



An Affiliate of Community Catalyst

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## Hospital “Divorces”

Just like any business deal, a hospital merger can fail. Causes can include unforeseen financial difficulties, unfulfilled expectations of cost-savings, differences in hospital philosophies, management difficulties and community pressure. The following case histories describe hospital merger “divorces,” mergers that fell apart after the final paperwork was complete.

**Location: St. Petersburg, Florida**

**Result:** *Church/state issues force Bayfront Hospital out of consortium*

A dispute over church/state issues forced the nonsectarian Bayfront Medical Center in St. Petersburg out of an eight-hospital regional health consortium. Bayfront, housed in a city-owned building, had been under fire for agreeing to follow Catholic health care doctrine and ban abortions at the insistence of the consortium's two Catholic member hospitals.

In 1997, Bayfront Medical Center had joined the consortium, known as BayCare, after winning authorization from the St. Petersburg City Council. But Council members said they were not told that Catholic Doctrine might be imposed on Bayfront because two of the eight hospitals in the BayCare consortium were Catholic. Bayfront officials acknowledged that they had banned some abortions, and that a nun had been empowered to review end-of-life policies at all eight BayCare hospitals.

The City Council filed a lawsuit alleging improper entanglement of church and state at the hospital. Bayfront offered to settle the lawsuit by buying the city property for \$47 million over 47 years, with a promise that the hospital would remain secular. According to the St. Petersburg Times, the settlement offer was rejected by the City Council because, after reviewing records submitted by the hospital, Council members concluded that Bayfront could not truly remain secular.

A separate lawsuit was filed in the case by Planned Parenthood of Southwest and Central Florida, the American Civil Liberties Union of Florida, Americans United for the Separation of Church and State and the National Organization for Women Foundation. Their federal lawsuit, against the City of St. Petersburg, Bayfront Medical Center and the BayCare Health System, contended that operation of a public hospital under religious doctrines was unconstitutional. The plaintiffs also included four local women who said

they might have been denied medical services because of the Catholic health policies. Bayfront's inability to resolve the dispute, in such a way that would satisfy BayCare's demands, led to a vote by the other BayCare member hospitals to force Bayfront out of the consortium.

**Location: Owensboro, Kentucky**

**Result:** *Hospital Merger Unscrambled*

A merger that created the Owensboro Mercy Health System (OMHS) is officially over, ending advocates' concerns that reproductive health services could be curtailed. OMHS owned an acute-care hospital and a "Health Park," which contains physician offices, outpatient services and a health club. The system was formed in 1999 by the merger of Owensboro Daviess County Hospital, which owns 81.3 % of the system and Mercy Hospital, which owns 18.8 % of the system. Owensboro Daviess County Hospital (ODCH), was once jointly owned by the county of Daviess and the city of Owensboro.

In April of 2003, Catholic Healthcare Partners sought a change in the structure of the arrangement. A provision in the original merger documents allowed one partner to call for the buyout of the other. It was this clause that Catholic Healthcare Partners pointed to when it made its demand: either change the OMHS board structure so Catholic Healthcare Partners has input into the selection of all the OMHS board members or end the affiliation with one partner buying out the other. The OMHS board voted unanimously to buy out the shares of Catholic Healthcare Partners. Terms of the buyout called for the discontinuation of the Mercy name and the Catholic presence at the health system. The system's name was changed to Owensboro Medical Health System.

The merger was an example of what reproductive rights advocates pointed to as a "creative solution" that preserved access to sterilization services. Tubal ligations were performed in a separate room of the hospital. The Catholic partner did not participate in the management of the sterilization unit and did not share in its revenues. It is not clear whether the existence of the creative solution had anything to do with Catholic Healthcare Partners' bid to end the arrangement. Local activists were concerned that reproductive services would be lost if Catholic Healthcare Partners became the sole owner. This buyout saved not only reproductive services, but it also meant that the system would no longer be obligated to pay a \$1.3 million management fee to Catholic Healthcare Partners.

**Location: Manchester, New Hampshire**

**Result:** *Merger Comes to an End*

Violation of state charitable asset laws led to the end of a 5-year-old merger between Elliot Hospital and Catholic Medical Center. The two hospitals, which had merged under the name Optima Health, had been mired in controversy over such issues as an abortion ban forced on the nonsectarian Elliot Hospital by the local Catholic bishop. Supporters of Catholic Medical Center were also angered by a plan to consolidate many services at Elliot.

In May of 1998, an obstetrician/gynecologist, Dr. Wayne Goldner, was forced to send a 35-year-old Medicaid patient 80 miles away to an out-of-town hospital for an emergency abortion after he was refused permission to perform the procedure at local Elliot Hospital, which had adopted a strict abortion ban in order to continue its controversial merger with nearby Catholic Medical Center. The incident was the most visible consequence of the merger, which had been opposed by many residents of the Manchester community. The physician said his patient, who had a history of miscarriage, needed the emergency abortion when her water broke at 14 weeks of a wanted pregnancy.

Physicians with privileges at Elliot Hospital contended they were promised, at the time of the 1994 merger, that there would be no interference with their ability to make the best medical judgments for their patients. On occasion, they continued to schedule a few "medically necessary" in-hospital abortions for cases of severe fetal abnormalities or threats to the life or health of the mother.

But in November of 1995, a hospital employee leaked out to the New Hampshire Right to Life Committee the news of a scheduled abortion, causing an uproar in the community. (The employee subsequently was fired for violating patient confidentiality.) The incident attracted the attention of the local Catholic Bishop who began pressuring Elliot Hospital to adopt a tough anti-abortion policy or face an end to the merger.

Some anti-abortion activists and a group called Save CMC (Save Catholic Medical Center) urged the church to pull out of the merger. Some 160 physicians at Elliot Hospital urged the Optima Health Board to "allow medical decisions to be made by professionals who are qualified to make those decisions in consultation with their patients." Despite the physician and community protests, in late 1997, Elliot Hospital gave in and adopted a strict policy sharply restricting abortions.

The final blow to the merger came when the New Hampshire Attorney General issued a report which found that Optima had failed to reconcile the different charitable missions of the two hospitals. The AG ordered each hospital to form a board to address the problems. After months of unsuccessful negotiations, the boards gave up and recommended in February of 1999 that the two hospitals separate.

The end of the merger was welcome news to the Coalition for Live Free or Die Healthcare, which had advocated for the preservation of all reproductive health services at Elliot Hospital. It also was a great relief to some local obstetrician/gynecologists who had been struggling to serve patients within the restrictions imposed at Elliot.

**Location: Niagara Falls, New York**

**Result:** *March 1999 DIVORCE*

In the spring of 1999, Citizens Against Hospital Merger/Save Memorial Hospital, a community coalition, in Niagara Falls, NY, celebrated the breakup of the controversial 2-year-old affiliation between secular Niagara Falls Memorial Hospital and Catholic Mount

St. Mary's Hospital. The group held two rallies outside the hospital, calling for a divorce from the Daughters of Charity system, which owns and operates Mount St. Mary's. The group got its wish when the parent board agreed to a request from Niagara Falls Memorial to end the affiliation.

Although the Daughters of Charity had poured millions of dollars into the two-hospital affiliation, the money came at a high price. Repeatedly, the system tried to shut down Niagara Falls Memorial and send all the services to Mount St. Mary's, where the Catholic Ethical and Religious Directives were in force. While the Wall Street Journal had accurately reported that tubal ligations and contraceptive services were preserved at Niagara Falls Memorial, under a special temporary "moral determination" from the Bishop, the reality was that those services would have disappeared eventually, along with Niagara Falls Memorial.

After the "divorce," the community coalition immediately organized a bus trip to Albany, where they met with state representatives to begin addressing Niagara Falls Memorial's debts to set the hospital back on sound financial footing. The group joined forces with Niagara Memorial administrators to save the hospital. The hospital continues to exist today and serve the community of Niagara Falls.