

TEXAS HEALTHCARE TRUSTEES

# Trustee

## Bulletin

## WHAT DRIVES Health Care Employees?

*(Hint: It's Not Money)*

Turnover can cost hospitals literally millions of dollars a year. In fact, one study by Unfi Network/Pricewaterhouse Coopers reports, "Turnover costs for a typical health care system range from \$14-27 million a year. Improving retention alone in a typical health care organization ... could mean the difference between moving a losing year to break-even, or even a break-even year to a good year."

How can hospitals and health systems improve their retention rate, and ultimately their bottom line? The answer, maybe surprisingly, is not more money, says Monte Roulier of Community Initiatives LLC, a Boulder, Colo. consulting firm, "but rather in turning your workforce into 'engaged' employees."

He explains, "Health care employees must feel like their employers care about their concerns, provide opportunities in decision-making and acknowledge their contribution to patient care. In today's environment of critical professional shortages, how hospitals deal with these issues will determine which flourish and which flounder," he adds.



### Invest in Social Capital

According to Roulier, there is a growing recognition that intangible assets, particularly internal and external relations, can have a significant impact on an organization's success. This critical, often overlooked set of intangible assets is referred to as "social capital."

"Social capital includes the connections among the people in your organization; the trust, mutual understanding and shared values and

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## Trustee Bulletin

The *Trustee Bulletin* is produced by the Texas Healthcare Trustees in cooperation with the Texas Hospital Association.

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What Drives Health Care Employees  
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behaviors that bind them together,” Roulier says. “Social capital determines whether employees use their energy to make a difference in critical areas such as patient satisfaction and patient safety.”

The difference between average and excellent performance in an organization, Roulier adds, is the employees’ willingness to volunteer their discretionary effort – beyond what is required to simply do one’s job. That contribution cannot be forced especially from today’s knowledge workers, Roulier says. It only happens among people choosing to do their best.

### The Engaged Workplace

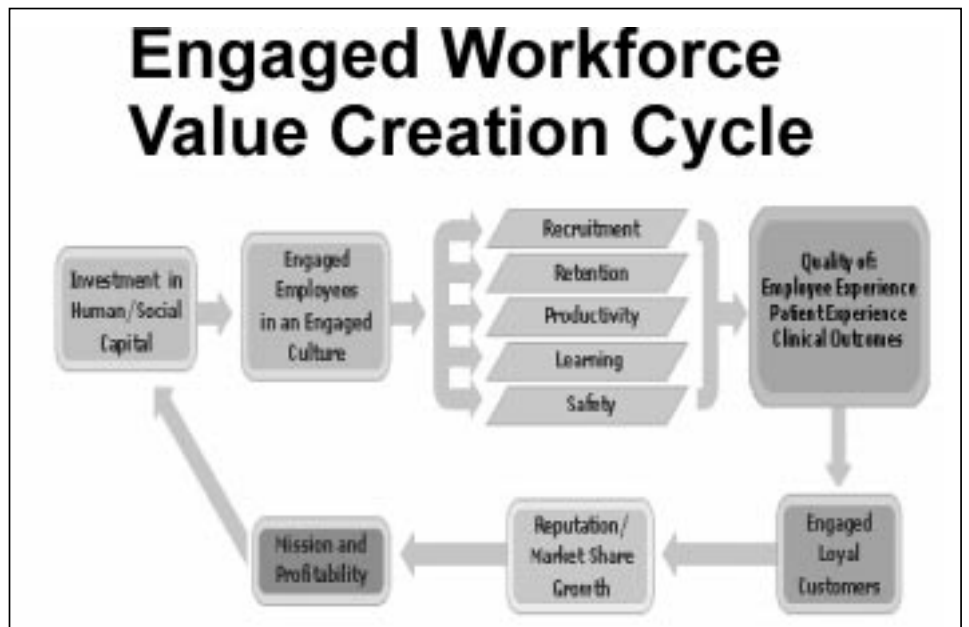
Simply put, an engaged workforce chooses to do its best. “A more engaged workforce drives improvement in recruitment, retention, patient satisfaction, patient outcomes and patient safety,” explains Roulier.

What accounts for the difference between an organization filled with ambivalent employees and one that has engaged employees – individually and collectively – producing exemplary results? How can today’s health care

trustees ensure their organizations have engaged employees? Community Initiatives identified seven practices to build an engaged workforce:

### Seven Practices of an Engaged Workforce

- Establish an open learning environment. In hospitals, life does depend on knowledge and information. Engaged hospital workplaces encourage a culture of dialogue, conversations that support connection and collaborative learning and action. Sharing opinions is safe and even encouraged. In an engaged hospital, employees at all levels know their ideas and concerns are taken seriously.
- Nourish teams and networks. Engaged workforce teams operate with trust, share goals, contribute equally and share collective incentives and rewards. Engaged organizations invest in teaching teamwork skills to their employees. Because of their complexity, hospitals are challenged to work effectively across multiple boundaries. Hospitals that value and practice good team skills work



## DEBATE/DISCUSSION VS. DIALOGUE

Most communication and interaction in organizations, including health care facilities, is characterized more by debate/discussion than by dialogue, according to Monte Roulier of Community Initiatives, LLC. He adds that to build a workforce of “engaged” employees, it is important to use dialogue instead. “Dialogue creates an environment that builds trust and respect by honoring diverse values and perspectives, and by seeking a deeper level of understanding that makes collaborative action possible.”

### Debate/Discussion

Assuming there is one right answer, and you have it

Combative; participants attempt to prove the other side is wrong

About winning

Listening to find flaws and making counter-arguments

Defending assumptions as truth

Searching for flaws and weaknesses in others’ positions

### Dialogue

Assuming many people have pieces of the answer and together can craft new solutions

Collaborative; participants work together toward common understanding and commitment

About exploring common ground

Listening to understand; find meaning and agreement

Revealing assumptions for re-evaluation

Searching for strength and value in others’ positions

efficiently – form teams rapidly, create cohesion, find top performance and then dissolve and build new teams, an increasingly essential function.

- Generate a sense of community. In engaged organizations, employees see tangible evidence that their employers are trustworthy and are committed to their employees and to values that matter. They see alignment among organization values, practices and daily behaviors. An engaged organization provides an environment that supports healthy social connections. They are deliberate about maintaining a sense of community throughout the organization.
- Arrange work to minimize stress and maximize balance. Increasingly, people want their work to be meaningful; they are interested in more than a paycheck or a promotion. When a nurse who has joined the profession to be with patients finds that she is spending half her time on paperwork, her sense of personal satisfaction suffers.

Hospitals that have higher engagement levels work hard to arrange work and systems so that their employees spend the most time doing what they are best at and trained to do.

- Grow exceptional managers and supervisors. Today’s engaged hospitals cultivate supervisors who are perceived as fair, approachable and communicative. Engaged organizations find ways to invest in leadership and to send the message that all employees have a leadership role.
- Enhance personal strengths. Maintain an open culture for learning and make sure employees know that their efforts make a real difference in the organization.
- Develop the capacity for dialogue. Encourage employees to see other points of view, instead of assuming they have the only right answer. Make sure that employees have the ability to think through problems and solutions together, and build a culture where results matter more than egos.

### Engagement Takes Time

There are no easy shortcuts to developing an engaged workforce, Roulier cautions. Health care trustees can identify and put employee engagement strategies into place, but they must also:

- Make investments in team skills and philosophy a priority.
- Help all managers understand the importance and impact of relationships.
- Ask and really listen to what builds trust, meaning and engagement for employees.

He concludes, “Trustees will do well to heed the importance of social capital and an engaged workforce. In virtually all industries, it is ‘intangible assets,’ particularly the quality of employee relationships, which drive critical mission and margin outcomes.”

Monte Roulier spoke at the Texas Healthcare Trustees Summer Forum in August in Austin. He is a principal with Community Initiatives, LLC; 2119 Mapleton Ave., Boulder, Colo. 80304; 303/444-3366.

# Ethics Are Everyone's Business

**E**ffective organizations begin with strong leaders who create a culture of personal integrity and empowerment, writes Stephen R. Covey in *Seven Habits of Highly Effective People*. In this era of widely publicized corporate wrongdoing and increased scrutiny, personal integrity perhaps never has been more important.

As a result, health care trustees must be ever-vigilant to “do the right thing,” says Fletcher Brown, shareholder with Davis & Wilkerson, P.C. in Austin. “Even when actions are technically correct and above-board, trustees must be heedful of the perception that their actions can create.”

According to The Governance Institute, “boards exist to oversee the business of the organization and represent the best interests of the organization’s stakeholders.” The Institute continues, “There are no absolutes in effective governance. But boards must do certain things, and avoid doing others.”

## Scenario #1

*Robert Doe is a board member and local realtor. He has a reputation for integrity and knowledge. The hospital's current realtor has done a poor job. Doe asks the chief executive officer if he can assist with a property purchase.*

Ethical or not? It is not. Even though Doe's firm may have the best price and do a better job, Doe must not benefit from his

relationship with the hospital. What if Doe is the only realtor in town? Though the situation becomes a bit murkier, it still is unacceptable. Even if Doe can do a good job at a lower price, the perception will be that he profited from his board service. It would be better for the board to solicit bids from out-of-town.

## The Call of Duty

Many cloudy situations can be avoided by strictly following the fundamental fiduciary duties of health care board members, continues Brown. These include:

- **Duty of Obedience.** The board must ensure the organization is obedient to its central purposes as described in its articles of incorporation and mission.
- **Duty of Care.** The board must be knowledgeable of all reasonably available information (or retain consultants/advisors who are) before taking action, and then act with prudence and care appropriate under the circumstances.
- **Duty of Loyalty.** The board must discharge duties unselfishly, to the benefit of the organization only, and disclose potential conflicts of interest.

## Scenario #2

*Dr. Joe Brook's attorney, Bill Law, is a board member. Brook is wealthy and is a major client of Bill Law. Law repeatedly urges the board to increase its support of Brook through low rent, marketing and malpractice assistance.*

Ethical or not? Of course not. This situation clearly breaches the “Duty of Loyalty.”

## We Don't Do That

Kevin Reed, J.D., shareholder with Davis & Wilkerson, P.C. in Austin, and general counsel to the Texas Organization of Rural and Community Hospitals, says hospital boards should have ongoing education and clear-cut policies in place regarding ethics and conflicts of interest. “As hospital trustees, you are in leadership positions of multi-million dollar companies. You are the drivers in your community. Yet, many trustees fail to take the time to learn the business they are running. Trustees have an ethical duty to understand the business of running a complicated health care organization.”

## Scenario #3

*A hospital recruits a new orthopedic surgeon. After the contract is signed, the physician tells the CEO he cannot come unless the hospital pays \$50,000 to his large group practice to release him from his current contract. The hospital expects to make more than \$1 million per year on the recruitment. The board chair tells the CEO to pay the \$50,000 but not mention it in the contract.*

Ethical or not? This situation is not ethical – board members do not have individual power, but must act collectively and the full board must be informed. “With policies in place and education that clarifies the issue, people will feel free to speak up and say ‘we don't do that,’ ” Reed says.

## Ask the Right Questions

The good news is that trustees can take steps to ensure they are pursuing ethical paths. While board members are not involved with the day-to-day management of their hospitals, they can ask the right questions and make sure that effective programs are in place to address conflicts of interest and other ethics issues.

Reed says trustees will do well to remember the lessons learned from Enron:

- **Board Duty** – Directors cannot delegate to consultants. They must exercise their duty of independent thought and judgment.
- **Conflicts** – Board members must be diligent in identifying potential conflicts.
- **Accounting** – Boards must be vigilant in assuring proper accounting.
- **Major Projects** – Trustees must undertake adequate oversight of major projects.
- **Audit** – Audit systems should be reviewed.

Trustees can represent their community and remain true to their fiduciary and ethical duties. Well-governed organizations have directors who are ever mindful of the legal requirements and the fiduciary role that subjects them to scrutiny every day. Boards must do their work honestly, thoughtfully and without self-interest. As Martin Luther King Jr. stated, “The ultimate measure of a man is not where he stands in moments of comfort, but where he stands at times of challenge and controversy.”

Fletcher Brown, J.D., shareholder, and Kevin Reed, J.D., shareholder, Davis & Wilkerson, P.C. in Austin were speakers at the Texas Healthcare Trustees Summer Forum, Aug. 8. They can be reached at 1801 S. Mopac, Suite 300, Austin, Texas 78746; 512/482-0614; or fbrown@dwlaw.com and kreed@dwlaw.com.

# Sarbanes-Oxley Act

## Protects Against Fraud, Corruption

Last July, President George W. Bush signed into law the Sarbanes-Oxley Act of 2002. Named after its primary architects, Sen. Paul Sarbanes (D-Maryland) and Rep. Michael Oxley (R-Ohio), the act includes a comprehensive revision of federal securities laws, and is designed to protect investors by improving the accuracy and reliability of corporate disclosures. The act adopts tough new provisions to deter and punish corporate and accounting fraud and corruption.



### It requires:

- Auditor and audit committee independence;
- CEO, CFO certifications; and
- Fraud disclosure requirements.

### For nonprofits, it requires:

- Strict adherence to corporate formalities;
- Board selection review to assure diversity of individuals and knowledge;
- Board orientation and education;
- Conflict resolution methods in all relationships;
- Meaningful measurement of the board and senior management;
- Retention, compensation and oversight of auditors by audit committees; and
- Strict financial accountability.

# New Roles and Accountabilities Introduced for Hospital Governance

All aspects of the health care field will face tremendous change during the next few years, none more critical than hospital governance. America's crisis in governance has destroyed billions of dollars in shareholder value and has been responsible for eliminating millions of jobs. Public confidence and trust are at an all-time low. Health care leaders who effectively respond to the need to adopt new roles and accountabilities will be in the best position to lead their organizations into the future. Strong leadership and quality governance never have been more necessary.

William L. Harrod, Ph.D., principal with Signature Board Consultants International in Austin, has followed these trends closely. "We all have seen the dramatic changes in laws, regulations and oversight introduced as a result of corporate and health care governance failures," he says. "Unfortunately, the changes in laws and regulations we're now seeing will not serve to strengthen organizations, but actually may inhibit the innovation and risk-taking required to achieve outstanding performance. The crisis in governance will not abate until trustees and executives initiate far-reaching changes in their roles and processes." However, he adds, "Those who can adopt new roles and accountabilities will successfully navigate the challenges, and make a positive difference in health care and the leadership and security of their organizations."

## Prepare Now for Effects of Sarbanes-Oxley

In August, Harrod and copresenter James P. Schuessler told trustees attending the Texas Healthcare Trustees Summer Forum in Austin that while implementing change does not have to happen in a "tidal wave," it must be focused, continuous and forward-looking. For example, trustees must prepare for the eventuality that provisions of the Sarbanes-Oxley legislation will apply to nonprofit health care organizations. The attorneys general of New York and California already have requested legislation to that effect. Several items will require reassessment of current practices:

- The same outside firm cannot be employed both for accounting and consulting.

- The board's audit committee must be independent and financially qualified.
- The chief executive officer and chief financial officer must certify financial reports – with criminal penalties for misstatements.
- There must be "rapid and current" disclosure of material changes in operations and financials.
- An extensive system of internal controls must be implemented and verified annually. This will require a major investment in internal process design and auditing.

Despite these and other challenges, Harrod points out that many aspects of health care governance have worked well in the past and have contributed to good quality care.

## Roles and Accountabilities Changing for Everyone

While change will occur for everyone involved in health care governance, trustees are likely to face the biggest changes of all, says Harrod. While trustees hired and monitored the CEO's performance, they often were somewhat removed from the development and implementation of strategy. That must change, he asserts.

The trustees and the chair jointly must be accountable for leading the organization with the CEO. "The directors of publicly disgraced companies who tried the defense of 'we didn't know' have been rightfully scorned and often dismissed from their organizations," Harrod says.

In successful health care organizations of the future, change will be apparent in the relationship among all players involved in governance.

- CEOs are moving from a past role of independent leadership to one more focused on partnership with the board, physicians and the community.
- The chairman of the board previously ensured membership of community leaders, but now must concentrate on membership possessing the required competencies.
- Board members must help set and communicate strategic goals.

## *Complete System of Governance Players*



- Trustees must establish individual and collective expertise in finance, business dynamics and performance measures.
- Physicians now must contribute to strategic decision making and also must recognize the impact of competitive ventures on the hospital.

Effective boards will consider the complete system of governance players. In the past, the fulcrum of hospital governance was centered on the CEO and the chair. No longer is it so simple. As the “Complete System of Governance Players” chart illustrates, many forces contribute to the overall success of the health care facility. Trustees must help focus the interests of all players onto the ultimate objective of providing cost effective, high-quality accessible health care.

### Framework for the Future

Clearly, more is going to be expected of tomorrow’s trustees than

previously was the case. Health care leadership collectively must define the role of each player well enough for trustees to operate in confidence. Excellent governance offers a low risk of inadvertent violations of laws and standards and an improved likelihood that actions will be proper and timely. Board effectiveness increases the ability to attract and retain capable trustees, which in turn, maximizes stakeholder value and results in high-quality and accessible health care.

### Five Action Steps toward Board Accountability

Harrod offers the following suggestions:

- Evaluate and document board performance using an objective assessment process appropriate to rapidly changing performance standards.
- Focus on the quality dimension of every aspect of the organization, starting with the board.
- Insist on an agenda that balances current issues with strategy and mission.

- Learn the skills needed to be effective advocates for your organization.
- Demand that board members pull their own weight and that candor drive all discussions.

### The Board’s Accountability to Lead

Health care is approaching a crisis of much larger proportions than it has seen, and Harrod says it will be up to leadership to steer their organizations to success. The key ingredient will be competent, knowledgeable and confident leaders who understand the challenges, can articulate a direction for their organizations, and enroll the trust and commitment of all stakeholders. The challenges are enormous, but the rewards will more than match them.

To learn more about new roles and accountabilities, contact William L. Harrod, Ph.D., at Signature Board Consultants International in Austin, 512/327-1355, or wharrod@signatureconsultants.com

# Texas Governance: People and Places



Elvin Franklin Jr.

**Hospital/Health System:** Harris County Hospital District, Houston

**Occupation:** Insurance agent representing State Farm Insurance Companies

**Length of service:** A member of the board for nearly 18 years, Franklin served as chairman of the board for three years from 1993 through 1996.

**Facility description:** Ben Taub General Hospital, a 774 licensed-bed Level I Trauma Center; LBJ General Hospital, a 332 licensed-bed Level III Trauma Center; and Quentin Mease Community Hospital, a 49-bed long-term rehabilitation facility. Also, 11 health clinics, one AIDS facility, six school-based programs and five eligibility centers comprise HCHD.

**Board involvement:** "I was serving on the North Forest school board when a friend asked if I would serve on one of the appointed boards for the county. After considering several, I narrowed it down to the hospital. Because I had used the public health system as a child, I knew that it needed work. I was not pleased with the attitudes that I faced when seeking access to the facility. Although, once I got through the

barriers, the care always was good. I felt I could make a difference by serving in an area about which I cared deeply."

**Most satisfying:** "I get my satisfaction from meeting individuals who give such a positive response to the service they receive from the district."

**Introduction to public service:** "I started in public service in my hometown when I was in high school, working with senior citizens in the community. I went at the request of my mother. I assisted senior citizens who did not have someone to come by and do things around the house for them."

**Most challenging:** "The challenges of meeting a budget and keeping staff are huge. We are fortunate in that we have a good strong base of people who write grants, and who help to keep money coming in. We also concentrate on capturing insurance information from our patients, so we can effectively and appropriately recover payment."

**Proudest moment:** "When I came on board more than 17 years ago, our clinics were housed in dilapidated, dingy buildings that looked like they would make you sick if you came in. Now we have updated facilities with real nice colors that make patients feel like they're being treated with appropriate care and respect. These clinics are near and dear to my heart and when someone tries to take something from the clinics, they get a challenge from me."

**Important lessons:** "There must be proper communication between the administration, the board, managers, commissioners and the medical school to make things run smoothly. For example, we learned through our physicians that by

adding examination rooms we could significantly increase the number of patients we see per day. We are now able to handle 30 to 35 patients per day instead of the approximately 20 per day we were seeing.

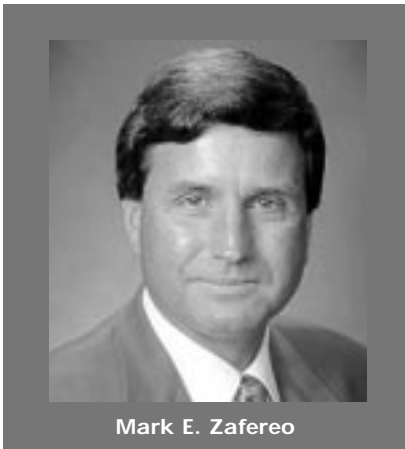
I'm a community servant, but sometimes I still have to sit back and observe. If an individual has good ideas and a solid program, I'll be on that team. You have to learn when to lead and when to follow. I truly enjoy what I do."

**Advice for new board members:** "First of all, learn to listen. Make sure you get familiar with the board bylaws. And visit the facilities. You can't be a good leader if you don't visit what you serve. Don't be afraid to ask plenty of questions of the people managing those facilities. I make a point of talking to the patients waiting, to understand what they feel and think."

**Hometown:** "I was born in Corpus Christi, and my family left when I was two years old to live in Cullen, La. After teaching and coaching five years, I wanted a change of scenery, and thought I wanted into the petroleum business, so I started with Gulf Oil in Houston. In September 1970, I was recruited by State Farm and have been an agent with them for 33 years."

**Family:** "My wife, Ann Marie, and I have been married for 39 years. We have two children, three granddaughters and two grandsons."

**Hobbies:** "I love to hunt, repair equipment and ride the four wheeler with my grandkids. I work out five days a week, and really need that quiet time. It keeps me physically strong and mentally alert. I'm very dedicated to community involvement, but for me, family comes first."



Mark E. Zafereo

**Hospital/Health System:** DeTar Healthcare System, Victoria

**Occupation:** Certified Public Accountant

**Length of service:** Zafereo has served on the DeTar Healthcare System board since 1998. During his tenure, he has been instrumental in partnering with another hospital and Victoria College to address the area nursing shortage. Zafereo played a key role in DeTar Hospital receiving Lead Level III Trauma designation and cochaired a community health care committee to address the growing burden of unreimbursed health care. He invested many hours in Austin during the 78th legislative session dealing with tort reform, trauma funding and prompt payment.

**Facility description:** DeTar Healthcare System provides health care services in 14 locations to more than 24,000 people a month. DeTar Hospital is one of two hospitals in Victoria. The 359-bed hospital received Lead Level III Trauma designation in July.

**Board involvement:** "Bill Blanchard, our administrator, called me about a board vacancy and talked me into it! I have great respect for DeTar Hospital in Victoria, and I knew it would be a tremendous learning experience. Having served on nonhospital

boards before, I looked forward to learning about hospital administration, medicine, the complex problems hospitals deal with and how to overcome them. I continue to learn and have enjoyed it immensely. Serving on the board has been a tremendous benefit to me, and hopefully I've also provided some benefit to the hospital."

**Most satisfying:** "I particularly enjoy the board's close relationship with the physicians and hospital administration – seeing how we've worked together to solve problems from every level. Our approach has been very effective."

**Introduction to public service:** "I moved back to Victoria from Houston in 1978, and was presented with several opportunities to serve on boards and committees because I am a CPA. I started serving on various charitable and civic boards, and also on the Victoria College board. I have a soft feeling for Victoria, and public service is something that touches my soul."

**Most challenging:** "Working on holding the line on physician mandatory call at DeTar was challenging because other hospitals were changing their bylaws to allow physician voluntary call. Blanchard stood firm on that, and this will continue to be a difficult issue. Other challenges include unreimbursed health care, earning our recent trauma designation, tort reform, and physician and nurse recruitment."

**Biggest surprise:** "In spite of the incredible complexity of health care, overwhelming governmental regulation and the horrendous hours people have to work, I'm surprised that we have a delivery system for health care at all. I'm surprised that anyone is willing to work in health care. I know they're well compensated for the most part, but many don't have another life. I've grown to deeply appreciate the people who deliver health care in this country. I have to

admit, I wonder how the system is going to survive in the future."

**Proudest moment:** "The passage of House Bill 4 for the State of Texas. I was in Austin during the session. I privately lobbied senators and representatives, listened to hours of debate and learned a lot. I am solidly in favor of tort reform for doctors and health care providers because they legally and ethically have to provide health care services, and we must insulate them from catastrophic liability."

**Important lessons:** "The health care system is critical, yet it is fragile in so many respects. We have to work together to educate the public to the importance of the accessibility of health care for everyone; everybody must share the cost."

I have seen a lot of physicians in action, and they really care about the welfare of their patients. Physicians are an integral part of an effective and efficient plan, and should be part of the decision-making process."

**Advice for new board members:** "For the first two years, mostly be quiet. Listen and learn; contribute whenever you know enough to contribute. Try to ask intelligent questions."

**Hometown:** "I was born in Victoria, left for school, began my career in Houston, and came back home in 1978."

**Family:** "My wife and I recently celebrated our 30th anniversary. We have three sons, all graduated from college and doing good things with their lives. They made it in spite of me – they have a great mother!"

**Hobbies:** When Zafereo isn't serving in his capacity as board member, he enjoys running, reading, college sports and listening to talk show radio.

# Baylor Honored by Academy, Marks 100th Anniversary

Coinciding with the 100th anniversary of its founding, Baylor University Medical Center received an Excellence in Governance award on Sept. 30 from the Texas Healthcare Trustees Foundation's Texas Academy of Governance. Tim Parris, chief executive officer, and Donald H. Wills, Baylor Dallas board chair, accepted the award from THT Foundation President Bill Beazley during the hospital's annual retreat in Dallas.

The award honors hospitals and health systems that achieve knowledge and skills in governance and strive to keep that knowledge current through education and the practice of effective governance.



Bill Beazley (second from left), president of the Texas Healthcare Trustees Foundation, presented the Texas Academy of Governance Award to (left to right) Baylor University Medical Center Chief Executive Officer Tim Parris, BUMC Director Bill Aston and BUMC Board Chair Donald Wills. The presentation took place during the BUMC board of directors' retreat in September.

"We are proud to have a gifted group of community leaders on the board at Baylor University Medical Center – individuals who have the foresight and vision to ensure that residents in North Texas continue to have outstanding medical care, now and in the future," says Parris.

Established in Dallas in 1903 as Texas Baptist Memorial Sanitarium, Baylor University Medical Center at Dallas is the hub of the Baylor Health Care System, a not-for-profit network of hospitals in North Texas. Recognized by *U.S. News & World Report* as one of the 50 best hospitals in the nation in several medical specialties, Baylor Dallas is a major referral center and supports hundreds of ongoing research projects.

The Texas Academy of Governance encourages, recognizes and rewards excellence in health care governance in Texas. To be considered for the award, hospitals and health systems must demonstrate commitment to

standards set by the Texas Academy of Governance. Those standards include:

- a commitment to board education;
- community accountability;
- evaluation of performance;
- a commitment to quality and patient safety;
- commitment to compliance with applicable regulations and laws; and
- an established planning process.

Applications for recognition are available through the THT Web site, [www.tht.org](http://www.tht.org). To request an application by mail, call Teri Brooks, academy director, at 512/465-1021.

# EMTALA Modification to be Published

In the Sept. 9 *Federal Register*, the Centers for Medicare and Medicaid Services published new rules regarding the Emergency Medical Treatment and Labor Act that are effective Nov. 10. The Bush administration has said that the new rules respond to complaints that EMTALA rules are unnecessarily burdensome for hospitals and physicians.

According to the CMS, “The old rules contributed to the overcrowding of emergency rooms. Hospitals were afraid to move patients out of the emergency department for fear of violating the rules.”

The rules make clear that EMTALA applies only to those sites that exist to treat emergency medical conditions without appointment. In the new rule, the definition of emergency department means any department or facility of the hospital, whether situated on or off the main hospital campus, that: (1) is licensed by the state as an emergency room or emergency department; (2) is held out to the public as providing care for emergency medical conditions without requiring an appointment; or (3) during its previous calendar year, has provided at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis.

Other key provisions of the final rule include:

- Clarification of the circumstances in which physicians, particularly specialty physicians, must serve on hospital medical staff “on-call” lists. Under the revised regulations, hospitals will have the discretion to develop their on-call lists in a way that best meets the needs of their communities. In keeping with traditional practices of “community call,” physicians will be permitted to be on-

call simultaneously at more than one hospital, and to schedule elective surgery or other medical procedures during on-call times.

- Clarification that hospital-owned ambulances may comply with citywide and local community protocols for responding to medical emergencies and thus be used more efficiently for the benefit of their communities.
- Permission for hospital departments that are off-campus to provide the most effective way of caring for emergency patients without requiring that the patient be moved to the main campus, when this would not be best for the patient.

The final rule clarifies that EMTALA does not apply to individuals who come to off-campus outpatient clinics that routinely do not provide emergency services. It also does not apply to those who have begun to receive scheduled, nonemergency outpatient services at the main campus – for example, routine laboratory tests. Other regulations and state licensing laws already cover the hospital’s obligations to patients in such circumstances.

In addition, the rule clarifies that EMTALA does not apply after a patient has been seen, screened and admitted for inpatient hospital services, unless the admission is made in bad faith to avoid the EMTALA requirements.

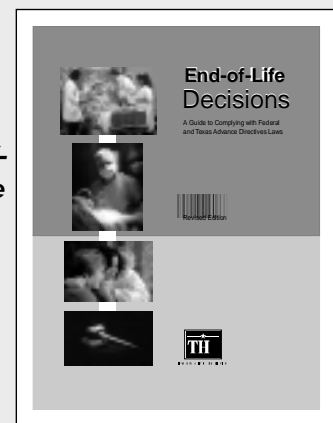
Hospitals also will be protected from EMTALA violations when responding to national emergencies.

For more information, go to [www.emtala.com](http://www.emtala.com).

## Advance Directives Toolkit Available

Recent changes to the state’s advance directives law require hospitals and health systems – and nursing homes, home health agencies and hospices – to revise their policies and procedures. The new law was effective Sept. 20.

To assist health care organizations in complying with the changes, the Texas Hospital Association has revised and updated its advance directives toolkit, ***End-of-Life Decisions: A Guide to Complying with Federal and Texas Advance Directives Laws***. This comprehensive kit includes a detailed manual with sample policies, all necessary forms (in both English and Spanish) on CD-ROM, questions and answers, and tips for conducting required staff and public education. An employee training video – complete with lesson plan and handouts – plus a community video with program outline and handouts, will help meet educational requirements. To learn more, visit THA’s Web site at [www.thaonline.org](http://www.thaonline.org).



# Regional Public Hospital Orientation and Refresher

December 9, 2003

Hendrick Medical Center, Shelton Building, Abilene

Registration: 8 a.m.

Program: 8:30 a.m. - 4 p.m.

This day-long orientation will cover topics specifically related to public hospital governance, including:

- Understanding hospital finance;
- Spending and investing public funds;
- Protecting against liability;
- Meeting requirements of the Texas Open Meetings and Public Information acts.;
- Legal duties of trustees; and
- Challenges facing public hospitals and critical access hospitals.

The orientation will be conducted by Kevin Reed, J.D., and Fletcher Brown, J.D., shareholders with Davis & Wilkerson, P.C., in Austin. It will be sponsored by the Texas Healthcare Trustees and the Texas Organization of Rural and Community Hospitals, and hosted by Hendrick Medical Center in Abilene.

New and veteran public hospital trustees are encouraged to attend this full-day orientation and refresher session. The registration fee is \$125 for THT and TORCH members and \$175 for nonmembers, group registration rates for three or more. For more information, call 512/465-1562 or, in Texas, 800/252-9403.



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