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Hearts Harden as Tenet Faces the Senate

The troubled hospital chain confronts critics on Capitol Hill -- and elsewhere -- as possible hearings loom.

By [Melissa Davis](#)

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TheStreet
TheStreet logo featuring the word "TheStreet" in a white, bold, sans-serif font, centered on a black rectangular background. Below the text are three horizontal white bars of varying lengths, resembling a stylized underline or a graphic element.

After California physician Gil Mileikowsky complained last year about poor oversight of the health care industry -- and of a **Tenet** ([THC](#)) hospital in particular -- the state medical board showed signs of concern.

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The board promptly faxed Mileikowsky a letter ordering him to undergo drug and psychiatric testing to prove he wasn't impaired. The infuriated doctor, a top-tierer who graduated from medical school near the top of his class, never complied. And he never backed down from his original conviction that America's health care system is designed to overlook -- rather than catch -- serious abuses like those being exposed at Tenet's hospital in Redding, Calif.

By now, the medical board has threatened to revoke Mileikowsky's medical license over the situation. It gave *TheStreet.com* no reason for ordering the tests in the first place, citing confidentiality rules, but said such requests are "not unheard of." For his part, Mileikowsky claims he's the victim of a flawed oversight system that favors hospitals over physicians who stand up for quality care.

"How do hospitals solve their problems?" he asked. "They shoot the messenger. That will work until too many messengers have been shot."

Mileikowsky counts himself among the victims of Tenet's alleged target practice. And he's pleased to see the Senate finally returning fire.

Senate Finance Committee Chairman Charles Grassley, known for his tough stance against health care fraud, has already sent a stinging letter to Tenet criticizing the company's behavior and demanding a truckload of documents. The Iowa Republican calls the company "ethically and morally corrupt." He refers to its history as "sordid." He points to lawsuits detailing "horror stories" of unnecessary -- and sometimes fatal -- heart surgeries. In short, he takes some pretty heavy swings at a company already on its knees.

And the battle's still young. The powerful senator, feared by many in the health care industry, is just now gathering ammunition and drafting some well-placed soldiers for what could become a very public fight. He's given the company just a few weeks -- until Oct. 15 -- to supply information that, in the end, could lead to full-blown Senate hearings.

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Some physicians have already warned the picture won't be pretty.

"Tenet has honed everything down to the fine art of making money," said Ralph Bard, a Tennessee surgeon who lost privileges at a Tenet hospital where he fretted about patient care. "Tenet will do anything -- anything -- to make a profit."

Tenet, which failed to answer questions for this article, saw its shares rise 13 cents Tuesday to \$15.11.

Pursed to Whistle

A decade has passed since Patrick Campbell's first patient died undergoing suspicious heart surgery at Tenet's hospital in Redding.

Campbell, an internist who was new to the area at the time, referred the patient to rising surgery star Chae Hyun Moon just to be on the safe side. The patient had mild symptoms that could indicate heart trouble. Moon ordered an expensive heart bypass and valve replacement even though a fellow cardiologist saw no reason for surgical intervention. The patient, hit by a blood clot and kidney failure after the procedures, died a week later.

Campbell started gathering evidence, eventually turned over to the FBI, as the years went by. He learned of other questionable surgeries -- some just as tragic -- and even shared his concern with hospital administrators who seemed oddly aloof. In 1999, he finally contacted an attorney who declined to intervene after being stonewalled by area authorities.

"As your objective and very experienced legal adviser, I set the information aside for a while, came back and once again reviewed this situation," the attorney wrote. "The conclusion is inescapable: Do not blow any whistle! Period."

The attorney determined that the stakes were simply too high for Campbell to act at that time.

"Best to pass on this one, swallow hard and wait patiently for an unexpected event, which is sure to happen sooner or later," he wrote.

Moon, together with heart surgeon Fidel Realyvasquez, kept operating at such a feverish pace that Redding -- a rural hospital in northern California -- became the most profitable in the entire Tenet chain. And relatively healthy patients, Campbell feared, continued to suffer or die.

Campbell compiled additional evidence and tried, with the same futility, to convince two other law firms to alert federal authorities through a whistleblower lawsuit. The FBI finally came knocking in the summer of 2002.

Discount Deal

Last month, the FBI sting culminated in a "record-breaking" \$54 million fine against Redding for allegedly performing numerous unnecessary heart procedures.

Campbell was stunned. His attorney, who calculated Redding's exposure at more than \$500 million, says the hospital got off the hook for just 12 cents on the dollar. And investors celebrated. The company's market capitalization surged by hundreds of millions of dollars -- recouping the \$54 million fine within minutes -- on surprising news of the settlement.

Campbell ultimately concluded that under the deal, Redding was refunding baseline Medicare payments -- but not the bonus "outlier" checks that made the surgeries especially lucrative.

"The whole theory of this case... is that they performed these radical, life-threatening, highly complex and expensive procedures on relatively healthy patients specifically for the purpose of collecting the very generous outlier payments that were uniquely applicable to those procedures and that have been excluded from the settlement," Campbell's attorney, David Rude, wrote in an objection filed last month. "Why settle now, and why settle for so little? This court, Dr. Campbell and -- most importantly -- the public are entitled to an answer to that question."

The Senate, unfettered by the secrecy of other government arms, could soon blow the Redding mystery wide open. Already, Grassley has challenged the adequacy of the penalty -- just the latest in a long string for Tenet -- and singled out the individual culprits he would like to see pay.

"The \$54 million settlement, as well as Tenet's failure to acknowledge any liability or wrongdoing, is further evidence, in my opinion, that Tenet views health care fraud settlements as the cost of doing business with the federal government, while profiting at the expense of innocent victims

and America's taxpayers," Grassley wrote in a letter to Tenet CEO Trevor Fetter. "It is long past due that Tenet and its officers, directors and board members be held accountable."

Foreign Exchange

Grassley first takes aim at the usual suspects.

He slams former CEO Jeffrey Barbakow for cashing in \$111 million worth of stock options -- near the shares' peak -- before the price came crashing down. He casts similar disapproval on Thomas Mackey, the ousted operating chief who allegedly orchestrated Tenet's Medicare games, for profiting from well-timed stock sales as well. And he blasts Christi Sulzbach, who also sold stock, for holding the dual roles of general counsel and chief compliance officer -- saying "it doesn't take a pig farmer in Iowa to smell the stench of conflict" -- as Tenet slid back into trouble.

He is particularly tough on Tenet leaders who remained in power throughout the company's last fall from grace and its apparently bogus redemption. He is, in fact, requesting documents preceding Tenet's last major downfall -- when the company locked juveniles in mental hospitals just to bilk their insurance companies -- from executives who rose in rank between the two scandals. Besides targeting the top brass, he's seeking explanations from at least four Redding CEOs and, just as notably, a regional boss who's been tied to trouble before.

More than 10 years have passed since Dennis Brown was first accused of rewarding foreign doctors for patient admissions. Brown, who currently oversees the northern California region that includes Redding, served as CEO of Tenet's Mount Elizabeth Hospital in Singapore at the time. And Alan Ng, a gynecological surgeon, was complaining that Brown and his superiors wanted promises of high patient admissions in return for discounted -- or even free -- office space.

"I told them if they went around offering doctors incentives to increase hospital admissions, there would be such a scandal that a public inquiry would be held," Ng said in pre-trial documents. "I told them that things were done differently here than in the USA ... I said they could go to prison for this."

Tenet has long since exited the Singapore market, and Brown has continued to climb the corporate ladder in the U.S. His last rung before taking over the northern California region? He presided over physician services at a time when the company was allegedly paying sky-high prices for physician practices in hopes of boosting referrals.

"If you pay a doctor more than is commercially reasonable, then you are in essence giving him a kickback," said one former Tenet executive. "Is that illegal? Gosh, I think so."

Holy Smoke

But Tenet has chosen a man of God -- a Jesuit priest -- to keep the company in line.

Father Lawrence Biondi chairs Tenet's ethics committee and, following a recent internal shakeup, will be ultimately responsible for the company's compliance program going forward. So far, Biondi hasn't been the sort to promise doctors extra riches for high patient admissions. Rather, he's taken the opposite approach at the Tenet-owned hospital on the university campus where he serves as president.

"Being a physician in America usually means you're well paid, drive a nice car, enjoy the respect of others and sometimes have power over life and death," the local *Riverfront Times* wrote in October 2000. "At St. Louis University Hospital, it also means you could get a yearly 20% pay cut, every year, for as long as you don't meet your quota. ... The quota usually involves seeing more patients, performing more procedures, or both, thereby producing more revenue."

Biondi implemented the unpopular rule after arranging to sell the Catholic hospital -- despite concerns from the Vatican -- to Tenet two years earlier. The university lost some of its top physicians after the so-called performance supplement rule became public.

The hospital adopted the practice just months after Tenet revealed that it had lost \$100 million on physician contracts nationally. But three years later, Tenet is still suspected of offering generous contracts to some.

The Sequel

Grassley has asked Tenet to deliver two sets of documents before it moves on to other -- much more voluminous -- requests.

He wants an independent study of Redding's surgery activity conducted by the Mercer Consulting Group. Originally, Tenet promoted the investigation to reassure the public, but never released its results.

Then, Grassley wants copies of Tenet's contracts with the new doctors it has hired to revive Redding's cardiology program. He gives no reason for the demand. But knowledgeable sources have alleged that Tenet offered Redding's new cardiology chief, Satyendra Giri, a multimillion-dollar contract that encourages him to validate past heart surgeries at the hospital.

In the meantime, Tenet whistleblowers continue to suffer. Charles Rosen, the former chief of surgery at Tenet-owned Garden Grove Hospital in California, recently found his office in total disarray -- a target of possible vandalism -- following a story by *TheStreet.com* that detailed his attempts to expose the hospital and the watchdog agency that accredits it. And Mileikowsky is still fighting an uphill battle to regain his privileges at another Tenet-owned hospital in the state. The veteran fertility specialist lost his right to see patients there in late 2000, just months after agreeing to testify against two productive colleagues who allegedly botched surgeries -- performed without prior consent -- that needlessly left female patients without any fallopian tubes. He claims the hospital deemed him a "disruptive physician" and drummed up 37 charges against him despite a virtually spotless record with his patients.

Mileikowsky says he has yet to get a fair hearing, due to an oversight system ruled by hospitals, and has seen both state and federal medical associations come to his defense. But he still has hope. He views the Redding scandal as a "very significant wake-up call" that might finally bring revolutionary changes to the industry as a whole.

Those changes, he says, could finally reduce the huge number of deaths -- estimated by some experts at 100,000 annually -- caused by negligent, but profitable, hospital care. For now, he says, patients will continue to fall victim to a flawed health care system that virtually guarantees human tragedies.

"Every single agency in this country that is supposed to monitor quality control in hospitals has some defect that was purposely designed to prevent it from working," Mileikowsky said. "How many people have died for no reason? Bin Laden couldn't cause this much damage if he wanted to."

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