

# Prime Health Care Business Practices

## Executive Summary

Prime Healthcare Services is one of the largest private health systems in the United States. The company's business practices, which include avoiding contractual obligations and mistreatment of workers, have garnered the attention of the media and federal and state regulators. This memorandum provides multiple examples of these practices and serves to highlight the company's disregard for contractual agreements as well as the law.

## Company Overview

Prime Healthcare is a uniquely structured health system comprised of two separate corporate entities:

1. *Prime Healthcare Services, Inc.* – a privately owned for-profit corporation. This entity owns and operates 9 hospitals in California and 30 hospitals throughout the United States; and
2. *Prime Healthcare Foundation* – a 501 (c)(3) non-profit corporation. This entity owns and operates 6 hospitals in California and 15 hospitals throughout the United States.

## Violations of Workers Rights

### *Unilateral Changes to Healthcare Benefits at Centinela Hospital Medical Center*

In December 2015, the NLRB affirmed an Administrative Law Judges finding that Prime unlawfully implemented changes to its healthcare plan during negotiations with SEIU-UHW.<sup>i</sup> Specifically, SEIU-UHW members were forced to enroll in a new EPO plan and pay healthcare premiums for a plan that was previously offered at no cost. For example, employees previously enrolled in a fully paid family healthcare HMO plan were suddenly required to pay nearly \$4,000 a year in healthcare premiums.

### *Noncompliance with Contractually Mandated Wage Increases at Garden Grove Hospital Medical Center and Encino Hospital Medical Center*

In October 2016, the NLRB adopted an administrative law judge's finding that Prime Healthcare unlawfully decided to stop providing contractually mandated wage increases to SEIU-UHW members working at Garden Grove Hospital Medical Center and Encino Hospital Medical Center.<sup>ii</sup>

### *Unilateral Removal of Reserve Sick Pay at Garden Grove Hospital Medical Center*

In August 2011, The NLRB adopted an administrative law judge's decision, finding that Prime Healthcare unlawfully rescinded a reserve sick leave benefit that SEIU-UHW members at Garden Grove Hospital Medical Center were entitled to under their Collective Bargaining Agreement.

### *Aggressive Legal Tactics Against Unions*

In response to SEIU-UHW's campaign to win a contract for members working at Centinela Hospital Medical Center, Encino Hospital Medical Center, and Garden Grove Hospital

Medical Center, Prime Healthcare filed a burdensome and frivolous lawsuit against the Union alleging Anti-Trust violations. The lawsuit was dismissed by the district court; however, Prime appealed to the Ninth Circuit Court of Appeals which upheld the district courts. Prime filed a petition for writ of certiorari with the U.S. Supreme Court which was denied in June 2016.<sup>iii</sup>

#### *Refusal to Recognize RN Unionization Vote at Chino Valley Medical Center*

In April of 2010, 125 Registered Nurses at Prime's Chino Valley Medical Center voted overwhelmingly to Unionize with the United Nurses Association of California/Union of Healthcare Professionals. Rather than recognizing the outcome, the company used aggressive legal tactics and filed multiple appeals to delay the process of negotiating with the newly unionized workers. Ultimately, Prime Healthcare was compelled to negotiate after a decision issued by the D.C Circuit Court of Appeals. The nurses won their first contract in December 2019 after holding a three-day strike, nearly 10 years after voting to form a Union.<sup>iv</sup>

### **Unethical Business Practices and Regulatory Oversight**

#### *Whistleblower/False Claims Act Settlement*

In August 2018, Prime Healthcare and its founder and CEO, Dr. Prem Reddy, agreed to pay the United States Department of Justice \$65 million to settle allegations that 14 Prime Hospitals in California knowingly submitted false claims to Medicare by admitting patients who required only less costly, out-patient care and by billing for more expensive patient diagnoses than the patients had (also referred to as "up-coding"). Under the settlement agreement Reddy was required to pay \$3.25 million and Prime \$61.75 million.<sup>v</sup>

In February 2019, the Department of Justice announced an agreement with Prime and Reddy to settle similar allegations pertaining to two Prime hospitals in Pennsylvania. Prime and Reddy were required to pay an additional \$1.25 million as part of the settlement.<sup>vi</sup>

#### *Violation of Attorney General Conditions Imposed During Prime Acquisition of Sherman Oaks Hospital*

In March of 2006, California Attorney General Bill Lockyer filed a lawsuit against Prime Healthcare alleging the company was involved in "aiding and abetting a violation of a condition." Specifically, the complaint alleges that Prime closed the gero-psychiatric unit at Sherman Oaks Hospital in violation of one of the conditions Attorney General Lockyer imposed on Prime's acquisition of the Hospital. The parties subsequently reached a settlement agreement.

#### *Kaiser Billing Dispute*

In 2008, Prime Healthcare filed a lawsuit against Kaiser Foundation Health Plan, seeking payment of "underpaid or unpaid claims" for healthcare services provided to Kaiser beneficiaries at Prime hospitals. Kaiser responded by filing a cross-complaint asserting claims that Prime had: (1) improperly determined Kaiser patients were unstable for transfer to a Kaiser facility, (2) improperly coded the claims on the bills, and (3) charged unreasonable amounts.

In February 2015, Prime and Kaiser agreed to dismiss their respective lawsuits against each other and resolve their disputes through confidential and binding arbitration. In March 2018, the arbitration panel issued a ruling requiring Prime to pay Kaiser an award of approximately \$42 million. Prime contested the arbitration panel's decision and award, however,

in February 2019, the Los Angeles Superior Court confirmed the award and entered judgement requiring Prime to pay Kaiser approximately \$44 million (\$42 million + interest).

Prime appealed the judgment and it is currently before the California Court of Appeals. Prime has disclosed that interest in the amount of \$6,000 per day continues to accrue on the judgment until it is either vacated or paid.<sup>vii</sup>

#### *Ongoing Investigation of Tax Issues by the Internal Revenue Service and California Franchise Tax Board*

Prime Healthcare Services has disclosed that the company is currently under examinations by the IRS for the 2012 tax year and also by the California Franchise tax board for the years 2009 to 2016. The disclosures were made in the company's 2018 Audited Financial Statements.

#### *Illegal Conversion of Hospital Ownership Status in Rhode Island*

In October 2017, The Rhode Island Department of Health Fined Prime Healthcare \$1 million for violating a state law requiring the company to obtain regulatory approval for the conversion of two of its hospitals in Rhode Island to nonprofit companies.

Prime told regulators it had not completed the transaction involving the two hospitals, and repeatedly assured regulators the deal had not been completed. However, RIDOH obtained a copy of the health system's financial records for 2016. The documents showed the transaction had been completed in December 2016.<sup>viii</sup>

## References

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<sup>i</sup> *Prime Healthcare Centinela, LLC d/b/a Centinela Hospital Medical Center*([31-CA-030055](#), et al.; 363 NLRB No. 44) Inglewood, CA, November 24, 2015.

<sup>ii</sup> *Prime Healthcare Services-Encino, LLC d/b/a Encino Hospital Medical Center and Prime Healthcare Services-Garden Grove, LLC d/b/a Garden Grove Hospital & Medical Center* ([21-CA-080722](#), [31-CA-066061](#), [31-CA-070323](#), and [31-CA-080554](#); 364 NLRB No. 128)

<sup>iii</sup> <https://www.supremecourt.gov/search.aspx?filename=/docketfiles/15-1448.htm>

<sup>iv</sup> [https://www.championnewspapers.com/community\\_news/article\\_742294dc-1dd5-11ea-b2d4-4f7bd009cc11.html](https://www.championnewspapers.com/community_news/article_742294dc-1dd5-11ea-b2d4-4f7bd009cc11.html)

<sup>v</sup> <https://www.justice.gov/opa/pr/prime-healthcare-services-and-ceo-pay-65-million-settle-false-claims-act-allegations>

<sup>vi</sup> <https://www.justice.gov/usao-edpa/pr/prime-healthcare-services-and-ceo-dr-prem-reddy-pay-125-million-settle-false-claims-act>

<sup>vii</sup> Prime Healthcare Services. 2018 Audited Financial Statements.

<sup>viii</sup> <https://www.beckershospitalreview.com/legal-regulatory-issues/rhode-island-fines-prime-healthcare-1m-for-allegedly-illegally-converting-2-hospitals-to-nonprofits.html>