

How a test project at a Hazard heart clinic ended up costing UK more than \$7.4 million

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March 03, 2020 10:34 AM

In 2016, UK redacted all billing details from 14 pages of a November 2015 invoice from Sheppard Mullin, a Washington, D.C. law firm that has helped UK with federal billing problems at a Hazard cardiology firm it acquired in 2013.

In 2013, UKHealthCare paid \$440,000 to buy a bustling cardiac practice in Hazard.

It was a test, part of former CEO Michael Karpf's vision of making UK HealthCare *the* regional powerhouse for specialized medical care, outstripping comparable providers like Norton in Louisville.

It also turned out to be a very expensive experiment, according to a cache of 15,000 documents that UK recently released to the Herald-Leader after a [four-year court fight](#) over whether the documents were subject to the state's open records law.

Acquiring the Appalachian Heart Center ended up costing UK \$2.3 million more than than the \$5 million [previously reported](#) — most of that money for consultants who spent almost three years trying to unravel a hastily put together relationship. The \$5 million included \$4.1 million paid back to the federal Medicaid and Medicare programs and \$1 million to a Washington lawyer.

But the documents also show two different stories: One about the culture of heavily regulated healthcare organizations and another about the culture of UK itself.

The documents show that red flags went up at AHC almost immediately after UK bought it, warnings about possible coding errors for procedures at the clinic. A procedure that was not accurately and precisely described could be a big problem, as coding errors have been interpreted as fraud by federal Medicaid and Medicare programs, which paid for many of the clinic's patients. This was around the same time that a nearby hospital, King's Daughters in Ashland, paid \$41 million to the feds for unnecessary heart procedures. Federal authorities were on the lookout for trouble and healthcare providers were nervous.

At UK, emails started flying and officials started meeting.

“The acquisition of Appalachian Heart Center (AHC) was a pilot for us in the context of our strategy,” said Mark Birdwhistell, vice-president of administration and external affairs for UKHealthcare, who was part of an executive committee that spent countless hours on AHC. “From the beginning, there were operational issues due to the merging approaches and philosophies of a large academic medical center and a standalone cardiology practice three hours away. We did not fully appreciate these different approaches at the time.”

So UK quickly hired consultants, some of which they’d used before: Murer Consultants, which looked at the agreements between the AHC clinics and UK; Blue and Company, which focused on the billing and coding issues and [MedAxiom](#), a cardiovascular. Those firms, which had done some work preparing for the partnership, cost UK about \$2.3 million through 2016. In addition, numerous UK HealthCare employees spent hundreds of hours on the issue.

“The idea was to use their expertise to help us recommend solutions so that we could ensure the success of the partnership,” Birdwhistell said. “Specifically, we now understand so much more about the questions that need to be asked, and the issues that need to be resolved, in acquiring a practice. In terms of the actual work performed, the consultants examined and provided recommendations on a number of issues -- documentation, practice efficiency and contractual opportunities associated with working with a physician practice and community hospital.”

UK also hired Washington D.C. attorney David Douglass, who billed about \$700 per hour, to untangle the mess. He concluded that there was no fraud or criminal activity. But to be safe, he advised UK to pay back the healthcare payers for all the even questionable billing to Medicaid, Medicare and private insurance companies. That totaled \$4.1 million. Douglass’ total billing for the work was \$1 million.

By November 2015, the practice had hired Lexington attorney Lisa Hinkle, who laid out some requirements for the partnership to continue, including more control over hiring, better communications, and turning all coding and billing over to UK. The letter also asked for total compensation to the clinic’s three physician’s of \$2.7 million a year. But by 2016, the doctors at AHC had had enough of audits and investigations and asked to

buy back their practice, a request UK agreed to. The culture clash was apparently too much for either side to deal with.

Today, UK has refrained from buying any new practices, but is still making different partnerships across the Commonwealth. Under current CEO Mark Newman, it has turned its attention to more convenient and accessible ambulatory care, including a 2018 merger with the Lexington Clinic for cancer care. It has also opened three satellite medical school campuses around the state to increase the number of doctors across the state.

Which leads us to the next story. The documents show that everyone was nervous throughout the AHC saga; agendas were frequently blacked out as though any minute, a lawsuit would start. President Eli Capilouto and Board of Trustees leadership were kept informed at numerous steps in the investigations, officials said, but the rest of the trustees and the public did not know about the situation until the trustees held a secret meeting on May 2, 2016.

That's when the Herald-Leader protested the meeting with then Attorney General Andy Beshear and filed open records requests for pertinent documents.

At that point, the AHC practice was back in private hands, the payments to the feds and private insurers were completed by 2015. The threat of lawsuits was over. But UK still resisted making the audits and investigations public.

The attorney general agreed with the Herald-Leader that the meeting required an agenda, and that Douglass' power point needed to be public. Still, UK wouldn't turn over the audits, the documents that showed why UK was so worried. The university wouldn't even let the Attorney General examine the records behind closed doors.

Over a 4-year court battle, UK paid another \$118,000 to an outside law firm to fight the open records case all the way to the state Supreme Court. UK spokesman Jay Blanton said in the rare cases where UK protected records it was to provide for "protecting the privacy of students, victims and patients; protecting attorney-client communications and work product and protecting the preliminary recommendations of administrators to ensure the kind of candid conversations and dialogue necessary to get at the facts."

It's unclear why UK officials would want to make a two-week story a four-year story instead, when in the end, the documents back up UK's narrative of a culture clash, rather

than a criminal conspiracy. The arrogance of a public institution declaring that it is not subject to the Attorney General in an open records case is particularly distressing.

When UK HealthCare saw problems in its operations, it moved quickly to solve them. It remains a mystery why UK then chose to keep what it found and what it spent a secret for so long.

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