

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

Compliance Review of Fairview Health Services' Management Contracts with Accretive Health, Inc.

Volume 2 **Culture Wars**



LORI SWANSON
ATTORNEY GENERAL

April 2012

Review Conducted Pursuant to Minnesota Statutes Chapters 309, 501B, and 317A

VOLUME TWO

CULTURE WARS

Executive Summary	1
2.1 Introduction	1
2.2 The Fairview Mission.....	1
2.3 A “Numbers Driven” Culture with “Bedside Collections”	2
2.4 Prior Balance Collections	3
2.5 Pre-Service Collections; Point of Service (POS) Collections; Bedside Collections	4
2.6 Carrots and Sticks.....	10
2.7 Emergency Room Tactics: Viewpoint of a Patient Advocate	12
2.8 Boiler-Room Tactics	12
2.9 Operation Blue Balls	12
2.10 GOMER.....	13
2.11 Patient Access and Stop Lists.....	14
2.12 Pre-Registration Blue Balls	17
2.13 Fairview’s Staff Perspective.....	18
2.14 Patient Perspective.....	19
Conclusion	20

VOLUME TWO

CULTURE WARS: THE EMERGENCY ROOM MEETS *GLENGARRY GLEN ROSS*

“I’ve been doin’ this job for 17 years, honey. Doctors come and go, but nurses make this place run. We don’t get much credit or pay. We see a lot of misery, a lot of dyin’, but we come back every day. I’ve given up bein’ appreciated, but I sure as hell won’t let any of us be taken for granted.”

Nurse Haleh Adams, The television show “E.R.”

“We’re adding a little something to this month’s sales contest. As you all know, first prize is a Cadillac Eldorado. Anybody want to see second prize? [*Holds up prize.*] Second prize is a set of steak knives. Third prize is you’re fired.”

Blake, The movie “Glengarry Glen Ross”

“There are some attorneys who aren’t skilled enough for an actual practice that work for these stupid fricken non-profit organizations who help the poor in Detroit. Now we have to waste our time with this low life patient and some dumbass attorney all because the patient didn’t show up to the DHS office to renew her benefits.”

Accretive debt collector: August 16, 2011

VOLUME TWO

CULTURE WARS

Executive Summary: Accretive Health, Inc. (“Accretive”) engages in aggressive collection of hospital bills. Accretive imposes quotas on hospital personnel to collect money before treatment is sometimes provided, even in the Emergency Room. The imposition of collection quotas on hospital employees through chalk talks, prizes, and other tactics, which are commonly utilized in high-pressure boiler-room-style sales atmospheres, is in conflict with the purpose of a charitable health care organization, whose mission is to provide treatment to its patients. Hospital employees are required to participate in what they call a “Blue Balls” computer program, where a patient cannot be fully registered unless the employee collects money from the patient or enters a written explanation as to why money was not collected.

2.1 Introduction. Several other volumes describe a variety of laws violated by Accretive and Fairview Health Services. These include the Minnesota Debt Collection Agency Act, the federal Fair Debt Collection Practices Act (FDCPA), the Health Insurance Portability and Accountability Act (HIPAA), and the Minnesota charitable organization laws, among others. This volume is about the changes in Fairview’s culture as a result of Accretive’s activities. The following describes the scope and depth of the culture change imposed by Accretive. Perhaps the most damaging act by Accretive was to undermine the basic premise that a hospital is a sanctuary to treat the sick and infirm.

2.2 The Fairview Mission. Hospitals should be sanctuaries that welcome and care for those in the dawn of life, the eve of life, and the shadows of life. Over 20 percent of American families encounter a life-changing event in a hospital. The people who work in hospitals necessarily must maintain a culture that above all else respects human dignity.

Fairview was formed when several Norwegian citizens organized the Norwegian Hospital Association in 1905. It later changed its name to the United Christian Hospital Association and,

by 1908, opened the Thomas Hospital, thereafter changing its name to Fairview in 1916. (Ex. 1.)

Fairview lists the following as its cultural values:

“Dignity: We value the uniqueness of each person and work to ensure everyone’s **right to privacy**. We respect the cultures, values, beliefs and traditions of others and honor their talents and contributions.”

“Integrity: We say what we mean and do what we say. We communicate openly and honestly and **behave ethically**. We demand the best of ourselves and accept shared accountability for our actions.”

“Service: We work to **make a difference** in people’s lives and in our communities. We strive for excellence by anticipating, meeting and exceeding expectations. We continually improve our programs and skills through learning and innovation. We responsibly manage our resources.”

“Compassion: We recognize and respond to the emotional, spiritual and physical needs of all the people we serve. **We create a caring environment**, conducive to healing, growth and well-being for all.”

(Ex. 2, emphasis added.)

2.3 A “Numbers Driven” Culture with “Bedside Collections.” After landing the Fairview revenue cycle agreement (“RCA”) in 2010, Accretive decided to make Fairview’s culture “numbers driven.” (Ex. 3.) Accretive used “Chalk Talks” to change the Fairview culture. A “Chalk Talk” is a “daily operational meeting designed to develop, energize, and engage a work team.” (Ex. 4.) At the daily “Chalk Talks” (Ex. 5), Fairview’s emergency room and patient registration staff were required to talk about their collection quotas, tossing a ball around to each speaker as they discussed their collection performance. (Ex. 6.) Accretive’s revenue cycle work for Fairview was led by an individual Accretive calls “Andrew ‘I Am Not A’ Crook.” (Ex. 7.) As early as September, 2010, Mr. Crook reported to the Accretive home office in Chicago (in preparation for an upcoming presentation to the Fairview CEO), “We’ve started firing people that aren’t getting with the program.” (Ex. 8.) Fairview emergency room workers

state that they got the message that if they don't collect money in the ER, they would be fired. (Ex. 9.)

Once it landed the Fairview RCA, Accretive set up a 100-day plan, to aggressively focus on collecting money from patients. (Ex. 10.) The Fairview pre-registration team was to take an "assertive collections approach." (Ex. 11.)

2.4 Prior Balance Collections. Accretive and Fairview attempt to collect prior balances at three separate stages at the front end of the revenue cycle:

- Scheduled patients during **pre-registration**;
- Unscheduled patients during **registration**; and
- Customer service during inbound calls (**account inquiries**).

(Ex. 12.)

Accretive emphasizes that the primary role of a hospital employee is to collect money:

"Addressing the patient's balance is an imperative part of your role."

(Ex. 13, emphasis on original.)

To create a *Glengarry Glen Ross*-type hospital culture, Accretive engages in a number of different methods to change the sanctuary culture of a hospital to that of a "numbers driven" collection agency. Accretive induces Fairview emergency room and "front end" personnel (pre-registration and registration staff) with prizes for collecting the most money in daily, weekly and quarterly contests. (Ex. 14.) Accretive assigns the names of NFL teams (Chargers, Jaguars, Steelers, Giants, etc.) to Fairview hospital shift teams, instilling a competitive effort to raise more money. (Ex. 15.) In September of 2010, an employee at Fairview Ridges noted that the competition became quite intense, with employees claiming that the "Steelers" were so named because they "steal" wins. (Ex. 16.) Accretive managers exhort the Fairview teams to victory by promising that, if they make their quotas, the Accretive leaders will wear a clown outfit (Ex. 17), a Colonel Sanders outfit, or a Waldo outfit to the hospital. (Ex. 18.) Another Accretive

manager promises that, if a quota is attained, he will shave his head. (Ex. 19.) Another Accretive team leader said he will dress up like a turkey if Fairview employees reach their collection quotas. (Ex. 20.) Many Fairview employees blanched at the inducements. On one occasion, the emergency room staff at the University of Minnesota Medical Center filed a complaint with the Attorney General, asking her to “save” the staff. On another occasion, an employee apparently wrote:

“Patients are harassed mercilessly until their Community Care is finally approved, and one can only speculate on the heartache, mental anguish and worse that these kinds of practices cause.”

(Ex. 21.)

2.5 Pre-Service Collections; Point of Service (POS) Collections; Bedside Collections. If the patient makes it through the “prior balance” stage, she faces the “**pre-service collections**”/**point of service (POS)** gauntlet, where hospital personnel are told by Accretive to collect from patients the likely fee that will be incurred *prior* to treatment being rendered. (Ex. 22.) The pre-service, or POS, phase begins with the so-called “Blue Balls” computer program, which estimates the total amount of the patient’s likely deductible and co-payment under the patient’s health insurance policy. If the patient is uninsured (self-pay), the patient will also be advised of the likely cost of the hospitalization. This **pre-service, or POS**, collection effort is undertaken at the pre-registration office for scheduled visits, the Emergency Room for unscheduled visits, and at the registration office, with the object being that the patient pays his/her estimated share before treatment is provided. (Ex. 23.) Accretive rigorously tracks each Fairview employee’s pre-service or POS collections performance on a daily basis. (*Id.*) For example, each day they track the “[t]otal remaining days we have to collect” and “[h]ow much is needed per day for the remaining part of the month for us to meet our goal.” (Ex. 24.) By June,

2011, Accretive began to post the point-of-service collections of Fairview’s emergency room workers each day. (Ex. 25.)

One of the self-described “innovative” techniques of Accretive is to instruct hospital attendants to engage in collection efforts at the patient’s bedside. Calling bedside collections a “‘Front’ Future Initiative” (Ex. 26), Accretive describes bedside collection efforts as “Bedside financial counseling for patient liability” (*id.*) or as “Bedside collection for unscheduled inpatient visits.” (Ex. 27.) When the University of Minnesota Medical Center (UMMC) fell behind on patient collection efforts, Accretive cracked down by dedicating specific personnel to collections in both the emergency department (ED) and at the bedside. (Ex. 28.) Fairview acute care intake workers at the University of Minnesota Medical Center were told they must “identify and ask for residual and prior balance[s] 100% of the time” and that their job performance would be measured by whether they did so. (Ex. 29.)

The **Pre-service/POS** and **Prior-balance** collection efforts are carefully tracked in a “rack and stack” weekly presentation (Ex. 30), where each Fairview employee is listed and graded by Accretive. The chart does not evaluate them on medical knowledge, humanitarian work, compassion, or successful treatment parameters. Rather, the scorecards list employees by the “residuals” (the patient’s estimated share of the bill) they collect each week. (*Id.*) The areas of gradation are listed as follows, sorting each employee by:

- PB [prior balance] collection knowledge
- Adaption to change in culture
- Team influence on collection efforts
- Response to collection coaching
- Average PB [prior balance] accounts touched per day
- Total \$ collected

(*Id.*) Staff Productivity Results are prepared on a weekly basis to gauge the improvement in collection efforts. (Ex 31.) The Fairview staff is expected to respond to these charts by

preparing their “*OWN PERSONAL Yearly – Monthly – and Weekly GOAL for prior balance and point of service collections...*” (Ex. 32, emphasis in original.)

In early 2010, at Accretive’s 45-day “milestone” review, the Accretive team leaders reported upstream to other Accretive executives, saying that they have implemented the following:

- Individual and team incentive programs;
- Required 100 percent “asks” for payment by Fairview staff on patients with prior balances;
- A rigorous “dashboard” to measure each employee’s performance in each collections zone; and
- An exception-based registration process to decrease “low yield touches” and increase the higher yield ones.

(Ex. 33.)

By July 16, 2010, the “numbers driven” culture of Accretive appeared to be gaining ground, with Brandon Webb, an Accretive manager, telling Fairview staff that, in terms of driving up collection numbers, “OB [obstetrics] is probably going to help us a lot.” (Ex. 34.) Fairview’s response was twofold: “We need to get cracking on labor and delivery. There is a good chunk to be collected there...,” and “I don’t believe we have hardwired the fact that staff need to look at prior balances for EVERY patient, especially in the ED [Emergency Department]. That needs more work.” (Ex. 35.) Mr. Webb’s response is reaffirming: “Great ideas and points...!” (Ex. 36.)

It appears that the University of Minnesota Medical Center was slow in implementing Accretive’s collection quotas. Accretive created a “heat map” of delinquent collections activity, with the University’s “heat map” declaring that each Fairview employee at the University must be “monitored” to make 100% “asks” on patients and “incentivized” to make point of service collections. (Ex. 37.)

Accretive not only prepares a weekly “dashboard” of collections by each Fairview employee (Ex. 38), it also prepares a weekly “dashboard” of collections on certain patient categories, including for the emergency room, outpatient surgery, inpatient surgery, high-dollar diagnostic, and unscheduled inpatient admissions. (Ex. 39.) Other Accretive charts determine which Fairview divisions perform “in scope,” dividing the collection efforts on each of Fairview’s seven campuses. (Ex. 40.)

The daily collections are tracked, with individual Fairview employees recognized in e-mails and provided with gifts if they are aggressive collectors. (Ex. 41.) On June 3, 2011, Accretive sent an e-mail to Southdale Hospital employees after one of them collected a past-due balance from a patient. Accretive wrote: “I witnessed the entire event and it was like poetry.” (Ex. 42.) The publication of employee collection tallies was so demeaning that Accretive and Fairview personnel jointly noted the negative impact on staff morale and the marginal impact it had on collection efforts. (Ex. 43.)

The response from Accretive management to this concern was as follows:

“...we’ll continue with it as-is. Our experience is that collections performance just doesn’t get to target performance without this level of rigor.”

(Id.)

A Fairview employee expressed concern that the Accretive collection goals are “extremely aggressive.” (Ex. 44.) Another, however, having embraced the Accretive “numbers driven” culture, responds:

“Our goals should be the first thing you think about every day. All the other work comes after that.”

(Id., emphasis added.)

At the beginning, Accretive hit some bumps when it encountered the Fairview culture. In August of 2010, Mr. Webb, the Accretive manager at Fairview, announced that: “These numbers look awful this month.” (Ex. 45.) In September, Fairview announced: “Staff is struggling with prior balance collections.” (*Id.*) Mr. Webb followed this up with an e-mail: “[T]hese numbers do not look very good.” (*Id.*) On September 20, he noted to Fairview staff: “I have not heard one word from anyone today regarding whether we collected any additional prior balances last week. I hope everyone understands these are not my numbers, Accretive’s numbers, or Jena’s numbers, these are our numbers....” (*Id.*)

Finally, on September 20, 2010, Mr. Webb sent out an e-mail to Fairview employees:

“OUCH! Prior balance numbers looked BAD last week....Before I have a minor panic attack about the numbers can everyone please let me know if you had any accounts last week that you assisted in a rebill situation, etc., that we can count in our PB [prior balance] numbers?”

(Ex. 46.)

Hearing no response, on September 21, 2010, a memo was sent to all management personnel with the following instruction: “Any free time...should be spent rounding with staff and making sure they are...asking for money from EVERY patient they can!” (Ex. 47.) The memo also demanded that the daily surgery and services schedules be scoured to highlight any patient who has a balance due. (*Id.*) On October 6, 2010, Mr. Webb sent this e-mail to Fairview staff:

“Very disappointing results. What do you plan to do to make October a better month?”

(Ex. 48.)

On October 11, 2010, a Fairview manager parroted Mr. Webb’s e-mail by sending out the following demand to her staff:

“It’s noon and we are only at \$5,000...not so very good for where we are typically.”

(Ex. 49.) The Fairview staff responded to Accretive’s demand to book numbers. By 7:00 p.m., the Fairview manager reported back to Mr. Webb that:

“Prior balance collections have increased in all areas. The biggest improvement has been the Main Admitting and ED [Emergency Department].”

(Ex. 50.)

In order to reward aggressive collections, on October 28, 2010, Accretive sent a mass e-mail which advised Fairview employees that the top collectors are posted on a white board near the business office. (Ex. 51.) The Accretive manager also declared that the “top collectors” are in a close race for the top collector award for October. (*Id.*) The next day, an e-mail went out recognizing particular employees for their collections and telling them to come by the business office to pick out a gift from the “kudos box.” (Ex. 52.) The competition ended on November 1, 2010, when a mass e-mail from Accretive was distributed to the Fairview staff proclaiming:

“We had an UNBELIEVABLE October....Great work. Here is where we closed the month: **GRAND TOTAL POS Collections of \$353,797.17 and Prior Balance Collections of \$27,291.57**

This blows all prior records Out Of The Water!!! Nice work!”

(Ex. 53, emphasis in original.) The e-mail promises a “thank you” for the employees and then sets out the November collection-goal quotas. (*Id.*) The e-mail concludes by noting that: “the highest collector in each area on each shift will win a gift card.” (*Id.*)

The Fairview and Accretive staff also intensified their collection efforts by training birthplace registrars on how to collect off newborns and their mothers. (Ex. 54.) One chart dated November 11, 2010 is entitled:

“Opportunity: Labor and Delivery represents excellent opportunity to increase cash collections”

(Ex. 55, emphasis in original.)

On January 17, 2011, Mr. Webb chastised Fairview employees with this threat: “Do we need to look at having all of the PB’s [patients with prior balances] that can’t pay to start seeing Bruce [an Accretive employee] again?” (Ex. 56.) On January 25, 2011, Mr. Webb chastised another Accretive employee:

“You guys collected \$60 in PB [prior balance] yesterday. Unacceptable. How are you going to fix this?”

(Ex. 57.)

On January 27, 2011, the Fairview and Accretive staff exchanged mass e-mails which recognized the biggest collectors for November and December and promised to provide a “recognition reward.” The e-mail’s author wanted “to CONGRATULATE the ENTIRE ED [Emergency Department] team” for “**a RECORD month,**” collecting \$62,501. (Ex. 58, emphasis in original.)

Another example of the *Glengarry Glen Ross* culture is the agenda for a “Patient Share Engagement” meeting sent on August 9, 2011. The agenda states that the “focus area” for Fairview employees is as follows:

“Are your focus areas the entity’s highest opportunity areas (opportunities in dollars and ease of collections)?”

“Are the following Best Practices implemented in these focus areas?”

(Ex. 59.) The agenda then itemizes the “best practices” as incentives, chalk talks, and “100% ask” rates. (*Id.*)

2.6 Carrots and Sticks. Accretive was very creative in implementing a contest and prize strategy. These strategies included pizza parties (Ex. 60), gift cards (Ex. 61), movie tickets

(Ex. 62), candy, wearing jeans to work (Ex. 63), free lunch, parking space, fake flowers (Ex. 64), putting makeup on a manager (*id.*), throwing a pie in a manager's face (*id.*), painting a manager with a fake tattoo (*id.*), and a Golden Gopher collections competition (Ex. 65), as well as cash payments (Ex. 66).

To underscore its incentive program, on November 12, 2010, Accretive sent out a mass e-mail with the heading:

“Cliffs notes: You can receive between \$130 - \$280 per month by meeting your collections and PFA goals, starting now!”

(*Id.*, emphasis in original.) The e-mail describes a variety of prizes, including \$25 per pay period for screening patients for pre-service/POS collections, \$40 per pay period for meeting the employee's collection goal, and \$150 for being the top collector. (*Id.*; Ex. 67.)

Daniel Fromm, the Chief Financial Officer of Fairview, responded to the e-mail, telling Accretive that the gifts violated Fairview's corporate policy. (Ex. 68.) In response, on January 7, 2011, an employee sent out an e-mail stating that:

“We need to get the incentives out asap. That would include the \$150 ones for Radiology, Riverside ER and UER.”

(Ex. 69.) At the same time, in November of 2010, an Accretive manager sent an e-mail to Fairview stating that the “carrots” aren't good enough and that Fairview needed to start using the “stick”:

“I hope the ‘carrot’ of the gift cards gets things moving a bit more – but I think we'll need to institute the ‘stick’ as well – can Colin and Colleen start writing folks up for not screening accounts when they're the registrar.”

(Ex. 70.)

It is apparent that the prizes were still being offered in the four months after the Fairview CFO said that the gifts violated corporate policy. On March 2, 2011, a Fairview employee

confronted an Accretive employee and said that the Fairview staff thought the prizes were a “slap in the face.” (Ex. 71.)

Finally, on February 20, 2012, after the Attorney General filed a lawsuit against Accretive, Accretive drafted a statement which failed to disclose the team dinners and recognitions. (Ex. 72.)

2.7 Emergency Room Tactics: Viewpoint of a Patient Advocate. The impact of the Accretive philosophy on Fairview is perhaps best stated by an employee at Fairview Ridges Hospital. She described her Fairview experience prior to Accretive as fulfilling. She considered herself an advocate for patients, trying to give some comfort at a time of a medical crisis. Prior to the appearance of Accretive, she had never heard of “chalk talks” and never attended a “boiler room” meeting.

2.8 Boiler-Room Tactics. The hospital employee states that, after Accretive arrived on the scene, she was required to attend “chalk talk” meetings where Accretive “team leaders” engaged in high pressure tactics to induce emergency room personnel to view their primary mission to be the collection of money as opposed to the well-being of the patient. Groups of workers in the Fairview hospital emergency rooms were given team names, and each week the person and team who collected the most money from emergency room patients would be recognized, sometimes with a raffle prize, sometimes a cake, sometimes an e-mail “shout out.” Those who performed poorly on collections were ignored.

2.9 Operation Blue Balls. The Ridges emergency room worker said that Accretive told her the “cue” to collect money from the patient was after the physician entered the vestibule, made an introduction, and left to attend to another patient, even if treatment was not yet fully rendered or completed. Accretive established an electronic data system where a patient’s

registration was not complete until the patient advocate made an attempt at collection. Accretive installed on the EPIC hospital software its own software program known as AHtoAccess, or A2A, derisively described by hospital personnel as “Operation Blue Balls.”

Under the Blue Balls program, a Fairview registration employee could not process a patient electronic record (all patient records are now electronic) unless she completed four informational “blue balls” that popped up on the screen. The first ball demands that she fill out patient demographic data, such as name, address, contact numbers, and the like. Not until this “ball” is completed may the employee go to the second “ball,” where the employee must undertake a “real time” validation of the patient’s insurance coverage and description of the insurance benefits. Employees are also required to screen “self-pay” patients (a euphemism for the uninsured) for alternative types of coverage, such as Medicaid. Once the second ball is completed, a third ball appears, where the employee must enter the health care services to be provided as well as predict the corresponding diagnosis codes so that the software can generate a bill. After this “ball” is completed, a fourth ball appears, in which the employee must determine the amount of the likely financial responsibility for the insured patient (as it relates to co-pays, deductibles, and any residual amount owed after insurance is applied), or the total cost to the uninsured patient, and try to collect the amount owed from the patient. The employee had to report on the computer how much money she collected and, if she didn’t collect any money, she had to explain the effort she made to get money and why it was not successful.

2.10 GOMER. Before the enactment of the federal anti-patient dumping statute, called the Emergency Medical Treatment and Active Labor Act, or EMTALA, “GOMER” was an acronym used in hospitals. It stands for “Get Out of My Emergency Room.” Accretive prepared a variety of scripts for emergency room attendants, and employees were told to follow

the scripts. The scripts can lead a patient or her family to believe the patient will not receive treatment until payment is made. The fourth blue ball prints an invoice that tells the family that they are responsible for a deductible, co-payment, or residual amount based on the likely treatment code for the patient. The Fairview Emergency Room workers are told to request payment on the balance by requesting a credit card. If someone says they don't have a credit card, the employee is choreographed to say: "[I]f you have your check book in your car I will be happy to wait for you...." (Ex. 73.) If the patient says she doesn't have cash, the employee is scripted to say: "[I]f you want to make a call we will accept credit card over the phone." (*Id.*) If the patient's family questions the amount of the charge, states that they already have paid the deductible, or questions why they were never asked about a pre-payment in the past, the hospital employee is instructed to say that the policies of the hospital have changed. If the patient says that she doesn't have time to negotiate the likely fee, the hospital employee is instructed to say: "I understand that you are running late for your test but this will not take more than 5 minutes...." (*Id.*) Finally, if the patient says that she can't pay, the hospital employee is supposed to remind the patient that "once the account is with [a] collection agency that can affect your credit score...." (*Id.*)

2.11 Patient Access and Stop Lists. In 2011, Accretive rolled out a "Patient Access Strategic Roadmap" with six "patient access" initiatives for the year. (Ex. 74.) The six initiatives underscore that "patient access" is a euphemism for "*restricted* access," with the principal initiatives being to achieve a pre-service/POS (point of service) target of 30% collections and a higher target for prior balance (PB) collections. (*Id.*) The "patient access" restrictions are outlined in an Accretive "Solution Overview" presentation, which brands the

restrictions as the “Accretive Secret Sauce,” or “ASS.” (Ex. 75.) The cover of the Solution Overview has a slogan perhaps fitting for a collections agency but not so much for a hospital:

“You’ve never seen ASS like ours!”

(*Id.*)

The “Patient Access” strategy appears to have succeeded, not just with increased collections but in chasing patients away from the hospital. At least one memorandum says that “stop lists” have been successful. (Ex. 76.) A “stop list” is described as a “front end” denial, where the patient is essentially stalled by “financial counselors” into paying a prior balance or a “POS” treatment. (Ex. 22.) Accretive’s guidelines indicate that registration personnel should:

“Pull together PB [prior balance] stop list [the] night before for patients appointments [the] next day.”

(Ex. 77.) On April 19, 2011, Accretive added “stop lists” for breast cancer patients. (Ex. 78.)

On November 5, 2010, the Accretive managers were advised that Fairview staff desired to change the registration process in the Emergency Room so that it occurred *after* treatment was rendered to the emergency patient. (Ex. 79.) A Fairview employee trained by Accretive criticized the proposal, claiming that they would lose “hundreds of thousands of dollars in patients walking out the front door.” (*Id.*) She also reported that Radiology was unhappy with the collection process and that the Neonatal Intensive Care Unit (NICU) complained about the aggressive collection activities. (*Id.*)

The “stop list” strategy continued throughout the year. On March 31, 2011, three University of Minnesota physicians complained that patients were foregoing treatment because of the Accretive collection practices. (Ex. 80.) Accretive dismissed the doctors’ complaints as “country club” talk. (*Id.*)

On April 1, 2011, a Fairview employee suggested that a meeting be held to discuss complaints about patients being asked for “co-pays, deductibles, etc.” by the financial service counselors prior to procedures being performed. (Ex. 81.)

In March, 2011, Accretive described 22 Fairview emergency room patients who left the emergency room without being registered or who were uncooperative with the “Patient Access” process. (Ex. 82.) On April 8, 2011, Accretive noted that two patients left the Southdale emergency room without being registered and that three patients were uncooperative with the “Patient Access” process at the Ridges emergency room. (Ex. 83.) On June 16, 2011, Accretive noted that three emergency room patients in Fairview’s North Region were “uncooperative” with the process. (Ex. 84.) In November of 2011, a Twin Cities spine surgeon complained that Accretive’s financial clearance process was delaying treatment for patients at Ridges Hospital. (Ex. 85.)

Finally, in December of 2011, an incident at the University of Minnesota Amplatz Emergency Room caused the Risk Management team at Fairview to question whether Accretive was violating the federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. §1395dd), or EMTALA, by withholding treatment and seeking to collect money from emergency room patients prior to completion of a medical screening. (Ex. 86.) EMTALA, the anti-patient-dumping statute, requires hospitals that receive federal benefits to provide medical treatment to stabilize a patient in the emergency room. The incident apparently involved the child of uninsured parents, and the parents awaited treatment of their child while the Accretive “financial counselor” explained the opportunity of the parents to enroll in a COBRA program, which the parents said they could not afford. The Accretive “financial counselor” then told the family that treatment of more than an hour in an emergency room was more expensive. (Ex. 87.) The father

apparently complained about the “stop list” effort. The Fairview Risk Manager, an attorney named Bonnie Johnson, told the Fairview and Accretive “financial counselors” that EMTALA requires that medical screening must be provided before any discussion about payment, and that emergency stabilizing treatment, if any, must be provided before payment options are discussed. (Ex. 86.) A front end collector at the University of Minnesota’s Acute Care and Transplant Office who works closely with Accretive, “lost her composure” at the attorney, labeling her the “EMTALA police.” (Ex. 88.) The collector e-mailed Peter Van Riper, a Vice President at Accretive, and said that the attorney’s advice on EMTALA is “a bunch of bull....” (*Id.*) Mr. Van Riper agreed, and volunteered to talk to the Fairview staff. (*Id.*)

2.12 Pre-Registration Blue Balls. “Operation Blue Balls” not only takes place in the Emergency Room, but also in the pre-registration process for patients whose physicians are admitting a patient to the hospital. The pre-registration process is generally undertaken by telephone prior to the patient being admitted to the hospital, and generally occurs at the Stinson Boulevard office of Fairview or at Accretive’s collection center in Kalamazoo, Michigan. The pre-registration process is common for planned pregnancy deliveries, orthopedic surgeries, back surgeries, cancer surgeries, and the like.

One Fairview employee, who considers herself a professional, works with patients to navigate the financial process prior to being admitted to the hospital. She says that in many cases, the patient and her family are worried about the upcoming treatment, and the burden of working through a financial pre-registration telephone call can be stressful.

She states that, after Accretive came on the scene, she was told to attend the “chalk talk” meetings and implement Operation Blue Balls on new patients. She described the process as tense, where an Accretive manager walks behind pre-registration personnel with a stop watch,

demanding that they complete a registration within five to eight minutes. During this period of time, employees are expected to work through Operation Blue Balls and get the credit card information from the patient. The Fairview pre-registration personnel are graded on how many patients they can talk to in an hour, with personnel rewarded if they achieve a six patient per-hour production and penalized if they only have a four person per-hour production.

During the pre-registration process, the Blue Balls program appears, and the patient again goes through the “stop list” script about pre-payment/POS and prior balance collections. The patient must make it through 14 levels of inquiry before being told that she can still get “emergent” treatment even if she has to pay for it on an installment basis. (Ex. 73; *see also*, Ex. 89.)

2.13 Fairview’s Staff Perspective. Accretive took a survey of Fairview employees to determine their acceptance of the Accretive culture. The survey indicated that 40% of Fairview staff were uncomfortable with the collection activity. (Ex. 90.) Some of the employee comments in the survey included the following:

“PB [prior balance] collections should be done at the backend not the front. We are giving the image that we are money hungry and that we don’t care about the overall person.”

“As far as the Accretive initiatives, all we really know is that it is about money and how much we can collect.”

“In fact I am greatly distressed when I think about coming to a FV [Fairview] hospital and if I have a past due being presented with it multiple times until I pay the bill or make payment arrangements etc. Let’s face it sometime[s] when people are in crisis the last thing they are thinking about [is] the cost that they will eventually owe.”

“But we are pushing that envelope too much when we are focusing on collecting it all up front.”

“I have encountered patients that are very upset with calls from previous teammates regarding how they were approached about copay/prior payments. I think we need to listen to the patient more carefully.”

(Ex. 91.)

An agenda for an Accretive/Fairview management meeting in November of 2011 noted that “Front End employees” are concerned that they will be investigated for patient collections due to a *Star Tribune* article regarding the collections process. (Ex. 92.) As recently as January 25, 2012, Mr. Barry, the president of Accretive Quality, was advised by Mr. Crook, the head of Fairview operations for Accretive, that:

“Fairview line staff has expressed concerns regarding collecting patient share at the time of registration....The impact has been most felt at the Fairview management level - there have been some emotional responses.”

(Ex. 93.)

This underscores the culture clash between the Accretive *Glengarry Glen Ross* culture and the culture normally embraced by a charitable, non-profit hospital.

2.14 Patient Perspective. Accretive distributes scripts to its employees which make it clear that the objective of patient contact is to get money, and that to get the money, the Accretive employee should be aggressive in prodding the money out of the patient. For instance, a multi-page memorandum entitled “Collections Call Flow” instructs the Accretive callers to learn from the “heavy hitters” at the company. (Ex. 94.) The memorandum tells the callers to never take an answer of “no” from the responsible party (“RP”), to threaten that collection calls will continue unless payment is made, and that the company will report the RP to the credit bureau and have their credit score lowered. (*Id.*) The memorandum instructs the collector to pry into whether the RP gets child support, unemployment, welfare, or other supplements and that, if so, the collector should tell the RP to direct that supplemental payment to them. (*Id.*) The memorandum instructs the caller to ask if the RP can get help from a relative. (*Id.*) The

memorandum is silent about one aspect of medical debt, however: the patient is not told that Fairview is required by law and by an agreement with the Minnesota Attorney General to have a charitable giving policy. Indeed, it appears that Accretive was even contemplating requiring patients who qualified for charity care to set up credit card payment plans. (Ex. 95.)

An example of deceptive patient contact is Ms. Marcia Newton's experience with Accretive. Ms. Newton filed a complaint with the Attorney General's Office, stating that her physician scheduled a surgery to install ear tubes in her child, who was at risk to have a ruptured ear drum if the surgery was not performed. She appeared at the hospital with her child on the day of the scheduled surgery. She states that the admissions (registration) employee looked her up on the computer and advised her that the hospital charge for the surgery was going to be about \$9,000, and that she would be obligated to pay \$876 before the surgery could take place as the patient's share under her policy. Because she had the balance available on her credit card, she charged it. As it turns out, the actual cost of the procedure was about \$4,200, and her responsibility under her insurance was only \$200. She couldn't get the hospital to give her overpayment back. (Ex. 96.)

Accretive and Fairview claim that if the treatment is "emergent," they don't demand pre-payment. The term "emergent," however, seems to be narrowly defined by Accretive and Fairview. In the above case, the need of a child to have ear tubes inserted to avoid a ruptured ear drum was apparently not determined "emergent."

These practices can lead patients to believe that they will not get access to necessary treatment if they have to pay on an installment basis.

Conclusion. Accretive and its "numbers driven" culture have undermined Fairview's mission-driven culture. The Accretive culture has converted the hospital culture from that of a

charitable organization to that of a collection agency. Perhaps more important than the description of legal violations identified in other volumes, it is the *Glengarry Glen Ross* culture that necessitates remedial action.

AG: #2986875-v1