How Wall Street 'shareholder value' destroyed America's hospital system

by Richard Freeman and Linda Everett

Since 1987, Wall Street has deployed Columbia/HCA, the largest for-profit hospital chain in America, in an operation that has ripped apart the quality of America's medical services, and shut down hundreds of hospitals.

Columbia/HCA was created as an instrument for looting, with heavy Wall Street financial backing, by speculator Richard Rainwater of Fort Worth, Texas, and his attack dog and assistant, Richard Scott. Therein lies a major story. What Rainwater did between 1987 and 1997, in using Columbia/HCA to decimate the American hospital system, is a blueprint for what George W. Bush would do, in medical and hospital policy, were he to become President. What Rainwater and Columbia/HCA did was not only supported by Bush as a matter of a private, free market, "shareholders' value" approach to hospital policy, but in 1995, when Columbia/HCA was under attack by the Texas citizenry for its pillaging of the state hospital system, Governor Bush intervened to protect Columbia/HCA so that its operations could continue.

Rainwater is a business partner, confidant, and financial angel of George W. Bush. It is Rainwater who brought Bush into part ownership of the Texas Rangers baseball team, in which "Dubya" (as the Governor is known) made more than $14 million when he sold his stake. It is Rainwater who structured Bush's investment in Rainwater's Crescent Real Estate Equities, which Rainwater used to buy out and then destroy America's largest system of psychiatric hospitals (see "The Bush Mob Destroys America's Psychiatric Hospital System," *EIR,* March 3, 2000).

Both Rainwater and Bush are fervent advocates of "shareholders' value": the Wall Street policy by which a company, utility, or infrastructure, such as hospitals, is defined solely in terms of "profit-generation." It is stripped of assets to a nonfunctional level, and the "savings" used instead to prop up artificially inflated stock values, or to pay dividends and other payments to wealthy individuals and families.

In 1987, bankrolled by Citibank of New York, Rainwater bought two hospitals in El Paso, Texas. By 1996, with steady infusions from Wall Street, Columbia/HCA had gobbled up a good part of the U.S. hospital system. It owned 340 hospitals in the United States (7% of the total), and a few in Europe, and it was seeking to at least double that number. It also owned several hundred ambulatory surgery centers, home health care agencies, and laboratories. It had $20 billion in annual revenues, and was projecting a quintupling of that. It employed 285,000 workers, making it the ninth-largest employer in America, larger than either General Electric or McDonalds.

Following a round of mega-mergers in 1993-95, Columbia/HCA intensified its cost-cutting activities, to pay off burgeoning financial obligations. It shut down 25 hospitals, and transferred the patients to other hospitals it owned, to increase their occupancy and profitability rates. Further, it would not let any other entity buy and reopen the closed hospitals, or build new hospitals in those areas. It slashed employment by 10-30% at several hospitals, slashed the number of skilled registered nurses on staff, and broke labor contracts. It closed down services. It illegally bilked Medicare for hundreds of millions of dollars, for which it was served search warrants; some indictments were handed down by the Federal government in 1997.

Assault on the General Welfare

While Columbia/HCA was undermining its own 340 hospitals, it was also serving the preeminent function that the City of London-Wall Street financier oligarchy had assigned to it: delivering a frontal assault on the General Welfare clause of the U.S. Constitution, and battering down the conditions of the U.S. hospital system as a whole. Under the General Welfare mandate, the American nation provided for the economic development and well-being of the citizenry, as well as its cognitive development, both of the present and future generations. Building hospitals, and providing essential medical services, are prominent parts of the General Welfare concept. The Hill-Burton Act of 1946 had authorized the Federal government to finance an important part of the construction costs of local hospitals throughout the country, and other provisions, which led to the expansion and improvement of America's hospital infrastructure in the 1950s and 1960s. Postwar America enjoyed an unprecedented rise in health standards and life expectancy.

Columbia/HCA, as the flagship of the City of London and Wall Street, counterposed shareholder values to the General Welfare. It used its dominant position, and financial backing, to bully the entire U.S. hospital system. Faced with the intense competition from Columbia/HCA and from Wall Street's health maintenance organizations (HMOs), not-for-profit hospitals, which comprised 90% of all American hospitals in

the late 1980s, faced three aversive choices: be bought out by Columbia/HCA; be driven out of business altogether by Columbia and the HMOs; or impose on themselves Columbia's ferocious cost-cutting shareholder values policy in order to survive independently. Thus, from the top down, the genocidal shareholder values policy had become the dominant ideology governing most of the 5,700 hospitals in the U.S. system. In their primary task, Columbia/HCA and Rainwater were succeeding. During the late 1980s and the 1990s, this led to the shutdown of hundreds of hospitals nationwide, with dire consequences for the health of Americans.

All during the 1990s, Bush steadfastly abetted the genocidal policy of Columbia/HCA and Rainwater.

This report looks at the buy-out fever and rapid emergence of Columbia/HCA, from being an owner of two hospitals, to becoming America's largest private for-profit hospital chain. It examines the looting philosophy of shareholder values: the firing of nurses and other staff, the cutting of essential services, and the closing of many hospitals.

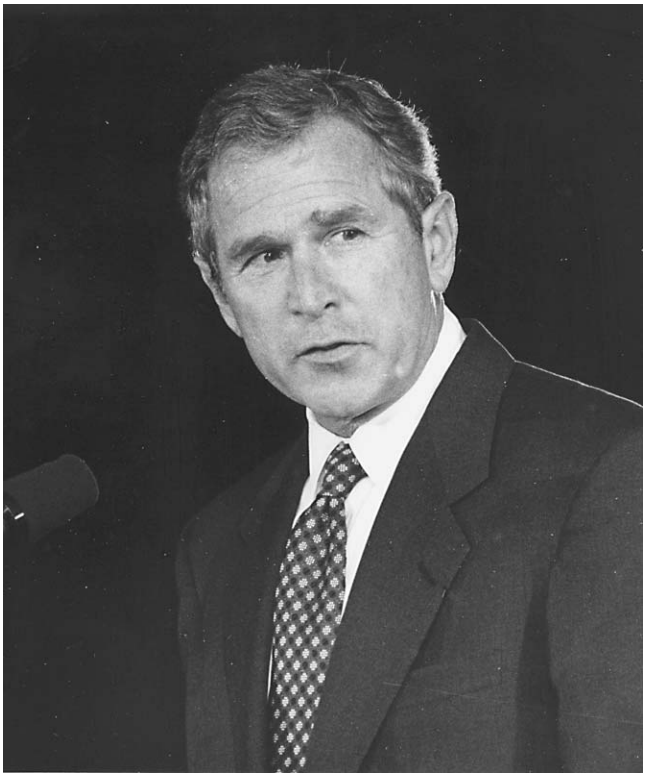
Anatomy of an asset-stripper

In 1987, Rainwater, with his 35-year-old assistant, Richard "Rick" Scott, formed the Columbia Hospital Corp. In 1988, Rainwater and Scott each anted up $125,000 and formed a partnership with 110 doctors, to buy two hospitals in El Paso. The deal was financed with a $65 million loan from Citicorp Bank, which constituted a hallmark of Columbia deals—Wall Street financing.

Only five months after Columbia had launched its operations, it bought a third hospital, Landmark Medical Center, also in El Paso. Landmark had 355 beds. Columbia carried out a procedure that would become its trademark: It shut down Landmark Medical Center, right after buying it, and transferred its patients to its two other hospitals, boosting their occupancy rate and profits—and, then took a tax write-off for the losses at the hospital it closed. The Texans who lived in the section of town where Landmark Medical Center once functioned, now had no local hospital.

For Rainwater, buying and stripping assets came naturally. In the 1970s and 1980s, he got his start as a major figure in the gambling business (he has been quoted saying, "People can't get enough of the thrill of betting"), and as a financial manager for the Bass brothers of Texas. During this time, he became heavily involved in junk-bond and leveraged buy-out operations with Michael Milken of Drexel Burnham Lambert (for background on Rainwater, see "How George W. Bush Got Rich Through Graft, Kickbacks, and Family Connections," *EIR,* March 25, 2000). Starting in 1987, Rainwater had Columbia buy hospitals at a prodigious rate. During this period, financier sharks were buying and trading hospitals at a rapid pace, often bankrupting hospitals, after loading up the hospitals with the debt they themselves had incurred in the takeovers.

By 1990, through mergers, Columbia owned 11 hospitals; by early 1993, it owned 27 hospitals. Then, under Wall Street's direction, Columbia carried out a three-stage rapid-fire raiding operation:



Texas Gov. George W. Bush backs "shareholder values," the policy which has destroyed America's health system. Bush's financial angel, Richard Rainwater, carried out the destruction.

- On Sept. 1, 1993, Columbia bought out Galen Health Care, which had 71 hospitals, for $3.5 billion.
- On Feb. 10, 1994, Columbia undertook a $7.6 billion merger with Hospital Corporation of America (HCA), owned by the Nashville, Tennessee-based Frist family, which had 97 hospitals in 21 states.
- On April 21, 1995, Columbia carried out a $3.3 billion takeover of Healthtrust, Inc., which had approximately 100 hospitals.

Columbia/HCA had shelled out $15 billion, most of it backed by Wall Street, in 18 months. By 1996, Columbia, which was now Columbia/HCA, owned 342 hospitals in 36 states (and a few in England and Switzerland), 130 surgery centers, and 200 home health care agencies. It owned 7% of all the hospitals in America, up from zero only nine years earlier. It owned 30% of all hospitals in Florida, and 17% of all hospitals in Texas.

In 1995, out of Columbia/HCA's 14-member board of directors, five were officers of banks or insurance companies—Wells Fargo, Brown Brothers Harriman, Prudential Insurance Corp., Third National Corp., and E.M. Warburg Pincus.

Columbia/HCA believed it could impose its policy on whomever it pleased.

Corporate rule of financial accounting

Columbia Hospital Corp. had always had a ferocious profit-making approach. Since the company's inception in 1987, Rainwater had proclaimed that the hospital system had to be run as "a private for-profit business," and that the idea of hospitals as instruments for the public good was old-fashioned. Rainwater, acting through his assistants such as Scott, centralized all decisions for the hospitals in his system. He made all purchases of supplies and equipment, and demanded that suppliers give him sharp discounts. He and his management boasted that Columbia/HCA was able to purchase supplies at a 30% discount from list price. Whether that claim is true is not known, but because of its size and purchasing power, Columbia/HCA was getting discounts of at least 20%. Most independent hospitals, which were targets for Columbia/HCA takeover, could not compete with that. Moreover, supplies were often shoddy. One hospital complained that the rubber gloves were of such poor quality that when personnel tried to take an individual glove out of a box, several wadded together in a bundle.

Columbia/HCA got the optimum cost-cutting, which maximized returns to Wall Street, by demanding that every hospital in the system meet specified "financial objectives." *Every policy decision, every purchase or non-purchase, every provision or non-provision of patient care, was strictly subordinated to and determined by the "financial objectives."* By these standards, cannibalization and thievery became the norm. Columbia/HCA president and CEO Scott relied on a system called EBDITA, or "earnings before depreciation, interest, taxes, and amortization," as a measure of cash flow before certain expenses. Scott demanded that for each hospital group, EBDITA increase by 5-20% per year. What was a hospital to do? It could increase its patient flow, but that would require closing down competing hospitals. It could increase prices (or overbill for its services), but only if it could get away with it. Or it could cut essential services. The first year, there might be something, however painful, that one could cut. The same might be true the second year. But there was no end to this process: Each year the EBDITA had to increase 5-20% over the previous year's level.

This led one health care executive to call Columbia/HCA "Attila the Hun."

The demands to slash services intensified as Columbia/HCA became bigger. In 1991, Columbia's long-term debt was only $0.23 billion. By 1995, after its merger with HCA, in which it assumed HCA's debt, Columbia/HCA's debt had ballooned to $7.38 billion. Columbia/HCA had huge debt service expenses. As well, as part of shareholder values, Columbia/HCA had pushed its stock price higher. That way, Wall Street would reward it with new investments, and Wall Street investors could get rich off the appreciation in Columbia/HCA's stock price, which had risen from $10 per share in 1990 to $54 per share in late 1995, a fivefold increase. That price had to be maintained at all costs. Further, Columbia/HCA had paid $4.2 million in a compensation package, including stock options, to Scott in 1995. It also had paid $3.75 million for luxury skyboxes at Nashville's new National Football League stadium, and had to make other similar payments.

Thus, especially after its February 1994 merger with HCA, in order to meet its various financial obligations, Columbia/HCA intensified the cost-accounting activities it had practiced since 1987. Its ruthless austerity was the model for a company acting according to shareholder values, and how that ideology wrecked America's medical system as a whole, particularly in three areas: the shutdown of services and hospitals, the attack on employment, and the cutting off of the poor.

Taking apart the hospital system

In May 1994, Columbia/HCA gave the town of Destin, Florida (population 8,000) three days notice that it was closing the only hospital there. Despite public protest and a petition with 11,000 signatures, Columbia closed the hospital, leaving only the emergency room open. In August 1994, Columbia closed the emergency room, too. Townspeople now travelled 45 minutes to get care. Columbia/HCA chief operat-

A 'cost-efficiency' scam

Columbia/HCA's oft-repeated lie is that the conglomerate provided better, cheaper care to patients due to its "economies of scale." In fact, studies show that Columbia/HCA doesn't pass on these "savings" to patients. Rather, it *increases* costs to patients—as well as to Federal programs.

The firm's CEO Thomas Frist, Jr. claims: "Columbia/HCA has been able to control costs for patients by reducing operating costs in a number of ways: using the size of our company to buy medical products in large volumes to attain low prices, sharing administrative costs throughout a local network, and working with employees to improve quality—often reducing redundant tests, drugs, treatments." An FBI affidavit for a search warrant of several Florida Columbia/HCA hospitals details how the company charged Medicare more than it should have, or filed false billings, "adding on additional tests for services that were never ordered or not medically necessary."

Advantages of not-for-profit hospitals

Data show that, although the median costs for providing care to a patient at Columbia/HCA hospitals was 1.5% less than at other hospitals, the price paid by patients at Columbia/HCA facilities was 8% or more higher. After one Tennessee hospital was purchased by Columbia/HCA, some charges to patients doubled. One study in Florida, where in 1994 Columbia owned 25% of the gen-

ing officer David Vandewater said, "You just can't have a hospital on every corner."

Also, when it bought the Destin hospital, Columbia bought the state license and "certificate of deed," which it refused to relinquish when it closed the hospital. Without these, no hospital other than Columbia/HCA could re-open the closed hospital or build a new one in the same locale. This is a key part of Columbia's strategy: to buy a hospital only to shut it down, and then force patients to Columbia's other hospitals, no matter how far away, thereby increasing the all-important EBIDTA. California citizens had to get Federal judges to order Columbia/HCA to resell hospitals or clinics it had closed, to groups that would re-open them.

In July 1994, Marc Gardner, who was then 30 years old and had worked a few years in the hospital field for Columbia/HCA, landed the job as vice president of its Sunrise Medical Center in Las Vegas, Nevada. The hospital had 688 beds, and gross billings of almost $1 billion, one of the largest in the nation. One of Gardner's principal responsibilities was to implement cost policy. Gardner described what happened in the May 30, 1997 *Wall Street Journal,* which reported it under the headline, "Ex-Manager Describes the Profit-Driven Life Inside Columbia/HCA."

Gardner's job paid $55,000 per year, he recalled, but the Las Vegas scene was pretty heady stuff: The first month there he attended a charity event at the Stardust Hotel, where he was seated next to the Governor of Nevada.

However, in late 1994, reality set in. Gardner reported that Columbia/HCA told him that the 1995 quota for his hospital would be a 50% growth in EBITDA. He told the *Journal,* "That blew me away. I knew we would have to scrape, cheat, and lie and do everything in our power to get that number to increase." He says that he was depressed when he left work that night, and told his wife, "I don't think I can do it."

During 1995, the staffing at Sunrise Medical Center was cut 7%. Gardner fired 15 nursing managers and cut back on registered nurses in favor of licensed practical nurses, who have less training and earn much less. Gardner cut the number of nurses in neo-natal care, increasing the number of babies each nurse had to attend to. He explained that he and other

eral acute care hospitals in the state, found that, once acquired by Columbia/HCA, some inpatient charges shot up 32%.

Florida has the most comprehensive statewide database in the country, which details financial and patient-specific reporting to the state Agency for Health Care Administration (AHCA). A 1997 study, "Comparison of Community-Owned Not-For-Profit Hospitals and Columbia/HCA Facilities in Six Florida Markets," using AHCA data, found that, based on a variety of factors, community not-for-profit hospitals provided superior value to their communities. Not only were charges per patient admission 12-33% less, but they also provided higher staffing levels and more full-time equivalent staff devoted to serving patients. The amount of community benefits, including uncompensated care to the medically indigent and unreimbursed research and education expenses, as well as outreach programs, far exceeded that provided by Columbia/HCA hospitals.

Columbia/HCA has become infamous for buying up and converting not-for-profit community hospitals to for-profit facilities. The former community hospital becomes its vehicle to bleed the community, at the same time that it drains billions of dollars out of the delivery of health care to the community. According to Linda Miller of the Trustees Volunteer Foundation, an organization of non-profit hospitals, the sales of community hospitals are usually enshrouded in secrecy—before, during, and after the sale—so the community knows nothing of how much the facilities have been sold for, who got jobs in the transaction, and where the community's money went.

John Leifer, a former Columbia/HCA official, for example, tells how Columbia/HCA uses rewards or enticements to "persuade" key players of community not-for-profit hospitals to sell their facilities. Often, a community hospital's executive would be given a higher-paying job or offered a leading role in a foundation that is set up with funds from the sale. The claim is, that such foundations will then use the sales money "for the good of the community." In one case, $80 million from the sale of a community hospital to Columbia/HCA was used to set up a foundation to ensure that the money went "back into the community." It did—it paid for free flying lessons for teenagers. The costs to the community also hit in less obvious ways, including through higher charges for care at the now for-profit hospital, as well as through lost jobs, staffing cuts, etc.

While the overall cost of the sales of community hospitals is not known, during 1990-96, for-profit corporations purchased some 200 community hospitals. If even half of these communities lost anywhere near $80 million in diverted health-care dollars through the sale of their not-for-profit hospital, then billions of dollars have been robbed from the delivery of health care, over and above the billions that Columbia/HCA is accused of defrauding Federal and state governments and private insurers.

The purchases, mergers, and takeovers by for-profit hospital cartels, including, increasingly, through 100-year leases by for-profit hospital management companies, has accelerated. Miller says that the sales of these community hospitals represent *what is possibly the largest redeployment of charitable assets in the country*.

managers assumed that the cuts would not be detected, because "babies don't talk too much."

In one of his useful proposals, Gardner urged that Sunrise Medical Center become a designated trauma center for the region, since it had 24 modern surgery rooms. The CEO of the hospital snapped back, "Are you kidding? There's no money in the gun-and-knife club."

Gardner reported two significant incidents. In August 1994, he said, an elderly homeless man entered the Sunrise emergency room in a disoriented state, and was discharged without the indicated computed tomography scan. Hours later, he ended up at a Catholic hospital, which ran a CT scan and found a brain hemorrhage that required surgery. Sunrise refused to take him back, although by law a hospital cannot dump a patient onto another hospital, or refuse to perform the necessary tests which would lead to admitting the patient.

A few months later, another homeless man was denied treatment at the Sunrise emergency room. According to Gardner, a doctor gave the man a glass of juice, and noted on his chart that he was "filthy" and suffered "acute homelessness." He was ushered out. About an hour later, the man died of pneumonia on the hospital lawn.

According to the March 5, 1996 *Orlando Sentinel,* Columbia/HCA president and CEO Scott acknowledged in court proceedings that the company had closed down 15 hospitals to "streamline" the market. This built up the occupancy rate at the other Columbia/HCA hospitals and padded the EBITDA cash flow. By 1997, Columbia had closed 25 hospitals, and at least 20 health care agencies.

In 1995 alone, Columbia closed 12 hospitals and eliminated more than 2,000 beds nationwide. The biggest slaughter occurred in Texas, where Columbia/HCA was directly responsible for closing seven hospitals, which comprised 62.5% of all hospital closings that year in Texas. In 1995, the Texas state legislature passed the Patients Protection Act, which was directed primarily against HMO practices, but also those of Columbia/HCA. Governor Bush vetoed the measure, but when some of its provisions were enacted despite his veto, Bush ordered the state Insurance Commissioner to make a notable exemption, to protect Columbia/HCA's profits.

Attacks on labor, wages, and skill-levels

Columbia/HCA also assaulted labor. On Oct. 31, 1995, Columbia/HCA formed a "partnership" with Denver Health One of Colorado. The next month, Columbia laid off 169 people, left another 230 jobs vacant, and replaced some employees with contracted hires. In March 1996, it announced another 139 layoffs, half of them nurses and professional health-care workers: a total of 538 layoffs in six months. It also closed 12 Denver outpatient clinics.

On Jan. 1, 1996, Columbia/HCA bought Good Samaritan Health System of San Jose, California, which comprised four hospitals, and converted it from a non-profit to a for-profit basis. Within the year, Columbia/HCA eliminated 700 to 890 jobs (the exact number is not clear), or 15.6% to 19.8% of Good Samaritan's staff of 4,500. Columbia/HCA fired 9.5% of the registered nurses, whose work with doctors forms the backbone of the U.S. hospital system. Columbia/HCA ripped up and renegotiated contracts with six collective bargaining units, including nurses and engineers. The agreements included concessions from the union relating to shift-differential pay and flexible hours. (The latter means that the employees can be furloughed when the hospital's census of patients is low.)

Treatment delays and filthy conditions were reported by nurses, and two union leaders were fired. Good Samaritan's former chief of surgery said, "People do get hurt. Medicine cannot be treated like a factory product."

In 1995, Good Samaritan's capital expenditures totalled $29 million; in 1996, under Columbia/HCA, it was slashed to $13 million.

But Columbia/HCA was not concerned with patient wellness. In 1995, Good Samaritan's reported operating margin was −13%; in 1996, under Columbia/HCA, it was +3%.

In early 1996, Columbia/HCA's Henrico Doctors Hospital in Richmond, Virginia laid off 65 workers, most of them registered nurses, many in supervisory positions, and a few months later eliminated another 38 jobs. In place of the skilled nurses, it brought in often less skilled, but lower paid, part-time nurses, nurse technicians, and unlicensed personnel, in several cases, putting patients at risk.

In April 1997, a judge found that Columbia/HCA supervisors, including national chief operating officer David Vandewater, had threatened nurses at Audubon Regional Medical in Louisville, Kentucky, with loss of benefits and the possible closing of the hospital, if they voted for a union at the hospital. The judge instated the union.

Cutting off the poor

A defining feature of the public and not-for-profit hospitals is that they treat a certain percentage of poor and indigent patients. This has been a fundamental concept of American hospitals for nearly 200 years, though a tradition that is less and less observed. Columbia/HCA decided to end that practice, because it cuts into earnings.

A March 24, 1995 study by *Modern Healthcare* magazine found that of the 166 hospitals in Tennessee that it examined, all nine hospitals that were owned by Columbia/HCA provided noticeably less uncompensated care to the poor than not-for-profit hospitals. Columbia/HCA's "indigent care expenses" were 2-3% of total expenses, while the state average for indigent care expense was 8%. Columbia/HCA, which is headquartered in Nashville, then tried to gut Tennessee's indigent care law.

Columbia/HCA prevented the Florida Agency for Health Care Administration from collecting indigent-care trust fund money for hospital-based health services from 14 of its hospitals. Florida imposes a 1.5% tax on hospital's operating revenues to support care of the poor at some of the state's large public teaching hospitals. Columbia, which owns 60 hospitals

in Florida, has won its battle to prevent collection of this money from its hospitals' home health services.

In the April 14, 1997 issue of *Modern Healthcare,* in a story entitled "Inside the Predator," former Columbia/HCA officer and consultant John Leiffer summed up the company's view: "Wars are never gentlemanly, and economic conflicts are no exception. I grew tired of the perceived atrocities committed by Columbia."

Trampling the law

Desperate for new sources of loot, Columbia/HCA next took its practices, already genocidal in character, clearly outside the bounds of the law—the inevitable consequence of the financial philosophy of Rainwater and Columbia/HCA.

Columbia/HCA made a system-wide decision to illegally drain money from the Medicare system, the Federally sponsored program that pays hospital costs, and some doctor costs, for 37 million elderly and disabled in America. Wall Street has complained that Medicare is a much too "inefficient" and "expensive" government program, which represents an excessive burden on the taxpayer. Yet, the paradigmatic "free enterprise" firm of Columbia/HCA picked Medicare clean.

Columbia/HCA used "up-coding" to over-bill for patients. Medicare pays a fixed rate for treatment of roughly 470 coded illnesses. Rates vary sharply—the more severe the illness, the more Medicare pays. In upcoding, a hospital bills for a more severe illness than the one treated.

The Federal government started a probe of Columbia/HCA billing procedures at its Spring View Medical Center in Kentucky. It focussed on respiratory infections, which can be "complex respiratory infections," or less severe, such as pneumonia. In 1995, Spring View billed Medicare for treating 191 cases of complex respiratory infection, and billed only 10 cases of pneumonia. By contrast, four nearby Kentucky hospitals billed Medicare for 263 cases of pneumonia with complications, compared to 117 cases of complex respiratory infection. How could there be such a glaring discrepancy, since they were drawing from the same patient pool? The answer is found in the fact that Medicare paid $5,700 for treatment of a complex respiratory infection, but only about $4,000 for pneumonia with complications.

The focus shifted to Columbia's Cedars Medical Center in Miami, Florida. In 1992, the last year that Cedars Medical operated independently, of the total respiratory cases for which it billed Medicare, only 31% were billed at the highest rate. A year later, after Columbia took over, 76% of the respiratory cases were billed at the highest rate. By 1995, some 93% of cases were billed at the top rate: It billed 355 cases of complex respiratory infection and only 28 cases of respiratory infection at the three lowest-paying diagnoses. In this area, Medicare paid roughly $6,800 for a case of complex respiratory infection, but only $3,150 for simple pneumonia.

The pattern was clear: Columbia/HCA would upcode a diagnosis of pneumonia, or pneumonia with complications, to a "complex respiratory infection," and collected $1,700 to $3,650 more per case. It did this at its hospitals across the country, and not just for respiratory infections. A study by the *New York Times,* which included an analysis of more than 30 million Columbia/HCA billing records, published on March 27, 1997, reported that "at Columbia, employees responsible for billing Medicare recalled being presented with lists of 'focus [billing] codes' on which Columbia wanted them to concentrate." These codes were the more lucrative ones, and the directions came from the top.

Columbia/HCA also billed a lot of cases through its "home health care" division, because Medicare's reimbursement level for treatment provided through home health care is more lucrative than for inpatient care. Due to its use of billing for home health care and other practices, the *New York Times* study found that in Texas, "Medicare pays nearly 10% more for treatment that begins at a Columbia hospital than at other Texas hospitals. This meant extra Federal payouts of nearly $50 million in 1995" to Columbia/HCA hospitals in Texas. If Columbia/HCA carried out the same practices nationwide, it is possible that it overbilled Medicare by as much as $150-250 million in 1995. It is possible that between 1993 and the end of 1996, Columbia/HCA overbilled Medicare—that is, carried out a theft of—$600 million to $1 billion.

There is a second illegal practice that Columbia/HCA apparently was very fond of. Laws prohibit doctors from referring patients to laboratories and clinics in which they hold an ownership stake, since the doctor would benefit from the referral, called "self-referral." U.S. Rep. Pete Stark (D-Calif.) had introduced legislation that would prohibit doctors from referring patients to hospitals in which they held an ownership. Yet, Columbia/HCA would sell syndications, in which a group of doctors would own 20-40% of a hospital, tying them financially to the hospitals' profit. This had two interconnected purposes: First, it was an attempt to bribe doctors to accept whatever cost-cutting Columbia/HCA was carrying out, because if the doctors protested the cuts, that would lower the profits and lower what the doctors earned from their ownership stake. Second, it was an attempt to have doctors refer their best-paying patients to the Columbia/HCA hospital, while sending their non-paying or heavily discounted HMO patients to non-Columbia/HCA hospitals. On top of the serious moral problems this posed for doctors, it increasingly happened that, as Columbia/HCA's hospitals bought laboratories and clinics, doctors who owned an ownership stake in a Columbia/HCA hospital, and who referred patients to that hospital, ended up, directly and indirectly, referring patients to laboratories and clinics owned by Columbia/HCA, thus violating the "non-self-referral" law.

By 1994-96, Columbia/HCA was paying bonuses to doctors who would boost patient traffic at its hospitals.

Raids and indicments

Columbia/HCA reportedly pushed to double its more than 7% ownership of America's hospitals. It tried to regiment its workforce. It put pressure on employees to wear a Columbia/

HCA lapel pin, and at one point there was a proposal that its managers wear uniforms. Columbia/HCA implemented a $100 million "branding campaign," with newspaper ads and electronic media commercials, to get prospective patients to recognize the Columbia/HCA brand and go to Columbia/HCA hospitals.

But, on March 19, 1997, more than 100 Federal agents, led by the FBI, Internal Revenue Service, and Defense Department, served unsealed search warrants on Columbia/HCA facilities in El Paso. On June 25, indictments were handed down against three Columbia/HCA officials in connection with overbilling Medicare at Columbia's Fawcett Memorial Hospital in Florida. Then, on July 16, 1997, several hundred Federal agents, including from the Fraud and Investigative Unit of the U.S. Department of Health and Human Services, the Defense Criminal Investigative Services, and the U.S. Postal Service, served search warrants at 35 Columbia/HCA facilities in Florida, Texas, Tennessee, Utah, North Carolina, and Oklahoma.

Throughout all of this, Rainwater and his flunky, CEO Rick Scott, acted as if nothing out of the ordinary were happening. When attempts were made to remove Scott, Rainwater backed him and Columbia/HCA practices to the hilt. Rainwater told the Sept. 8, 1997 *Fortune* magazine, "Great executives make mistakes, and usually they recover." But within days of the July 16 raid, the stock price of Columbia/HCA fell 12%. At that point, it was decided that Scott had to go. He was dismissed on July 25, with a $10 million severance package. Thomas Frist, Jr., the chief partner of the Frist family which had founded Hospital Corp. of America whose merger with Columbia Hospital Corp. in 1994 created Columbia/HCA, replaced Scott as CEO (see box on Frist). Between 1997 and 1999, Columbia/HCA sold off 100 hospitals, and put on a cosmetic face, that it was mending its ways, as it waited to see what charges would be brought against it by several Federal and state investigations of its illicit practices.

The damage is done

But, during 1989-97, Columbia/HCA had shattered the American hospital system: Its policies and practices significantly redefined how hospitals are governed.

Columbia/HCA's chief operating officer David Vandewater had said, "You want to know who the enemy is? The enemy is St. Mary's [hospital]. They've got your patients."

Not-for-profit hospitals were caught in a pincer's movement. Columbia/HCA intimidated many hospitals: It could purchase supplies 20-30% cheaper, it was cutting staff and services to increase its profits, it was paying bonuses to have doctors refer the highest-paying patients to Columbia/HCA, and so on. Columbia/HCA could steal away the patients from an independent hospital, or, with its huge size and backing from Wall Street, it could buy out the independents. Another side of this operation were the HMOs, which were putting limits on coverage for patient surgeries, the length of hospital stays, and post-operative rehabilitation.

Though several independent hospitals resisted, the hospitals increasingly adopted the draconian cost-cutting of Columbia/HCA, as well as other big company in the for-profit hospital business, Tenet Healthcare Corp. Independent hospitals which were not financially strong, which were originally set up to serve patients and the advancement of medicine, would have done just fine if left to carry out their original purpose, but they failed in this dog-eat-dog environment.

Table 1 shows that during 1985-97, of all hospitals in America, 11.8% were closed down, and 14.7% of all beds eliminated. The beds-per-capita ratio went from 4.19 in 1985 to 3.22 in 1997, the last year of available figures. This is

Rainwater tied to HCA

When Richard Rainwater launched his Columbia Healthcare looting scam with Richard Scott, he was a major investor in another for-profit hospital cartel, the Tennessee-based Hospital Corporation of America (HCA). HCA was founded in 1968 by former Kentucky Fried Chicken owner Jack C. Massey, Dr. Thomas F. Frist, Sr., and Thomas F. Frist, Jr. In 1982, Frist, Jr., no less ruthless than Scott in enforcing the "shareholders' value" in hospital looting, was named CEO. HCA eventually owned or managed nearly 500 U.S. hospitals and spawned numerous for-profit healthcare and hospital management companies. But, by 1992, Frist, Jr. reduced its holdings to 74 acute care and 54 psychiatric hospitals. When Columbia merged with HCA in 1994, Scott took over as CEO (Frist, Jr. later succeeded Scott as CEO at Columbia/HCA in 1997 after Federal investigators raided Columbia/HCA's operations in several states).

Bill Frist: Columbia/HCA's man in Congress

In February 1994, as Rainwater and Scott carried out their $7.6 billion merger with HCA, another son of Thomas Frist, Sr., cardiologist Bill Frist, was running for U.S. Senate. According to *Modern Healthcare* (August 1997), Bill Frist, who, with his wife and children reportedly owned $9-25 million in Columbia/HCA stock, used the stock to secure a loan with which to bankroll his campaign.

Frist is vehemently opposed to the Bipartisan Patients' Bill of Rights (passed in the House with the support of more than 160 Republicans), which provides all Americans with critical protections, such as access to independent external review when "managed" health plans wrongfully deny or delay needed treatment, and the right to sue plans whose denial of treatment results in harming, disabling, or killing patients. (In February, the Tennessee

significantly below the level of 4.5-5.5 beds per capita stipulated by the Hill-Burton Act of 1946. This is what the Columbia/HCA assault had achieved.

Rainwater also led the attack on the psychiatric hospital sector. In 1997, Rainwater bought the Charter Behavioral Health System, the largest chain of psychiatric hospitals, with 90 hospitals, which represented 15.3% of all psychiatric hospitals in America. Charter Behavioral had approximately 8,000 patients. Through asset-stripping, Rainwater forced the closure of 57 of those hospitals, 59% of the total, and dumped 3-5,000 patients. Rainwater did this through his real estate vehicle, Crescent Real Estate Equities, which owned Charter Behavioral. Up through late 1998 when he was elected Texas governor, George W. Bush owned up to $1 million worth of stock in Crescent Real Estate Equities.

Every step of the way, George W. Bush supported and intervened to protect Richard Rainwater's operations. The consequences are clear: Through Charter Behavioral and Columbia/HCA, Rainwater carried out a pre-meditated, systematic asset-stripping of America's hospital system, which decimated health care and hospital infrastructure, and created the potential for a dramatic increase in the death rate. The objective was to suck cash flow out of hospitals and patient care, to send it to Wall Street. With "shareholder value" as the core

House passed a bill similar to the Bipartisan Patients' Bill of Rights.) But, Bill Frist, trotted out as the Senate's "only doctor," repeatedly lied on national television that the Senate Republican alternative to the Bipartisan Patients' Bill of Rights, concocted by Conservative Revolution extremists to stop the Patients' Bill of Rights at all costs, guarantees "independent external appeals" to millions of patients. The George Washington University Medical Center, School of Public Health analysis, says that the GOP's bill actually gives health maintenance organizations (HMOs) more rights than ever. It lets the managed-care plan choose and pay for an "expert" who is under contract with the plan, and base its "review" of the HMO's negative treatment decision solely on the plan's *own* arbitrary definition of medical necessity.

Frist's plan to privatize Medicare

Senator Frist has a vast personal stake in the for-profit hospital company, and has used his position as a U.S. Senator to promote Federal legislation to greatly enhance Columbia/HCA's profitability. One such bill is the Breaux-Frist proposal to "reform" Medicare, the Medicare Preservation and Improvement Act (S. 1895), which would end Medicare's 40-year commitment to cover all the medical needs of the nation's 40 million elderly and disabled citizens, and instead, would cap Medicare expenditures and privatize the program.

Medicare beneficiaries would be given a voucher or a defined contribution (known as a premium support) that pays for a fixed percentage of the average costs of a premium from a *private* insurance or managed-care plan (it's modelled on the Federal Employees Health Benefits Program that pays 72% of premium costs). Medicare beneficiaries would pay the remaining cost of the premium. Those with complicated or chronic medical problems, who need more costly plans and who are often the most indigent, would have to pay more, for more comprehensive coverage. When the Federal budget cap is not enough to cover average costs, beneficiaries would have to pay more out of pocket. Frist claims his bill gives seniors more "choices" from more market-based options—but, "market" solutions are not tailored to the needs of seniors, and restrict their access to hospitals and doctors. In fact, HMOs are dumping nearly a million Medicare beneficiaries—after fleecing them and the Medicare program itself.

There is no guarantee under Frist-Breaux that fee-for-service plans will even be available. As Diane Archer, Executive Director of the Medicare Rights Center, told *EIR,* "This plan gives you a choice of no choice." Frist's plan lets hospitals and physicians form groups that offer health insurance plans to seniors, like HMOs and insurers. Should his bill pass, Columbia/HCA, which is, by far, the largest hospital cartel in the country, stands to make billions on for-profit enterprise preying, this time, on the elderly and disabled.

Sen. Bill Frist (R-Tenn.) (left), touted as the only medical doctor in the Senate, backs "shareholder value" legislation which benefits his family's financial holdings, to the detriment of health care.

TABLE 1
Community hospitals closed and beds eliminated, 1985-97

	1985		1997		Number shut down		Percent shut down	
	Hospitals	Beds	Hospitals	Beds	Hospitals	Beds	Hospitals	Beds
Massachusetts	112	25,892	84	17,400	28	8,492	25.0%	32.8%
Michigan	193	37,546	154	27,900	39	9,646	20.2%	25.7%
Minnesota	165	21,933	137	17,100	28	4,833	17.0%	22.0%
Texas	480	66,061	407	55,800	73	10,261	15.2%	15.5%
Illinois	238	54,925	202	40,300	36	14,625	15.1%	26.6%
Washington	103	13,173	88	10,800	15	2,373	14.6%	18.0%
Tennessee	145	25,230	124	21,100	21	4,130	14.5%	16.4%
Alabama	129	19,703	111	18,600	18	1,103	14.0%	5.6%
Ohio	197	47,500	170	36,100	27	11,400	13.7%	24.0%
California	479	83,232	414	74,100	65	9,132	13.6%	11.0%
New York	259	78,986	225	71,000	34	7,986	13.1%	10.1%
Missouri	141	25,734	123	20,900	18	4,834	12.8%	18.8%
Louisiana	145	20,190	127	18,600	18	1,590	12.4%	7.9%
Pennsylvania	241	56,221	217	45,700	24	10,521	10.0%	14.7%
U.S. total	**5,732**	**1,000,688**	**5057**	**853,300**	**675**	**147,388**	**11.8%**	**14.7%**

Sources: American Hospital Association; *U.S. Statistical Abstract,* various years; *EIR.*

of his outlook, one can only shudder to think what George W. Bush would do if he became President.

Documentation

'Whistleblower' lawsuits plague Columbia/HCA

Since 1993, when the very first "whistleblower" lawsuit was filed against Columbia/HCA, up to the latest filing on Feb. 15, 2000, an estimated 700 U.S. government agents from at least seven Federal agencies have been deployed to investigate criminal and civil violations perpetrated by Columbia/HCA, its hospitals, subsidiaries, and other companies, such as the accounting firm KPMG Peat Marwick, connected to their operations. Involved are the Department of Justice (DOJ), the Federal Bureau of Investigation, the Department of Defense (including the Civilian Health and Medical Program of the Uniformed Military Services, or CHAMPUS, and the Office of Inspector General for the Defense Investigative Service), the Office of Inspector General for the Department of Health and Human Services, the Health Care Financing Administration (which administers the Medicare and Medicaid programs), and the Securities and Exchange Commission. The Federal Trade Commission has acted on scores of separate anti-trust violations, as well.

Under the *qui tam,* or whistleblower provisions of the Federal False Claims Act, private individuals are allowed to sue on behalf of the government. The False Claims Act provides treble damages and civil penalties for violations of the act. Under certain circumstances, the whistleblower, or relator, usually a former employee of the company, can get up to 15-25% of the government's recovery, in cases in which the government joins the suit.

The dozens of lawsuits filed against the Tennessee-based giant allege that Columbia/HCA used hundreds of schemes to systematically defraud the Federal government of an estimated $1 billion of Medicare, Medicaid (the Federal-state health care program for the indigent and disabled), and other health program dollars. Hospital management, inpatient care, home care services, wound care, psychiatric or rehabilitation services—just about every aspect of Columbia/HCA's "successful market-based" prescription for "righting" America's health care problems—appears rife with criminal activity. The extent of criminal activity may never be determined, because the government appears to lack the aggressiveness needed to bring all the cases to court.

To date, the Justice Department has told *EIR,* only a few of the suits have been settled (see below). In October 1999, Columbia/HCA reportedly was working with the DOJ to reach a quick settlement of over two dozen lawsuits. Columbia/HCA's strategy has been to seek a settlement based on the alleged issues raised in all of the suits, issue by issue, rather

than dealing with each case.

In December, a special Federal judicial panel allowed 26 civil whistleblower cases to be consolidated, leading eventually to a possible global settlement against Columbia/HCA. According to the DOJ, many of the suits are still sealed, or only partially unsealed. In January, it was announced that three civil fraud lawsuits, in which 50 private health insurers are alleging that Columbia/HCA defrauded them, are about to be filed against the cartel.

The lawsuits

A summary of a few *qui tam* suits follows:

United States ex rel. Schilling v. Columbia/HCA

The lawsuit was filed in 1995 by John Schilling, a former Florida Columbia/HCA reimbursement supervisor, who gathered evidence of suspected fraud while he prepared claims for Medicare reimbursements. On Dec. 30, 1998, the DOJ joined the lawsuit, saying that virtually every health-care facility (100 hospitals) that belonged to the Columbia chain prior to its merger with Hospital Corporation of America, was infected with "fraudulent cost-reporting practices." Columbia systematically defrauded the government for ten years by keeping two sets of books, or costs reports, on hospital expenditures for Medicare patients. In the first set, Columbia illegally charged Medicare for costs which the hospitals knew were unallowable, such as its marketing or advertising, and illegal financial inducements to doctors to refer patients to its facilities. They then prepared internal "reserve costs reports" that listed their real Medicare expenditures. In case the government were to discover the fraud, the firm set aside funds to repay Medicare for the illegal reimbursements.

The Schilling evidence led to the July 22, 1998 seven-count indictment and prosecution of two middle-level Columbia/HCA executives, who were sentenced to 24 and 33 months imprisonment, and ordered to pay small fines, and, in one case, $1.5 million in restitution (pending appeal).

United States ex rel. McLendon v. Columbia/HCA

On July 19, 1999, the DOJ joined this lawsuit which charged that Columbia/HCA and the Olsten Corp. "caused the taxpayers to foot the bill" for Columbia/HCA's acquisition of Olsten's subsidiary, Kimberly Home Health Care, Inc., by passing on part of the purchase costs to Medicare by disguising them as management fees. Olsten and Kimberly agreed to pay $61 million to settle allegations that both companies defrauded Medicare. Olsten agreed to pay $51 million in a civil settlement; Kimberly will enter a criminal plea agreement and pay $10 million in criminal fines. To date, none of the allegations against Columbia/HCA have been resolved.

United States ex rel. Alderson v. Columbia/HCA, Quorum Health, Health Trust, et al.

On Oct. 5, 1998, the United States joined this lawsuit first entered by James Alderson in 1993 against more than 200 hospitals in 37 states owned by Hospital Corporation of America and HealthTrust. The two hospital chains were purchased by Columbia in 1994, and the alleged fraud continued against Medicare and other Federal programs. Also named in the suit is Quorum Health, at the time a corporate cousin of HCA. In 1989, HCA sold its subsidiary, HCA Management, to Quorum, as a corporate spin-off that is a for-profit hospital management company. According to Alderson, Columbia/HCA and Quorum defrauded Medicare of about $1 billion beginning in 1984, by padding their expenditures, including with illegal public relations costs and for treatment of non-existent patients.

United States ex rel. Aldrich v. Columbia/HCA, et al.

The lawsuit, entered in 1997, charges that Columbia/HCA submitted false claims to a Medicaid-funded managed-care plan for adolescent psychiatric services at its Brunswick Hospital in North Carolina. The suit alleges that during 1994-96, the hospital billed Medicaid for services that were provided by unqualified employees, as if they were provided by qualified mental health professionals. They also billed for services never provided, and falsified records to conceal fraud. On July 29, 1999, Columbia/HCA agreed to pay a $1.25 million settlement to both the U.S. government and the state of North Carolina.

United States ex rel. Parslow v. Columbia/HCA, Curative Health Services, Inc.

In April 1999, the DOJ joined the lawsuit against Columbia/HCA and the New York-based Curative Health, which manages wound care centers at more than 175 hospitals nationwide, including at 42 Columbia/HCA hospitals. The complaint charges that, since 1993, the 42 Columbia/HCA hospitals have charged Medicare for excessive management fees which Columbia/HCA paid to Curative—fees which were inflated by over 400% to cover the cost of a Curative product which Medicare does not reimburse. The hospitals also illegally charged Medicare for advertising and for kickbacks of $400 per patient that Columbia/HCA paid to Curative for patient referrals.

United States ex rel. Marine v. Columbia/HCA, et al.

On Feb. 15, 2000, the DOJ joined this suit, which alleges that Columbia/HCA submitted false reports pertaining to home health-care services provided to homebound patients by nine of its hospitals since 1994. The suit also alleges that Columbia/HCA shifted costs from one facility that was over the Medicare costs limit, to its other facilities that were under the costs limit, to maximize reimbursement from Medicare. The suit states that Columbia/HCA double-billed Medicare for administration and billing costs incurred by contractors hired to manage the hospitals' home health agencies.