

# Appalachian Heart Center Performance Review

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Attorney-Client Communication  
Attorney Work Product

# The Issue

- In 2013, UK negotiated with Appalachian Heart Center (AHC) to create a UK, provider-based, cardiology clinic in Eastern Kentucky
- Acquisition advanced University's mission to improve health care in eastern Kentucky
- August 2014: A Post-acquisition audit by KMSF identified potential Medicare/Medicaid billing errors
- August 22: Billing voluntarily suspended
- University initiates further investigation

# Agenda

- AHC Acquisition and Relationship
- Key Legal Issues and Findings
- Status
- Forecast

# Issues Examined

- Medical Record Documentation and Coding
- Patient Volume
- Quality of Care
- Structure of Compensation Agreements

# Legal and Regulatory Environment

- The healthcare industry is one of the most highly regulated industries in the USA.
- Compensation agreements, medical documentation and coding can result in criminal, civil and administrative liability
  - Criminal – Antikickback Statute
  - Civil – False Claims Act
    - Treble Damages
    - \$5,000-\$11,000 penalty per claim
  - Administrative
    - Medicare/Medicaid Exclusion
    - Corporate Integrity Agreement
- Reputational Harm

# Relevant Enforcement Activity

## King's Daughters Medical Center, Ashland Kentucky, 2014

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Wednesday, May 28, 2014

### **King's Daughters Medical Center to Pay Nearly \$41 Million to Resolve Allegations of False Billing for Unnecessary Cardiac Procedures and Kickbacks**

Ashland Hospital Corp. d/b/a King's Daughters Medical Center (KDMC) has agreed to pay \$40.9 million to resolve allegations that it submitted false claims to the Medicare and Kentucky Medicaid programs for medically unnecessary

patients

## Saint Joseph Health System, London Kentucky, 2014

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Wednesday, January 29, 2014

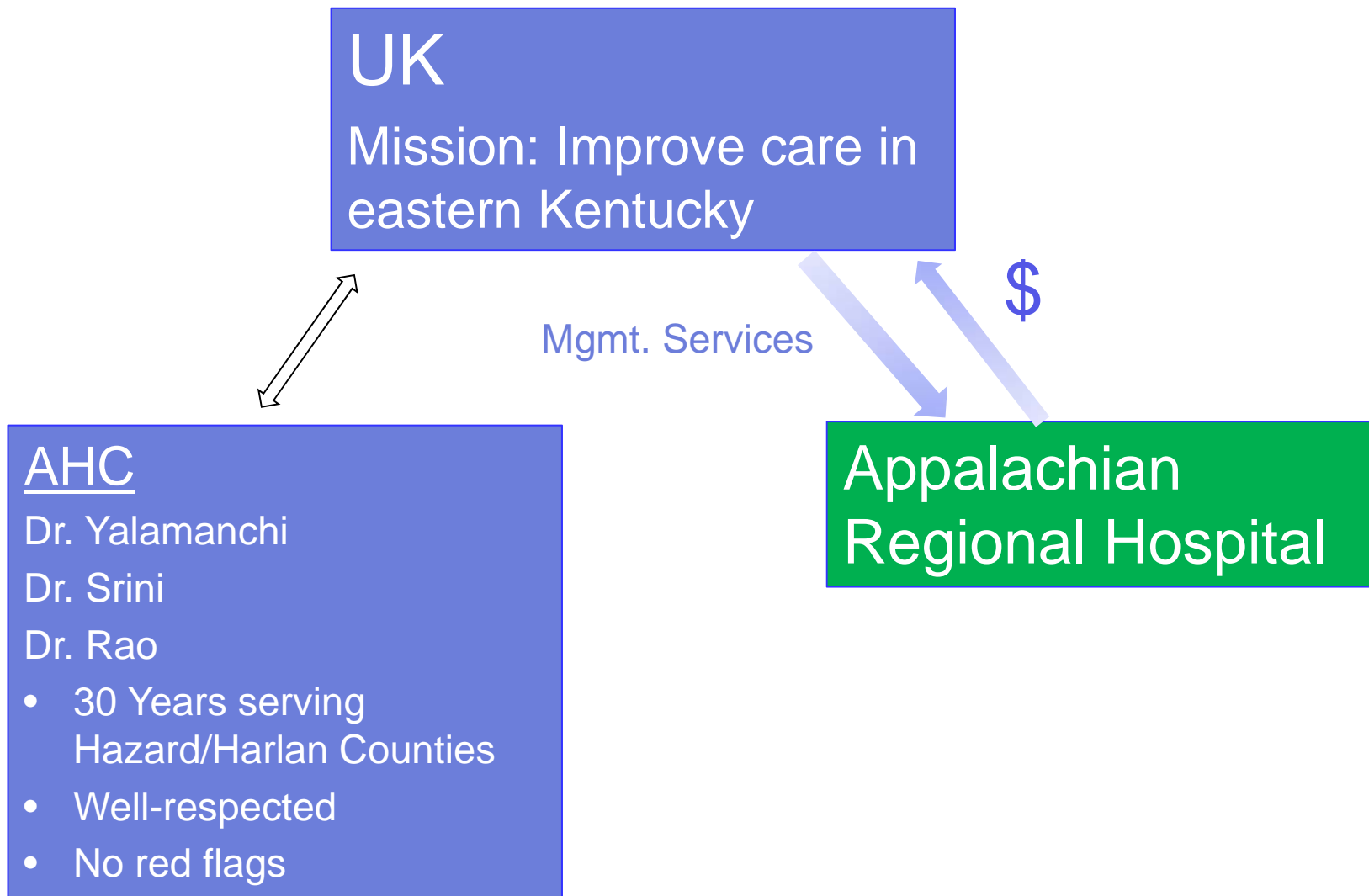
### **Kentucky Hospital Agrees to Pay Government \$16.5 Million to Settle Allegations of Unnecessary Cardiac Procedures**

Saint Joseph Health System Inc. has agreed to pay \$16.5 million to resolve allegations that Saint Joseph Hospital violated the False Claims Act by submitting false claims to the Medicare and Kentucky Medicaid programs for a variety of medically unnecessary cardiac procedures, the Justice Department announced today. Saint Joseph Health System operates numerous hospitals statewide, including Saint Joseph Hospital, which is based in London, Ky.

# Purpose of Our Investigation

- Determine whether the AHC clinic's practices violated any fraud and abuse laws
- Determine whether the AHC clinics satisfy UK Healthcare's standards
- Guide appropriate corrective action
- Prepare for potential media inquiries or government investigation

# Appalachian Heart Center Arrangement





# Investigation

- KMSF audit
- Two independent legal reviews
- Interviewed UK personnel, AHC physicians, reviewed documents, observed clinic's operations.
  - All personnel fully cooperative
- Independent coding reviews

# Main Findings

- All involved in the acquisition and on-boarding of AHC acted in good faith
- The AHC physicians are hard-working, skilled medical professionals dedicated to their patients and community and committed to providing high-quality care
- AHC Physicians proved unwilling to conform their practices to UK standards
- We found no evidence of wrongful intent, deliberate ignorance, or reckless disregard of the law
  - No False Claims
  - No violation of the Anti-Kickback Statute or Stark Law
- Combination of on-boarding errors and AHC's poor documentation required a \$5 million overpayment refund (to date)

# Specific Findings

- Documentation and Coding
  - Clinic's documentation practices lead to insufficient documentation of medical necessity.
- Patient Volume
  - High but acceptable.
- Quality of Care
  - Adequate.
- Compensation Agreements
  - Compliant

# Corrective Actions and Process Improvement

- Repayment to Payers
- Provided Compliance Education
- Improved AHC and UK coordination
  - New technology for medical documentation at AHC
  - Education for doctors and staff re documentation
  - Improve coordination between billing systems
- Improved medical record coding
- Improved process for establishing medical record documentation and coding policies

# AHC Separation

- September 9, 2015 - AHC notifies UK of intention to terminate relationship
- April 1, 2016 – AHC begins independent operations
- Outstanding Tasks
  - Compensation Reconciliation
  - Asset Sale
  - Access to Electronic Medical Record System (potential)

# Lessons Learned

- Improve UK's on-boarding process for future partnerships
  - Ensure appropriate clinical, management, legal and compliance due diligence is conducted
  - Understand the partner entity's clinical, management and compliance infrastructure and culture
    - Take steps to align practices and culture
    - Ensure all essential stakeholders are informed and involved in transaction
  - Monitor implementation on a timely basis

# Risks and Risk Management

- Whistleblower risk
- Government Investigation
  - Response
    - Cooperate
    - Educate
    - Explain
  - Affirmative Disclosure (optional)
- Media Inquiry
  - Response
    - Public relations staff fully briefed and prepared

# Conclusion

Questions  
Discussion