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Lax Boards Invite Risk; Patient Rape at ICF Exposed Its Other Problems

By Nina Youngstrom

When the rape of an incapacitated patient at an Arizona intermediate care facility (ICF) came to light, it exposed other systemic problems, including allegations of Medicaid fraud, and in the process raised doubts about the effectiveness of the board's oversight, an expert said. Hacienda HealthCare's then CEO eventually was convicted on fraud charges, its board stepped down and the ICF repaid the state \$11 million.

"There were a multitude of failures here," said Martin Biegelman, managing director and investigations practice leader at SunHawk Consulting LLC in Phoenix.

The case is one of a series of headline-grabbing corporate scandals, including the Theranos case,^[1] that happened in part because boards apparently were missing in action, he said Oct. 18 at the Compliance & Ethics Institute sponsored by the Society of Corporate Compliance and Ethics. "A board that abdicates its oversight will miss misconduct, especially fraud, and fail to protect the organization's shareholders, investors, employees and others from financial, reputational and litigation risk," Biegelman noted. "Boards need to do a much better job of enhancing the corporate culture of the organization."

The revelations of wrongdoing at Hacienda HealthCare in Phoenix came in the wake of the patient's rape by an employed licensed practical nurse (LPN). The rape went undetected until the patient gave birth to a baby in December 2018, which led to DNA testing and the LPN's conviction for sexual abuse, Biegelman said. "This horrific act exposed wrongdoing at the company and ... the board in being blind," he contended. "What came out of this was the CEO of Hacienda had been at the facility for 28 years and for much of the time was the subject of complaint after complaint" of a hostile work environment, Biegelman said. "Rather than taking other strong action against the CEO, the board ordered counseling and training for the CEO and docked a small amount of pay," he said, referring to newspaper reports.^[2]

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