as required by State law.
3. The Rehabilitation Unit's Social Worker did not meet the education requirements, and did not comply with the job specific competencies of his/her job title, or facility policy, as State law requires, including failure to review patient admissions within specified time periods.
4. Failure to conduct Interdisciplinary Care Conferences as required by regulation and facility policy.

Another inspection, completed on Oct 31, 2011, identified several Life Safety Code Standard violations.

THE FINANCES: MONEY FOR PROFITS, NOT PATIENTS

Because of the $5M mortgage loan Liberty made to MHA to help finance the hospital purchase, the Superior Court's Order approving the sale of the formerly not-for-profit Meadowlands Hospital to the for-profit MHA requires MHA to submit quarterly reports to the Attorney General's Office for two years and prohibits certain uses of Hospital funds. The intent of this provision of the Court Order is to assure that there would be sufficient working capital available to the Hospital for the first two years of its operations and to prevent MHA from depleting the Hospital's operating cash by making payments to affiliates, accelerating payment on its debt or making payments to

Our review of documents MHA has filed with the State lead us to believe that they have violated the intent of the Order with respect to these prohibited uses.

The Record
August 1, 2012
Hospital: Audit raises concerns about Meadowlands finances

its investors. Our review of documents MHA has filed with the State lead us to believe that they have violated the intent of the Order with respect to these prohibited uses.

State regulations require all hospitals to annually submit their Audited Financial Statement (AFS) to the DOH by June 30th for the prior fiscal year. HPAE filed an Open Public Records Act request for the Meadowlands Hospital 2011 AFS with the NJ Health Care Facilities Financing Authority. In response we received Meadowlands Hospital's Draft 2011 AFS; as of the date of publication of this White Paper, the Hospital has yet to submit their Final AFS.

According to a report in *The Record,* a review of this Draft AFS reveals substantial profits as well as hefty distributions to investors and insider dealings among owners and investors. *The Record* also reported that the Draft AFS reveals the Meadowlands Hospital had severe cash and liquidity problems at the close of 2011 and that MHA defaulted on the $5M loan from Liberty in March 2012 (Liberty and MHA are now debating this issue in court along with other financial issues related to the sale of the Hospital in 2010). Specifically, as of December 31, 2011:

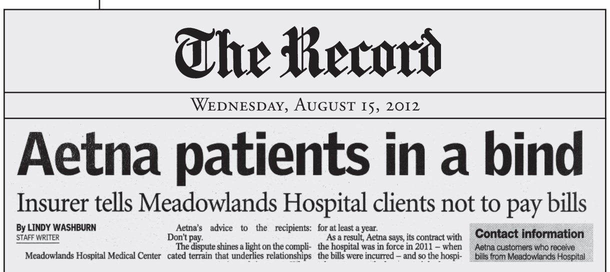
- Meadowlands Hospital had net income of $9M and an enviable operating margin of 10% in 2011, one of the highest in the State;
- MHA made $8.4M of distributions to investors.

Nevertheless:

- MHA had only $72,000 of cash, representing less than one day's worth of operating expenses. The state median was 62 days;
- MHA had a Cash Overdraft of $1M;
- MHA had failed to make payments on a bank loan which it assumed when it bought some equipment from one of its surgery centers;
- An unidentified Hospital board member opened up four bank accounts and set up a petty cash fund on behalf of the Hospital using her/his personal funds;
- Two unidentified Hospital board members loaned MHA $5M in March 2012 at an interest rate of 13% when MHA defaulted on its $5M loan from Liberty at only 1.53% interest;
- MHA purchased over $600,000 of equipment and supplies from another surgery center owned by two of the Hospital's Trustees.

Mary Jo Layton documented many of these concerns in a front-page article appearing in *The Record* on August 1, 2012 (The full text is available www.hpae.org/meadowlandsinfo).

MHA appears to have brought patients into the middle of a 'dispute' with Aetna over reimbursement for services despite its $9M net income in 2011 and a requirement that MHA "make a reasonable attempt to continue the current commercial insurance contracts of MHMC that are in effect for at least 1 year after licensure."[27] A recent article on the front page of *The Record* described the 'dispute':



The Record

Wednesday, August 15, 2012

Aetna patients in a bind

Insurer tells Meadowlands Hospital clients not to pay bills

By LINDY WASHBURN
STAFF WRITER

Meadowlands Hospital Medical Center

Aetna's advice to the recipients: Don't pay.

The dispute shines a light on the complicated terrain that underlies relationships

for at least a year.

As a result, Aetna says, its contract with the hospital was in force in 2011 – when the bills were incurred – and so the hospi-

Contact information

Aetna customers who receive bills from Meadowlands Hospital

"Meadowlands Hospital Medical Center has billed hundreds of patients in the last few weeks for care they thought was covered by their Aetna insurance policies. The bills – some for thousands of dollars – demand payment within five days.

Aetna's advice to the recipients: Don't pay"
(Aetna Patients in a bind: Insurer tells Meadowlands Hospital clients not to pay bills, 8/15/2012, see www.hpae.org/meadowlandsinfo).

Earlier this year, MHA sued Aetna in federal court, alleging that Aetna paid for care at Meadowlands Hospital at 'in-network' rates negotiated with the former owners instead of paying the full bill, as submitted by MHA.

INFLUENCING THE PROCESS: POLITICAL CONTRIBUTIONS AND LOBBYING

MHA, its principals, investors and affiliated companies accompanied their business plans and expansions with political contributions to elected officials, from Mayors to NJ State Legislators, to political parties and PACs. An analysis of campaign contributions data from the New Jersey Election Law Enforcement Commission (NJ ELEC) and the Federal Elections Commission (FEC) shows over $260,000 in campaign contributions to candidates and committees since December, 2010, when MHA bought the hospital.[28] Not included are thousands of dollars in contributions that were later adjusted or returned (In one case, Lipsky's contribution of over $10,000 was returned to him for reasons the Auditor/Star-Ledger could not discern, http://blog.nj.com/njv_auditor/2011/10/poll_finds_nj_voters_may_not_h.html).

Contributions from Dr. Lipsky, MHA principals, family members and affiliated individuals went to both political parties and candidates from both parties. Top contributions included the Democratic Assembly Committee ($25,000) and the Republican Senate ($25,000) and Assembly ($35,000) Committees; and Democrats John Wisniewski ($71,750) and Jason O'Donnell ($15,600) and Republicans Jon Bramnick ($15,600) and Jay Weber ($10,400). MHA principals also gave a total of $7,500 to Republican presidential candidate Mitt Romney.

On some occasions, contributions were given in quick succession from many sources. In one instance in early August, 2011, at least thirteen individuals contributed a combined $80,000 over three days. Contributors over the three-day period included Dr. Lipsky, Ms. Dunaev, Mr. Pogodin, other investors in MHA, Hospital Administrators/Management and others linked to Dr. Lipsky's wide array of operations. Eleven of these contributions, over $27,000, were given on one day to one recipient, John Wisniewski.

27 Order for Final Judgment, Superior Court of NJ, Chancery Division: Hudson County Docket No. HUD-C-175-10.

28 Estimates of campaign contributions are based on an analysis of contributions data from ELEC and the FEC. In most cases, the searchable online databases of ELEC and the FEC were used, available at http://www.elec.state.nj.us/publicinformation/searchdatabase.htm and http://www.fec.gov/ respectively. Note that the ELEC online contributions database is not comprehensive over all years; some contributions may be missing or unaccounted for. Other contributions were found as the result of a review of ELEC's campaign disclosure reports for individual candidates and committees.

A review of NJ ELEC Annual Lobbying Reports reveals that MHA and other companies directly associated with its principals paid another $272,000 to lobbying groups for representation.[29] These dollars were spent:

- Opposing S782, the New Jersey Hospital Disclosure and Public Resource Protection Act, a bill for transparency and accountability at for-profit hospitals (Governmental Affairs Agents Quarterly Reports, 1st Quarter, 2012);
- Opposing A229, a bill that "Requires practitioners to disclose business relationship with out-of-State facilities when making patient referrals to those facilities," presumably to prevent conflicts of interest (Governmental Affairs Agents Quarterly Reports, 1st Quarter, 2012);
- Opposing S1743/A2511, a bill designed to combat insurance fraud (Governmental Affairs Agents Quarterly Reports, 4th Quarter, 2011);
- Opposing S2372, a bill that "Clarifies out-of-network payment responsibilities under health benefits plans; requires certain coverage and procedure disclosures to consumers; revises procedures for changes to managed care plan contracts" (Governmental Affairs Agents Quarterly Reports, 4th Quarter, 2011).

In May, 2012 PolitickerNJ.com published two stories on MHA's use of political connections and contributions:

EXCERPT FROM POLITICKERNJ.COM

"Legislation would have exempted sponsor's law client from hospital fee caps"

Late last year, as state officials sought to close a loophole that allowed Meadowlands Hospital in Secaucus to charge exorbitant fees for outpatient medical procedures, a prominent state lawmaker with direct ties to the hospital's ownership sponsored legislation that would have exempted the medical center from a measure capping its charges.

Assemblyman and Democratic State Party Chairman John Wisniewski, an attorney who represented Meadowlands Hospital owner Richard Lipsky in a 2008 Bayonne land development deal, was among three sponsors of a bill that would have exempted hospitals from the state's efforts to rein in fees for outpatient medical procedures performed under personal injury protection insurance (PIP).

A second lawmaker with ties to Lipsky, Republican Minority Leader Jon Bramnick, was a co-sponsor of the bill, which went nowhere. Prior to last year, Bramnick leased space in a Scotch Plains office building he owns to Essex Pain Management, among several companies owned by Lipsky.

In the months before and after the introduction of the bill, Wisniewski collected at least $70,000 in campaign contributions from Meadowlands Hospital owners and employees, Lipsky among them, as well as more than a dozen others with ties to the ownership group. Bramnick received at least $13,000 in donations from Lipsky and others tied to the hospital or to the many businesses Lipsky owns.

(To read PolitickerNJ.com's coverage of this story, go to: www.hpae.org/meadowlandsinfo).

29 Impact NJ's Form L1-A shows receipts of $20,000 from MHA, LLC, $25,000 from MedRealty, LLC (incl. Columbus MedRealty LLC & Saint James MedRealty LLC) and $120,000 from Compassionate Care Centers of America Foundation, Inc. Public Strategies Impact's Form L1-A shows receipts of $59,500 from MHA LLC and $17,500 from Essex Pain Management. Princeton Public Affairs Group Inc's Form L1-A shows receipts of $30,234 from Meadowlands Hospital.

MHA Lobbyists and Shareholders Also Expand MHA's Political Influence

The principals of Impact NJ, Raj Murkuji and Michael Murphy, have close ties to the company. According to documents filed with the DOH, together Raj Murkuji and Michael Murphy own Meadowlands Hospital Holdings, LLC, a company registered to Impact NJ's offices in Jersey City and formed when Meadowlands Hospital was transferred into the hands of MHA and its complex network of shareholders.

Other shareholders include members of Brach Eichler's Health Law Practice Group, Mark Manigan and Debra Lienhardt. Mr. Manigan is on the firm's Executive Committee, a champion of the Ambulatory Surgical Center industry and a member of Governor Christie's transition team. Ms. Lienhardt is an Executive Board member of the New Jersey Academy of Ophthalmology and Board of Trustees member of HackensackUMC Mountainside in Montclair.

Dr. Lipsky's other assets in the state have equally complex ownership structures with political ties and connections with health care providers throughout the State.

THE FAILURES OF STATE OVERSIGHT

Throughout 2011 and 2012, HPAE informed the appropriate state agencies of apparent violations of patient safety laws, hospital licensure laws and regulations, and the conditions established by the CN and CHAPA process that allowed MHA to purchase our community hospital. Repeated requests for inspections, and ultimately, a monitor were made by HPAE and other health advocates, including NJ State Senator Joseph Vitale (www.hpae.org/meadowlandsinfo).

On July 23, 2012, Ann Twomey again wrote to the DOH Commissioner regarding MHA's apparent violations of reporting requirements contained in the CN that would enable the DOH and the public to monitor the hospital owners' compliance with the commitments they made in their CN application and with NJ hospital licensing laws and regulations. HPAE cited MHA's failure to provide documentation for:

- Outpatient and preventive services for medically indigent patients as provided on an-inpatient basis;
- A board roster, board policies, and demonstration of best practices, including a conflict of interest policy;
- Community Advisory Group reports;
- Payor mix reports;
- Investments, debts and liabilities and transfers of funds (www.hpae.org/meadowlandsinfo).

HPAE has received a copy of DOH citations related to MHA's failure to comply with CN requirements, and the MHA's proposed Plan of Correction.

August 6, 2012, HPAE President, Ann Twomey, wrote once again to the DOH "to formally request that you [DOH Commissioner O'Dowd] take immediate steps to utilize the remedies at your disposal to protect the safety of Meadowlands Hospital's patients, the community's access to care and the workplace rights of Hospital employees."

Making a Case for State Intervention

HPAE briefly set forth the DOH's options and a rationale for action:

NJ law and regulations for example, give the DOH Commissioner the authority to appoint a temporary manager or receiver when a health care facility violates licensure regulations or other statutory requirements (N.J.A.C. 8:43E-3.1) and to appoint a monitor when she determines that a hospital is in "financial distress or at risk of being in financial distress" CN.J.S.A. 26:2H-5). We believe these remedies are urgently needed and appropriate in view, of the following:

- The Hospital's 2011 Draft Audited Financial Statement indicates that the Hospital meets or exceeds "Financial Distress" Triggers;
- The owners fully repaid investors despite the Hospital's serious financial vulnerabilities;
- The owners apparently defaulted on a $5M loan from Liberty Healthcare;
- The owners have violated numerous CN requirements;
- The owners have allowed the Hospital to violate state and federal regulations protecting patient safety and patient rights;
- The owners and Board members appear to have engaged in self-dealing;
- The owners have failed to timely file the Hospital's 2011 Audited Financial Statement;
- Potential violations of provisions of the Final Order of the Superior Court authoring the sale of the Hospital to MHA intended to prevent depletion of the Hospital's assets.

HPAE also asked of Commissioner O'Dowd "that the Department [DOH], in conjunction with the NJ Office of the Attorney General (OAG), conduct an in-depth audit of the financial practices at Meadowlands Hospital, including scrutiny of the records Meadowlands Hospital has submitted to the OAG in fulfillment of the Superior Court Order approving the sale of the Hospital to the current owners under the Community Health Asset Protection Act (CHAPA)." A similar request was sent to Deputy Attorney General Jay Ganzman at the OAG (See www.hpae.org/meadowlandsinfo for the full request).

Since February 2010, when MHA notified NJ regulators of its plans to purchase Meadowlands Hospital, there have been numerous opportunities for state regulators to invoke penalties or remedies for violations of state laws and regulations:

- During the acquisition process, due to the extent and seriousness of the prior violations at facilities owned by the MHA principals, the DOH could have required a monitor and more transparency in financial and governance operations at the onset of MHA's ownership of Meadowlands Hospital;
- Following the state's initial inspection of the Hospital in July of 2011, HPAE, Appleseed Public Interest Law Center and State Senator Joseph Vitale all requested a monitor at Meadowlands. No monitor was installed;
- Following reports of excessive charges for pain management procedures, the NJ Department of Banking and Insurance could have proceeded with its proposed regulations to limit charges for hospital-based same-day surgical procedures;
- Following the November 2011 federal inspection of the Hospital the DOH could have imposed a monitor;

- Following repeated failures by MHA to submit quarterly and annual reports to the DOH and the Office of the AG, as required in the CHAPA/CN Conditions, and in light of MHA's failure to submit a timely Audited Financial Statement for 2011 and the "red flags" in the Draft AFS, the DOH and the OAG could have undertaken an in-depth investigation of finances and governance at Meadowlands Hospital.

Despite all the remedies available to it, to our knowledge the DOH has chosen to impose only a small fine of $3,000 on MHA, which was paid on October 13, 2011.

- And finally, Governor Christie missed an important opportunity to protect all of our communities from for-profit companies that violate state laws and take excessive profits at the expense of our health care when he vetoed S782, legislation that would have required all hospitals to report to the DOH on how they are spending public funds.

IN CONCLUSION: RECOMMENDATIONS TO RESTORE 'PATIENTS BEFORE PROFITS'

As nurses and health caregivers, we are troubled when we believe that our patients are receiving less than the best care because profits are coming first – equipment might not get fixed quickly enough, supplies might be short, staffing and services get cut-back, insurance contracts are cancelled. It is particularly troubling when we witness cost-cutting while owners and investors take substantial profits for themselves.

In NJ, the rise of for-profit companies has been largely driven by groups of investors and 'entrepreneurs' who have seen a profitable niche in buying up troubled hospitals in urban areas. A business model developed based on cancelling insurance contracts, cutting back on less profitable services, and reducing staff, all in the service of increasing profit margins.

MHA and its ownership of Meadowlands Hospital provide a stark example of opportunities missed to protect our communities, and to set a standard for all stewards of our health care by New Jersey regulators. Repeated violations of patient safety, worker rights and hospital licensure requirements have been met with little response from the DOH or Office of Attorney General.

Whether a hospital is for-profit or not-for-profit, it is responsible for assuring vital health services to its communities. Both not-for-profit and for-profit hospitals receive charity care funds – $675 million in 2013 – as well as Medicaid, Medicare and other public funding. Our communities depend on their local hospital, and the deterioration of care at a local hospital is as serious as a hospital closing.

It is time to establish stronger oversight of for-profit hospitals, starting with:

1. **Strengthen** the CN provisions to make it clear that the DOH must review and consider the track record of all owners/principals of the buyer, at all health care-related facilities, in- or out-of-state, going back 10 years from the date of application, with respect to the following criteria: patient safety, access to care, employee safety, labor relations, billing practices and contracts with insurers.
2. **Require** that prior to sale to a for-profit, the board of trustees of a not-for-profit hospital document their 'due-diligence' in selecting the for-profit, and to review and consider the track record and business plans of a potential buyer,
3. **Install** an independent quality of care and charity care monitor to review care, and financial and governance activities at all for-profit hospitals for up to two years after the sale.
4. **Re-establish** regular unannounced inspections of all hospitals by the DOH, including at least annual inspections of newly-transferred facilities for the first three years following the sale.
5. **Require** as a condition of sale that owners:
    - Maintain the facility as an acute care general hospital for a minimum of 10 years;
    - Hire substantially all of the facility's employees at the time of the sale and recognize any collective bargaining agreements and protections;
    - Continue all services and community health programs;
    - Provide care to all patients without regard to ability to pay or payment source;
    - Comply with all provisions of NJ's charity care law and regulations;
    - Report at least annually to the DOH (and subject to OPRA), for a period of 10 years, the investments it has made during the previous year at the hospital, including a detailed annual accounting of any long or short term debt or other liabilities incurred on the hospital's behalf and reflected on the balance sheet, and the transfers of funds from the hospital to any parent, subsidiary, or affiliate and the amount of funds transferred (see MHMC CN provision #11);
    - Offer health insurance coverage to all employees at substantially the same levels, terms, and conditions as former employer;
    - Require financial transparency of all for-profit companies during the CN process, including financing, investors and business plans.
6. **Increase** fines for violations of hospital licensure requirements and/or violations of the conditions of sale; and establish placement of a monitor for additional year for continued violations.

SEPTEMBER, 2012

All documents, the full paper and updates are available electronically at
www.hpae.org/meadowlandsinfo

"Transparency and oversight are critical in an industry as complicated and as vital to our communities as health care. We rely on our State agencies to vigorously exercise their authority to protect the public health, so that a Profits-before-Patients business model, seemingly adopted by the owners of Meadowlands Hospital, does not become accepted practice at our New Jersey community hospitals."

– Ann Twomey, President, HPAE

Health Professionals and Allied Employees

www.hpae.org ■ 201-262-5005

110 Kinderkamack Road, Emerson, NJ 07630