HEARTACHES
INTERVIEW

Confidential Information for Pat Burns, M.D.
Medical Director, Farmington Hospital

You are the Medical Director for Farmington Hospital, with oversight and management responsibility for all medical services. Thus, you are responsible for the hospital's relationship with its physicians and ensuring all patients receive quality medical care.

You have made an appointment to meet with the hospital's General Counsel, because you are considering termination of a physician's contract with the hospital. Your goal is to learn any legal ramifications and how best to protect the hospital's legal interests.

Background

You work closely with the CEO and CFO who set the hospital's "business direction." Their challenge is enabling the hospital to provide a full range of services (many of which are marginally profitable, if at all) by maintaining some more profitable specializations.

A few years ago, the CEO and the CFO, working with a consultant, developed a strategic plan to increase the hospital's ob-gyn, pediatric services, and cardiac surgery capacity.

Ob-gyn, pediatrics, and complex surgery are reimbursed at relatively high rates by medical insurers. Ob-gyn often involves in-hospital monitoring or tests and caesarean section operations, which are somewhat profitable. Women anticipating labor and delivery often opt to pay for more expensive private or semi-private rooms. After giving birth at a hospital, a mother is more likely to choose it for her children's care. Pediatric hospital care tends to be profitable because insurance companies are less strict about guidelines for hospital stays, medical tests, and other diagnostic and treatment decisions for children than for adults. Either insurers have figured out that it would be politically unwise to stint on acute pediatric care, or they realize a mistake on a child leads to enormous damages. Insurers also pay more generous reimbursements for surgery in general, and complex surgery in particular, than for general medical care.

The hospital set about implementing the strategic plan, first by investing in state of the art equipment for labor and delivery and pediatric care. Rooms and amenities were upgraded; child-friendly play areas and decorations were installed; and advertising was effective. The hospital's numbers for newborn deliveries and pediatric care began to rise.

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In the plan's second phase, Farmington Hospital sought to increase adult and pediatric surgical capacity, with a specialization in cardiac surgery. Until then, infants born with a heart defect had to be transported for surgery (sometimes by helicopter) to the renowned Children's hospital in the larger city about 80 miles away. Adult cardiac surgery was also performed at the city's University Hospital. As Farmington and surrounding towns have become more densely populated over the past decade, the number of cardiac patients from those towns also grew. Adults who required emergency cardiac surgery (often for aortal repair) had to be transported. While bypass or angioplasties tend not to be emergencies, patients often prefer to be treated close to home, within reach of their general physicians. Farmington applied for and received a certificate of need to expand its surgical wing, surgical staff, and cardiac surgery capacity. Farmington hired a new surgical team, including two anesthesiologists (one senior and one more junior), and three older, experienced surgeons: one general surgeon and two with cardiac specialties. One of them had done a fellowship in pediatric cardiology. All the hospital's clinical physicians and local internists, obstetricians, and pediatricians were informed of the new hires and expansion plans and were invited to a reception to "meet the new docs."

That was two years ago. Slowly, the hospital's caseload in cardiac surgery has grown as local physicians have begun referring local patients to the new hospital surgeons. However, the pediatric end of the cardiac surgical practice has not grown as rapidly as projected. All three surgeons were sent to training sessions to learn the newest procedures for cardiac surgery in neonatal infants and young babies and children (under a year old, or one to two years old). Still, the two cardiac surgeons have only done a total of 30 cardiac surgeries per year over the last two years. This is worrisome, as the literature confirms that a single surgeon generally requires 30 to 40 operations to achieve the highest level of skill in a complex surgical procedure.

The Current Problem

The Chief Physician, Dr. Knowles, informed you last week that "things are not working out" with the new surgical team. One surgeon wants to move away from pediatric cardiology to focus on adult surgery. He has agreed to continue with pediatrics (at least one year and older) until a replacement can be found for the pediatric and neonatal caseload. The team does not want to hire anyone new until the caseload goes up.

Most importantly, relationships within the team are strained, likely because an unexpected number of difficult pediatric surgeries have resulted in death, either on the table or within the first 30 days. According to Dr. Knowles, one of the anesthesiologists - Dr. Wilson - is creating the most serious problems. Responsible for anesthesia during surgery and for coordinating post-operative care, the anesthesiologist has blamed the surgeons for the death of infants who died a few days or weeks after surgery. The surgeons maintain that post-operative care could be better. There have been disputes in the ICU (sometimes in front of parents) about post-operative treatment.

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In all cases, mortality and serious adverse medical consequences (such as brain damage) have been reviewed by the medical team, under Dr. Knowles' supervision, to determine causes of death and achieve improved judgment or techniques. The two procedures resulting in higher than anticipated mortality were surgery to correct transpositions of the great arteries in the heart, Arterial Switch surgery (AS), and surgery to correct Atrio-Ventricular Septal Defects (AVSD). Dr. Knowles and the rest of the medical team were satisfied that, while the statistics do not look great, they are attributable to unavoidable factors. Not all heart defects are equally straightforward to repair, and the surgical team had faced some particularly difficult cases.

According to Dr. Knowles, the anesthesiologist, Dr. Wilson, recently undertook an unauthorized "audit" of the pediatric cardiac surgeries performed, to justify Wilson's. criticism of the others. Wilson "broke in" to the central hospital files and to the surgeons' private office files. Wilson brought these results to the surgical group and demanded they stop performing pediatric cardiac surgery. The surgeons were outraged that Wilson would question their medical judgments or descriptions of the cases reviewed, and consensus regarding the unavoidable causes of death. The meeting was quite ugly.

Shortly thereafter, at the urging of several surgeons, you convened a medical staff grievance committee to review Dr. Wilson's performance and relationship with Farmington. You thought it important that this ad hoc committee include several surgeons with whom Dr. Wilson had been working; they had the most direct knowledge of Wilson's performance. The committee was adamant that Dr. Wilson is hostile, difficult, a miserable colleague, and destructive within the group. No doubt, a surgical team's relationships can be critical during delicate procedures. They also questioned Wilson's performance as an anesthesiologist, maintaining that Wilson's accusations were intended to deflect attention from some post-operative botch-ups. Indeed, Dr. Knowles suspects Dr. Wilson is covering their own deficiencies by accusing surgeons and trying to turn nursing staff against them.

At this point, none of the surgical team will agree to operate with Dr. Wilson as the anesthesiologist. Wilson is not on speaking terms with any of them. They find Wilson to be "officious, obnoxious, meddling, and only marginally competent." Medical competence issues aside, Dr. Knowles agrees with the grievance committee's consensus: Dr. Wilson's inability to work with the team cannot be tolerated.

Dr. Knowles has asked you to terminate Dr. Wilson's contract, ending Wilson's privileges at Farmington. You have decided to seek the advice of the hospital's general counsel regarding how best accomplish this and protect the hospital's legal interests.

You don't know of any discrimination issues: Dr. Wilson is 36 years old. At least two of the other surgeons are in their 50's; one is in his mid 40's. There shouldn't be any racial or gender issues: Dr. Wilson is white, as are approximately 65% of the hospital's physicians, and the gender make-up of the hospital's medical staff is close to 50/50.

Meet with the hospital's General Counsel.

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