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# Tenet Doctor Probe Widens

*The feds explore a new line of allegations about the hospital chain as a trial opens in a big California case.*

By [Melissa Davis](#)

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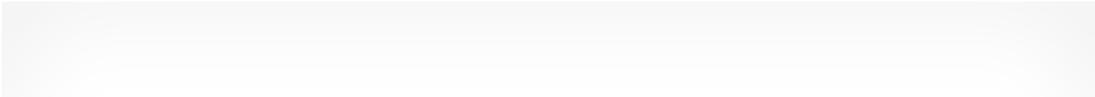
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When **Tenet** ( [THC](#) ) last month announced another federal investigation of its business practices, it hardly seemed like news.

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After all, the latest probe centers on the hospital operator's financial arrangements with physicians at a single, relatively small facility in Northern California. And Tenet had long warned that investigators seemed interested in its relationships with physicians companywide.

But the stakes could prove higher this time around. Until now, federal authorities have primarily focused on Tenet's "relocation agreements" with newly recruited physicians. Now, however, they are starting to question medical directorships -- often filled by powerful, established doctors -- at the company's San Ramon Regional Medical Center as well.

Some health care analysts and attorneys view the physician-related probes as the biggest threat to the company. They believe the mounting scrutiny from regulators has already hurt patient referrals, and they fully expect the pain to intensify.

Mark Kleiman, a Los Angeles attorney who focuses on health care fraud, says medical directors can be big patient admitters who generate substantial revenue. But much of that cash could be at risk, he says, if the government proves that the directors have been improperly rewarded for their patient referrals.

Kleiman says that prosecutors can force hospitals to return any Medicare funds they have collected as a result of referrals by physicians who pocketed illegal kickbacks.

"This should be alarming from an investor's standpoint," Kleiman says. "I would be very nervous."

Tenet itself seems less concerned. Indeed, the company portrays the latest investigation at San Ramon as little different from other reviews previously disclosed to investors. And the company's current legal counsel -- once a high-level attorney for the government -- has pledged to resolve the probes in the end.

Tenet refused to answer questions about its medical directors for this story. The company's stock, once a \$50 highflier, slipped a dime Tuesday to \$11.09.

## **Side Effects**

Even before news of the latest probe, the San Ramon facility was no stranger to trouble.

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To be fair, the hospital once enjoyed a stellar reputation, boasting everything from robot-assisted surgeries to scenic views of the San Ramon valley. But three years ago, nurses there complained about understaffing and sought to unionize. Diane Ganzell, CEO of the hospital, failed to calm the storm and departed after less than two years on the job. Just weeks later, a powerful nurses union alleged "massive care violations" at the facility. The California Nurses Association claimed that health officials had cited San Ramon for, among other things, failure to both adequately staff operating rooms and dispose of outdated or mislabeled drugs.

A subpoena from the government soon followed. The Office of Inspector General, inside the Department of Health and Human Services, requested documents about arrangements between a group of physicians, San Ramon and four other Tenet-owned hospitals in the region. Then general counsel Christi Sulzbach quickly downplayed the probe.

"Civil subpoenas for information from the OIG are not uncommon in the highly regulated healthcare industry," Sulzbach said. "And we will cooperate fully so that the agency may complete its inquiry in a timely fashion."

Instead, federal prosecutors have since stepped in, seeking a broader range of information from San Ramon. In addition to "a small number" of physician relocation agreements, they have asked for documents relating to medical directorships that date back to January 2000.

While legal and often useful, medical directorships can also be abused, observers say. Hospitals have come under fire in the past for illegally offering directorships in exchange for patient referrals. If asked, they must supply the government with evidence showing that directors have been paid a reasonable amount for work performed.

"Doctors are supposed to keep track of their activities and document what they're being paid for," Kleiman explains. "You can imagine how much physicians like keeping time records. Unfortunately, those are the rules of the game."

At least one industry source believes the probe could eventually spread beyond San Ramon.

"I think it's the low-hanging fruit that's being targeted right now," says Peter Young, a business consultant at HealthCare Strategic Issues. "But it doesn't mean that problems haven't been identified elsewhere."

## Record Fine

At another Tenet hospital, in fact, such "problems" have already triggered punishment.

Ending a lengthy kickback investigation, the Justice Department announced in March that it had levied a multimillion-dollar fine against Tenet's North Ridge Medical Center in Fort Lauderdale, Fla. The government had accused North Ridge of improperly rewarding a number of doctors -- including three medical directors -- for their patient referrals.

For example, the government's complaint stated, North Ridge agreed to pay one of the doctors \$25,000 to replace a director who had received nothing for filling the same post previously. The complaint went on to say that the hospital paid another doctor the same amount -- on top of a \$225,000 salary -- to serve as "director of international marketing" for promoting the hospital's services in the Caribbean islands.

Young recalls worse. In the past, he says, companies have offered such frivolous directorships that some people used to joke that hospitals would "appoint someone director of the ingrown toenail center" if it meant boosting patient referrals.

In the end, the feds singled out just one of the North Ridge directorships as improper. But the government spotted problems with 10 other physician contracts and secured a \$22.5 million fine -- the highest of its kind -- from the hospital.

Some former Tenet employees foresee bigger penalties to come. Specifically, they view Century City Hospital -- among the first of many California facilities Tenet recently shed -- as a source of major exposure.

Gil Mileikowsky, a fertility specialist who practiced at the hospital for years, claims that Century City paid some of his competitors \$5,000 a month for "totally phony" directorships. Indeed,

hesays that the vast majority of the physicianspracticing in a building adjacent to Century Cityreceived some kind of financial assistance "inexchange for bringing in patients."

Joel Bergenfeld, who once steered the hospital for Tenet,is now running Century City for its new owners. Bergenfeld did notreturn a phone call seeking comment for this story.

To be fair, Mileikowsy is embroiled in a legalbattle with Tenet. Still, in July of 2003, the fedsbegan investigating physician contracts at CenturyCity and six other Tenet-owned hospitals in Southern California.Four months later -- even before laying out plans to sell a numberof California hospitals -- Tenet decided against renewing itslease at Century City.

"The Department of Justice clearly knows about themedical directorships at Century City," Mileikowskysays. "They have known for many years."

## **Power Struggle**

Very soon, Tenet will test the government's powers.

In a criminal trial set to begin on Wednesday, thecompany's Alvarado Hospital Medical Center will seek to show that it offered lucrative contracts to physicians in order to relieve doctor shortages in San Diego. Thefeds are trying to prove that Alvarado inked the deals to rewardestablished doctors with high referral rates.

If the government succeeds, Alvarado could faceboth monetary penalties and exclusion from theMedicare program. In addition, two hospital executivescharged with arranging the contracts could wind up injail.

But Tenet expects to win.

"Tenet has not attempted to settle this case,"says company spokesman Steven Campanini, "because webelieve strongly that these are unjustifiedallegations, and we intend to vigorously defendourselves."

So far, all defendants involved have proclaimedtheir innocence. But the government has neverthelessidentified a number of contracts that it views asquestionable. In court documents, it describes a\$435,000 income guarantee for a brand-newophthalmologist -- joining his brother's existingpractice -- as just one example.

Alvarado CEO Barry Weinbaum "signed thisrelocation agreement despite data that revealed asurplus of ophthalmologists in the Alvarado servicearea," the court filing states. "Weinbaum also wasresponsible for obtaining corporate approval of thishuge relocation agreement from Tenet's corporateoffices."

The government claims that Weinbaum arranged suchdeals to satisfy existing practices that pocketed mostof the funds.

The government's Tenet probe has ranged on for a few years, as noted in previous stories in *TheStreet.com*, and is especially complex -- involving far more than physician contracts. The federal government is also seeking to discover whether Tenet used an aggressive pricing strategy to bilk Medicare. In addition, the government wonders if the company charged Medicare for procedures that were unnecessary in the first place.

Young, for one, sees a long wait ahead.

"It is very premature to talk about a settlement when the government is still handing out subpoenas," Young says. "Recent activity by the government shows that this isn't anywhere near over."

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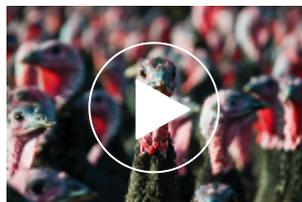
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