

A lawsuit is shining fresh light on specialty hospitals



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(Photo: Courtesy of the Norfolk (Neb.) Daily News)

The former head of the Lewis & Clark Specialty Hospital in Yankton filed a lawsuit last week claiming that she lost her job after complaining about harassment from a surgeon there.

Michelle Weidner-Jordan was the chief executive officer at Lewis & Clark from 2006 until last summer.

Taken by itself, Weidner-Jordan's lawsuit would be another employment dispute ending up in court. But the lawsuit is only the latest filed against Lewis & Clark related to Dr. Allen Sossan, the surgeon she accuses of harassment.

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Sossan and Lewis & Clark also are defendants in four medical malpractice suits, and Weidner-Jordan's complaint offers an insider's perspective that corroborates allegations made by plaintiffs in the medical malpractice filings.

Among them, Weidner-Jordan claims that Sossan brought in significant money for Lewis & Clark and the other doctors who had ownership interests in the facility.

Sossan performed spine surgeries, among the most lucrative specialties in medicine.

"Part of the reason for Sossan's generating of significant revenue was a result of Sossan performing surgical procedures that were not medically necessary or indicated," the lawsuit says.

Other lawsuits against the surgeon

Sossan has been accused in other lawsuits and by other patients who have filed sworn affidavits that he performed unnecessary surgeries. In interviews and depositions, other physicians also have accused him of performing unnecessary surgeries. A jury in Yankton last November awarded the family of a woman who died after repeated spine surgeries more than \$933,000, finding that Sossan had operated when it wasn't necessary.

Sossan, a native of Iran who spends time in his native country, has not responded to interview requests. He is presently not licensed to practice medicine in South Dakota.

The lawsuit also could give opponents of physician-owned hospitals ammunition. Critics of allowing doctors to own hospitals say there's an inherent conflict when doctors are allowed to admit patients into facilities they own.

Richard Casey, Weidner-Jordan's lawyer, declined to comment because the case is pending.

Terry Steichen, the business manager for Lewis & Clark, referred questions to the hospital's lawyer, who did not return a message Friday.

Sossan, according to the lawsuit, arrived in Yankton in 2009 after practicing in Norfolk, Neb. Lewis & Clark granted him privileges and Sossan became one of the physician owners of the facility. Weidner-Jordan, the CEO at the time, claims that Lewis & Clark entered into a business relationship with Sossan because the spine surgeon would be profitable for the hospital.

Sossan's arrival at Lewis & Clark created a hostile and harassing workplace, according to the lawsuit. Weidner-Jordan said that she and other employees reported Sossan's behavior to the hospital's board — the physician owners.

At one point, in March 2012, Sossan threatened the hospital's director of nursing, who locked herself in the hospital pharmacy out of fear of the surgeon.

Despite complaints to the hospital board, Lewis & Clark retained Sossan because it did not want to lose the revenue he generated, the lawsuit contends.

As moneymaker, 'he was untouchable'

Weidner-Jordan's assessment of the work environment was shared by another Lewis & Clark employee in a separate court filing. Kendra Krueger, a nurse from 2007 to 2010, signed a sworn affidavit that has been filed in the medical malpractice lawsuits against Sossan and Lewis & Clark. The affidavit was filed in state court last month.

In it, Krueger details instances of abuse, including an incident in which Sossan is accused of throwing items at a male staff member out of jealousy over a female surgical device representative.

"It was common knowledge at Lewis & Clark and discussed by the staff that complaining about Sossan would do no good because he was untouchable due to the amount of money Sossan brought into Lewis & Clark," Krueger said in the affidavit.

Lewis & Clark terminated its relationship with Sossan in March 2012, according to Weidner-Jordan's lawsuit, after Sossan lost privileges to practice medicine at Avera Sacred Heart Hospital in Yankton.

After that, the hospital saw a "significant decrease in revenues that had been generated by Sossan, thereby significantly reducing, if not eliminating, the quarterly distributions that defendant's owners had been receiving while Sossan was a privileged provider and part owner of the defendant."

Possible financial hit with surgeon gone

Lewis & Clark's payment history compiled by credit reporting agency Experian shows that the hospital might have undergone financial stress after Sossan's departure. The hospital's payment history showed that, in some cases, it was as late as 90 days in making debt payments.

Weidner-Jordan claims the hospital board blamed her for Sossan's termination and the resulting loss of revenue.

The former CEO also said she sounded the alarm on another business relationship with one of Lewis & Clark's other owner-doctors that violated federal laws against conflicts of interest.

Ultimately, last August, she was told to resign or be terminated.

The lawsuit includes allegations that have been among the chief criticisms made by opponents of physician-owned hospitals. Those critics argue that physicians have a conflict of interest when they are allowed to admit patients into facilities they also own. Responding to those concerns, Congress banned any new physician-owned hospitals from participating in federal health programs with the passage of the Affordable Care Act, but those facilities that were in existence before Dec. 31, 2010, such as Lewis & Clark, were grandfathered in.

Critics: Incentive for unneeded surgeries

Cindy Morrison, Sanford Health's executive vice president of marketing, waged a seven-year battle against physician-owned hospitals before Congress enacted its ban.

Morrison was not familiar with the lawsuit against Lewis & Clark, but in general, she said community hospitals such as Sanford oppose physician ownership because they present unfair competition and because they can foster conflicts.

Only doctors can admit patients to a hospital, Morrison said. When a patient is admitted, the doctor receives a professional fee for treating the patient.

But if the doctor has an ownership stake in the hospital, the doctor also gets a facility fee. The incentive for the doctor is to admit more patients — perform more procedures — than necessary. That's one reason why doctors are not allowed to own pharmacies.

"If a physician owns a pharmacy, they will write more prescriptions," Morrison said.

Doctor: Small shares alleviate conflicts

But Sioux Falls surgeon Blake Curd, president-elect of the Physician Hospitals of America, an advocacy group for doctor-owned hospitals, disputes that it's a conflict. Curd said the facility fees are spread out among a pool of doctors that typically own small shares in the hospital, so there's not an incentive to admit patients for procedures that aren't needed.

"The reimbursement on the surgical fee is several times what the reimbursement would be on the facility fee," he said.

Curd, who was also unfamiliar with the lawsuit against Lewis & Clark, said there is no evidence that doctor-owned facilities contribute to over-utilization of medical care.

"There's no reason to expect that whatever happened at Lewis & Clark couldn't have happened at any other physician setting," he said.

Richard Coorsh, the spokesman for the Federation of American Hospitals, said his organization opposes allowing doctors in physician-owned hospitals from referring patients to other doctors in the same hospital. So-called self-referrals "provides an unlevel playing field."

Sossan, according to affidavits filed by former patients, received many of his patients from referrals from other doctors who had ownership interests in Lewis & Clark.

According to Krueger, the former nurse, an orthopedic surgeon at Lewis & Clark regularly referred surgeries to Sossan.

"The environment at Lewis & Clark completely changed after Sossan joined the hospital," Krueger said. "Staff members had only two choices: To either put up with Sossan's abuse and practices or leave.

"Ultimately, I found another job and left Lewis & Clark, primarily due to Sossan and the poor morale at Lewis & Clark."

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