

# *Unconscionable*

An Investigative Report on Price Gouging and Unfair Trade Practices  
Against the Uninsured by Lee Memorial Health System and Other  
Hospitals in Fort Myers, Florida

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Fort Myers, Florida  
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***Executive Summary***

After reviewing the testimonies, examining the market, and analyzing the hospital bills of victims in Fort Myers, the Consejo de Latinos Unidos makes three recommendations based on our findings:

- The Federal Trade Commission and Florida Attorney General must 1) investigate what appears to be collusion by hospitals in the Fort Myers market to price gouge uninsured, self-pay patients and 2) probe the Florida Hospital Association for holding what looks like “collusion” workshops on price-gouge tactics and the blatant exchange of pricing information between hospitals in Florida.
- The Florida Attorney General must enforce the Florida Deceptive and Unfair Trade Practices Act (Florida Statute § 501-204) that prohibits “unconscionable acts or practices in the conduct of any trade or commerce.” The state of Florida must commence enforcement of this act regarding the unconscionable price gouging of the uninsured.
- Hospitals in Fort Myers and across the country should voluntarily adopt a reasonable pricing structure for the uninsured that does not discriminate based on a person’s race, ethnicity, or income. Tenet Healthcare’s “Compact with the Uninsured” (see Appendix B) is an example of excellence in treating the uninsured with dignity, fairness, and respect.

## ***Introduction***

“Are you coming to Fort Myers?” the gentleman on the phone asked. Early this year, the Consejo de Latinos Unidos was contacted by Ben G. from Fort Myers, Florida who alleged he had been price gouged by Lee Memorial Hospital. Ben had heard about our work and was hoping we could come to Fort Myers and investigate the abuses against the uninsured by local area hospitals, including the market leader Lee Memorial Health System.

The Consejo de Latinos Unidos (or Council of United Latinos) is a national nonprofit organization that educates and assists Latinos and others in the areas of health care, police protection, immigration, and education. The Consejo has been combating hospital price gouging across the country.

On January 28, 2003, *The Wall Street Journal* reported “a big win” for the Consejo when Tenet Healthcare, the nation’s second largest hospital chain announced that it would end the practice of price gouging uninsured patients and adopt a “Compact With the Uninsured” (see Appendix B). The Consejo was the first organization to outline Tenet’s “aggressive pricing strategies” against uninsured patients in February of 2002.

This summer, after meeting with officials of an investigative subcommittee of the U.S. Energy and Commerce Committee, Consejo helped spur a national probe into hospital price gouging. On July 16, the *Associated Press* reported:

“The investigation grew out of allegations by an advocacy group for Hispanic patients that the two largest for-profit hospital chains, Nashville-based HCA and Tenet Healthcare Corp. of Santa Barbara, Calif., subjected uninsured patients to price-gouging. The Los-Angeles based group, Consejo de Latinos Unidos, said uninsured patients are charged up to five times what insurance companies typically pay for the same procedures and services.”

Last month, the Consejo finally made it to Fort Myers to investigate abuses against the uninsured. One in three Latinos is uninsured and minorities are more greatly affected by the egregious behavior of hospital price gouging. The Consejo established the Hospital Victims Project in May of 2002 to help all uninsured individuals, regardless of race or ethnicity.

### ***Who are the Uninsured?***

When we talk about the uninsured, we are talking about families that are not poor enough to qualify for Medicaid or charity care, and not wealthy enough (or healthy enough) to purchase health insurance. They are in the middle, stuck paying the bill.

Hospitals and their trade associations appear to be intentionally trying to confuse people and deflect the media by throwing out numbers about the millions hospitals give away for charity care, for uncompensated care, or in write-offs.

We are *not* talking about charity care cases.

We are talking about uninsured families who are stuck paying the bill.

### ***The Price Gouging Problem***

Around the nation, hospitals have discovered that they can charge much higher prices to uninsured patients who are not represented by a powerful insurance company. Typically, a hospital will charge uninsured patients three, four, five or even ten times as much as what an insured patient pays for the same procedures or services.

Hospitals charge these outrageous prices to the uninsured because they can get away with it. The U.S. or state government does not protect the uninsured from hospital price gouging. The majority of hospitals are non-profit or owned by local government. It does not matter; they will still impoverish the uninsured patient. Research done by Harvard University shows that one-half of all bankruptcies are caused by medical debt.<sup>1</sup>

A medical bankruptcy is not caused by a visit to the doctor. It is caused by a visit to the hospital, which will pursue an uninsured patient with heartless bill collectors and attorneys to take whatever the patient has to pay their outrageously high bills.

As we reported in our *Infierno* report earlier this year:

“Hospitals have quietly cultivated a lucrative self-pay market and are collecting significant sums of money from uninsured patients, including low-income families who may own a home. By pressuring uninsureds to make high monthly payments, offering superficial lump-payment ‘discounts,’ encouraging credit card debt, and suing those with assets, hospitals are reaping in huge profits off the backs of families who lack medical insurance coverage.”<sup>2</sup>

In regards to Fort Myers, we looked at several hundred lawsuits filed by the three major hospital operators in Lee County: Lee Memorial Health System, HCA and Health Management Associates. Reviewing court files, we collected over \$1,000,000 in medical bills from the Lee County Courthouse. We spent two weeks, knocking on doors and meeting with these sued individuals. We were also able to analyze over \$760,000 of these bills (See Appendix A). Our analysis shows that these patients were charged double, triple or in some cases five times more than what a hospital would typically accept as payment in full from an insurance company.

After reviewing the testimonies, examining the market, and analyzing the hospital bills of victims in Fort Myers, we make three recommendations based on our findings:

- The Federal Trade Commission and Florida Attorney General must 1) investigate what appears to be collusion by hospitals in the Fort Myers market to price gouge uninsured, self-pay patients and 2) probe the Florida Hospital Association for holding what looks like “collusion” workshops on price-gouge tactics and the blatant exchange of pricing information between hospitals in Florida.

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<sup>1</sup> AMS News, February 3, 2003.

<sup>2</sup> Forbes, K.B., *Infierno*, Consejo de Latinos Unidos, July 16, 2003, page 4.

- The Florida Attorney General must enforce the Florida Deceptive and Unfair Trade Practices Act (Florida Statute § 501-204) that prohibits “unconscionable acts or practices in the conduct of any trade or commerce.” The state of Florida must commence enforcement of this act regarding the unconscionable price gouging of the uninsured.
- Hospitals in Fort Myers and across the country should voluntarily adopt a reasonable pricing structure for the uninsured that does not discriminate based on a person’s race, ethnicity, or income. Tenet Healthcare’s “Compact With the Uninsured” (see Appendix B) is an example of excellence in treating the uninsured with dignity, fairness, and respect.

***Key Findings***

Our work has produced the following key findings about hospitals in Fort Myers and their treatment of the uninsured. These findings are similar, if not identical, to the findings we have found in previous reports and investigations.

- Uninsured patients are price gouged anywhere from two to six times more than what a typical insurance company would pay for the same procedure and services.
- Uninsured patients are the perfect target for aggressive hospital collection practices and are subjected to harassing phone calls, lawsuits, destroyed credit histories, and property liens.
- Most uninsured patients are never contacted by a hospital’s financial counselor or social worker to apply for government programs or charity care.
- Many of the few uninsured patients who do apply through the hospital for charity care or discount program never hear back from the hospital.
- Unreasonable, inflexible, or unrealistic terms are sought by hospital collectors.
- Discounts are superficial, arbitrary, and extremely difficult to fulfill.

***Conspiracies and Collusion***

On April 23, 2003, a final consent judgment was entered in Fort Myers on a case in which the Florida Attorney General accused hospital operators HCA and Cleveland Clinic Florida of “conspiring for years to artificially inflate costs in 10 [Florida] counties, including Lee.”<sup>3</sup>

HCA is the nation’s largest for-profit hospital operator and owns at least two hospitals in the Fort Myers area. When HCA came out with a “new and improved” financing plan for the uninsured earlier this year, it was obvious to us that the uninsured were never interviewed or consulted and that it was simply a publicity stunt. Every so-called revision has a weasel-worded qualifier. Under this worthless fluff, uninsured patients will have to prove their treatment is “nonelective,” prove their home is worth less than \$300,000, prove they have the inability to pay before having their wages garnished, or wait until HCA finds it “appropriate” to offer a payment plan. If not, HCA will simply price gouge the uninsured and demand payment in full.

As we reported in our *Infierno* report:

“HCA’s deception of putting the wolf in sheep’s clothing is no surprise to us because HCA has a spotted history when it comes to honesty and integrity. Earlier this year, the hospital giant agreed to pay almost \$900 million to settle claims of Medicare and Medicaid fraud. Since 1999, HCA has paid a combined whopping \$1.7 billion to settle claims of fraud....[and now] HCA appears to be engaged in the most deplorable, immoral, and egregious behavior we have ever seen against the uninsured.”<sup>4</sup>

HCA has agreed to settle the antitrust action by the Attorney General of Florida. Although HCA denies they have done anything illegal, but will pay a fine, the consent order states the following:

“Prices for the use of health care facilities to public entities and other Florida consumers have been unlawfully increased.”<sup>5</sup>

If HCA and Cleveland Clinic Florida were caught unlawfully increasing prices, could there be more behind the scenes market manipulation by the oligopoly of hospitals in Fort Myers? The same consent order states:

“The price competition among market participants has been unreasonably reduced.”<sup>6</sup>

Our review of federal data concludes that price competition does not even appear to exist in Fort Myers.

According to Medicare, five of the leading hospitals in Lee County have similar cost to charge ratios which means they charge almost the same outrageously high prices.

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<sup>3</sup> Hoyem, Mike, “State Sues HCA, Cleveland Clinic,” *Fort Myers News-Press* website, April 29, 2003.

<sup>4</sup> Forbes, K.B., *Infierno*, Consejo de Latinos Unidos, July 16, 2003, page 8.

<sup>5</sup> *Florida vs. HCA*, Case 03CV177FTM29DNF, U.S. District Court, Consent Order, Item 8 (d), April 23, 2003.

<sup>6</sup> *Ibid*, Item 8 (b).

Are they colluding or simply exchanging information between themselves? What organization is behind this activity?

Here is the data we uncovered:

Hospital Operator	Hospital	Cost to Charge Ratio	Times Cost	Sample Cost	Sample of Amount Billed	Date of Medicare Data
LMHS	Cape Coral	.341	293%	\$10,000	\$29,300	09/2001
HMA	East Pointe	.310	323%	\$10,000	\$32,300	11/2001
HCA	Gulf Coast	.312	321%	\$10,000	\$32,100	12/2000
HCA	Southwest Florida	.285	351%	\$10,000	\$35,100	12/2000
LMHS	Lee Memorial	.3525	284%	\$10,000	\$28,400	09/2002

### *A Smoking Gun?*

Last week, on October 23, the Florida Hospital Association held a statewide meeting called “Chargemaster 101” at their regional office in Orlando. It appears price information is freely exchanged among members at these meetings.

Under the auspices of the subsidiary Florida Hospital Association Management Corporation (Health Information Management), the Florida Hospital Association appears to control and monitor hospital prices by holding regular meetings on both a regional and statewide basis with top executives of the 222 hospital members of the association.

Additionally, the Florida Hospital Association has advised its membership to ignore the new Florida hospital bill dispute resolution process overseen by the Florida Health Agency. Maximus, the dispute resolution contractor with the Florida Health Agency, recently held that a hospital price reimbursement rate of 120 percent of Medicare reimbursement was “reasonable.”

An interesting fact is that the Florida Hospital Association’s dominant member is HCA—the same HCA that has paid approximately \$1.7 billion to settle claims of fraud to the federal government. HCA directly controls 19.2 percent of the acute care hospital beds in Florida. The President of the HCA West Florida Division is also the Chairman of the Board of Trustees of the Florida Hospital Association.

***Patient Testimonials***

Below are samples of the horrific behavior we uncovered in Fort Myers. The vast majority of these victims went to hospitals operated by Lee Memorial Health System.

***Patient Interrogated by Hospital Officials: “I was Treated like a Criminal”***

Wayne N. broke his leg. “I was there one night because I broke my leg in a boating accident. My insurance only covered the first \$1,000 because I was out in the water. I snapped my tibia, ...and ...so I went to the hospital by ambulance and they wrapped my leg in ace bandage that night even though it was broken in five places, from my knee to my ankle. They then sent me home because they said they would not have the operating room for about thirty-six hours. I was in a lot of pain. About thirty-six hours later, I went back and when I tried to register they did not want to take me in unless I gave a \$4,000 deposit, meanwhile I was not thinking straight. This bill is for the surgery. I was sitting there all confused three different people approached me, one at the admitting desk, someone else and the supervisor. The supervisor was very ignorant. Unfortunately I did not have any means of paying them. I would have used my credit cards but they were all max-ed out. They finally did the surgery; they put a rod from my knee to my ankle. The doctor was great, and he even reduced his fees. The hospital never sent a social worker to speak to me. As soon I came out of the operating room, two women wanted me to sign documents. My eyes started to swell up from all their interrogation. This was not financial counseling...counseling my ass... they were trying to get me to sign and they were asking me what money I had. I was interrogated for about 45 minutes. They worked for the hospital collections. They were incredible; they were going [through] my little plastic bag, a shoe, my wallet; they even had a print out from Equifax and they were asking me about my credit cards. I did not even know [to whom] those credit cards belonged to. They said I fell between the cracks and that I would have to stand on my own two feet. I want to take care of the hospital. I called the hospital two or three times and they never called me back. I got a couple of harassing calls and that was it. About three months after the accident they called and said that the least amount I could pay was \$575 [a month].”<sup>7</sup> Wayne was charged triple for his surgery: \$15,100 for a procedure an insurance company would have typically spent about \$5,500 on.

***Medical Bills Lead to Bankruptcy and Sale of Home; “Financially Ruined Us”***

Jack B. and his wife Donna, who live in North Fort Myers, had to file bankruptcy and sell a home. “Donna was sick. They had taken a third of her colon. She had to go back in from being constipated. She always went to Lee Memorial. She accumulated approximately \$57,000 of bills. These bills financially ruined us; we filed bankruptcy last year in August of 2002. I have been a cook for almost 7 years. Donna has been a waitress. The hospital never sat down and spoke to us. We tried paying our medical bills; we never refused to pay. I worked very hard. We lost a home because of this lawsuit.”<sup>8</sup>

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<sup>7</sup> Case 5103, September 27, 2003.

<sup>8</sup> Case 5107, September 29, 2003.

### ***Fraudulent Up-coding?***

Ben G., the victim who invited us to Fort Myers, unveiled a serious allegation “I went to the hospital in 2001 for this \$29,000 bill and I was there for about ten days. I had an emergency appendectomy. I think it was still in place; I do not think it was ruptured. They removed it and sewed me up. I did not have any complications. They have it coded with complications but I have never been able to find out [why].”<sup>9</sup>

Up-coding is the act of taking a medical condition and classifying it as a more severe situation for the hopes of fraudulently obtaining higher payment. Hospitals have been convicted of committing this fraud. If hospitals can defraud the federal government or big insurance companies, what would prevent them from up-coding on defenseless uninsured patients?

An insurance company would typically pay \$6,783 for a ruptured appendectomy without complications. That payment almost doubles to \$12,226 if you include complications.

### ***Overcharging by Hospitals: “Outrage is the Right Word”***

Ben G. continues with how Lee Memorial’s financial counselors treated him. “They had a business office representative immediately come and see me. She was just concerned in interrogating to get as much information. Later she got to me in my room and wanted to make immediate arrangements on how I was going to pay the bill. I resisted and she gave me this form to fill out. She said she would look into what financial assistance I would qualify for. I asked for a [list] that stated all the financial assistance they offered and what their requirements were and she told me that they did not have a [list] like this. I asked for a list, and she said I had to fill out the form. She called and demanded the form. I was not getting any information on what I was asking for. She took the form and said that I was not eligible for anything and she said that I would have to make payment arrangements. They took a very strong position from there on. I told them that I would not make any arrangements until I knew what all the charges were. About ten minutes before I was released she called me and said that she had had a special meeting and that the hospital director had authorized her to extend 20 percent discount if I made immediate arrangements to pay. I resisted and argued with them about everything that you are doing ... about all of the details on how they were charging. I told them that what they were doing was absolutely wrong. They started harassing me with letters and phone calls and I would argue with them. I offered them a \$13,000 settlement, and they said they could not offer more than a 20 percent discount. I then started receiving letters from a collection agency. I ignored them and did not respond to anything. I thought someone in management would call me and we would have an intellectual discussion about this. I am fighting this from a moral issue. Outrage is the right word. This is not right. I have been scouting around to see what can be done about this. If the president of Lee Memorial were sitting over there I would ask him the same question I have asked every [hospital] representative that I have talked to and that is ‘Sir, how do you justify this practice, how do you justify this morally, intellectually however you want? Explain how this practice is justified.’”<sup>10</sup>

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<sup>9</sup> Case 5110, October 1, 2003.

<sup>10</sup> Case 5110, October 1, 2003.

***Price Gouging Vampires Spook Transylvania Immigrant***

Albert H. is originally from Transylvania, but the hospital appears to be a financial vampire, charging him \$8,000 for an upset stomach and almost performing an unnecessary appendectomy. The construction worker recalls, “I went to the hospital because I was there for one night and one day. I was constipated. I had to call the ambulance. They gave me some yellow stuff to drink... The doctor said they would have to give me surgery. I asked the doctor to wait another 24 hours and he said that they would have to give me an appendectomy. I am a country boy and I wanted to keep all my body parts. I decided to suffer more and I refused [that they] operate on me. The next day I felt better, and I asked them to let me out. I got a bill for \$8,000. I went to the hospital a year ago. They started sending me a bunch of letters. I am not sure if they sent me any financial assistance letters. They threatened to send me to court. While at the hospital no financial counselor came to talk to me. I never had surgery. I would be willing to pay something, like a reasonable amount. The CAT Scan was \$4,200. Why did they do it two times?”<sup>11</sup>

***Hospital Can't Figure Problem Out and Charges Over \$1,000***

A young toddler was playing with his sister, jumping around, and then fell down, off the bed. “I took my son to Lee Memorial in Cape Coral. All they put on him was a splint. They also gave him X-Rays and said they could not figure out what the problem was. They said that maybe he would need surgery. The doctor could not help us [so] we were sent to a specialist,” says Kevin Z., a young father who works as a dock master at a marina. “When I took him to the specialist they told me that [the hospital was] wrong; they said that it was only a basic infant fracture.” When it came to financial counseling, Kevin adds, “No one ever came to speak to us in the hospital. They have not tried contacting us. We have been calling them. I called the business office to make payment arrangements because we do not have medical insurance. They told me by phone that it would be \$542... The payment arrangement I made was \$178 for three months....and [then] I got a bill for \$1,019. [The hospital] had no explanation for it other than they changed his class. They said that he was a class one and they changed him to a class two. They said it really didn't make a difference if they changed him back to a class one because it would only be a difference of \$100.” Kevin also had a message, “If I could speak to the politicians here, I would tell them that they need to draw a line.”<sup>12</sup>

***Hospital's Ridiculous Payment Plan: Two Payments of \$50 and One for \$8,000***

Under threat of a property lien, Elizabeth G., a single mother of two, was offered the most ridiculous payment plan by Lee Memorial officials after being sued for the birth of her child, Isabel. “I have two bills for \$1,518.30 and the other one for \$7,200.75 for about a total of \$8,800 or a little more than that. These charges were for the birth of my child. I went to Lee Memorial Medical Center. When I went to the hospital I was uninsured and I told them. The delivery was fine. I don't recall that a social worker ever came to offer me Medicaid, financial aid and or a

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<sup>11</sup> Case 5112, October 1, 2003.

<sup>12</sup> Case 5101, September 24, 2003.

charity program. When I received my first bill, they sent me this letter stating that they were suing me. I went to the hospital and spoke to the lady in charge and she said that I could make two \$50 payments and then they said I had to make a balloon payment of \$8,000. They said they knew I had assets...from my home. They said they wanted their money. I signed this agreement to defer judgment. I decided not to do the \$8,000 payment because I did not have money.” So why did Elizabeth sign the outrageous deal? “When they told me I had to pay the \$8,000 I had no reaction because they said they would put lien on my house. She was very polite, and she said that if I did not pay they would put lien against my house and that if I ever sold my home I would have to pay.” She comments, “If the president of Lee Memorial were sitting here I would tell him or her that they should be more willing to give the uninsured a break. I think they were being unreasonable and unrealistic with their payment plan. I would be willing to pay the \$8,000 if they had given me a payment plan over a couple of years. I could have paid about \$100 per month.”<sup>13</sup> Elizabeth was charged double for the Cesarean birth of her child: \$7,271 for the procedure an insurance company would have paid about \$3,600

### ***Husband Makes a Stink to Have Uninsured Wife Treated***

In November of 2000, Loretta D. went to the hospital. She was charged \$40,879 for what an insurance company would have paid \$15,105 on. Her husband Dan, states, “She was very sick so I took her to the hospital and when they checked her they said she had Spinal Meningitis. When I first took her in and I told them that she did not have insurance they told me that they couldn’t treat her. I made a little stink and then they started treating her... and took care of her. They did not operate. They did a lot of other things to keep her alive. Before we left the hospital they had us apply for Medicaid and they signed us up for disability but we never heard from them. When we got the lawsuit we were very surprised. We never found out if we qualified. The hospital sent letters and we told them that we had applied for Medicaid.” Loretta adds, “They wanted us to pay the bill in full. They told me that they accepted Visa, MasterCard ...”<sup>14</sup>

### ***Hard-Working Truckers Sued: “Totally Unfair”***

John and Ruth R. are grandparents and both are truck drivers. They had insurance and went to Lee Memorial. Ruth had been treated for a broken arm. John R. says, “I went to the hospital because I had pneumonia in 1999 and was in the hospital...for four days. While in the hospital they told me not to worry and that my insurance would take care of everything. And then we got a letter saying that we were being sued.” Ruth states, “We did know this was happening; we did not know we did not have insurance; and now we have a judgment because of it. The hospital never tried contacting us. I think we were treated totally unfairly, they never told us that they were having a hard time.” Both Ruth and John point out that Lee Memorial had been sending claims to the wrong insurance address. John adds, “We had insurance we made our payment for our insurance. I am never going to sell my house so they are never going to get anything until I am dead.”<sup>15</sup>

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<sup>13</sup> Case 5102, September 24, 2003.

<sup>14</sup> Case 5109, October 1, 2003.

<sup>15</sup> Case 5104, September 27, 2003.

***Collectors for Hospital “Want to Suck Me Dry”***

Diane M. says, “I had a thing done to my heart and I had a gall bladder operation and being sick, we just go to the hospital. I have tried working with them but they do not want to work with you, all they want to do is put liens against you.” Her husband John adds that the hospital did not provide them with financial counseling or charity assistance. “They never offered us anything.” Diane tells of aggressive collectors, “They started calling. I talked to the lady and told her I would try to send what ever I could and we soon we received these court papers. The hospital has not tried helping us find services. I have worked since I was thirteen and now I am going to lose half of what I have because these people want to suck me dry. This is not fair; it is not right.” For her one hospital visit, Diane was charged nearly \$6,500 for what a hospital would typically accept \$2,870 as payment in full from an insurance company.<sup>16</sup>

***Hospital Takes Money From Sale of Home***

Jeannie C., a single waitress, diligently worked out a payment plan, but the hospital still kept a lien on her home. “I went to the hospital because I had an accident. They had to call 911 because my head was split open. I fell out of the car. I was driving. They put about six stitches. I spent one night in the hospital. The auto insurance paid them \$2,228 and they sued me for the balance due [\$2,651]. We set up a payment arrangement. I made one lump sum, to start off with. I think it was \$1,200. They dismissed the case. I made a payment arrangement plan and I was down to \$900. I was going to sell a property but I couldn’t sell it [right away] because they had a lien on the home. At the end they took their money from the sale of the home. I don’t think they should have put a lien on my home; I had already made payment arrangements.”<sup>17</sup>

***“Bunch of Phonies...Fleeing the Public”***

Steve T., a respected criminal attorney, used some colorful language to describe his exchange with his Lee Memorial. “I went to [the] hospital because I was fishing and something bit me and my leg swelled up. First I went to my doctor and he is a pretty good guy. I paid him right up front because I think doctors should get paid because they are the ones with the talent. Not like the hospital administrators that suck money out of you...for being politicians and bullshit artists. My doctor immediately sent me to the hospital in a \$600 - \$800 room without any accommodations. I was there for six days, because they could not figure it out. Every doctor that stuck his nose in the door billed me. My real doctor did not come in very much and he did not bill me very much. But every body in town came in. They still haven’t told me what was wrong with me. They gave me some \$100 antibiotics and they gave me some magic cream that was supposed to rebuild tissue or what ever it was supposed to do. None of this worked, my leg still feels like shit; it is scarred very badly. My ankle gets this excruciating pain if I walk on it too long. I am uninsured. I am an attorney. The hospital sent a social worker to meet with me but I did not meet their qualifications. I started paying on twelve different bills, I did not have a problem with the doctor bills; I paid them as soon as I could. But the hospital I paid them about \$10 per month, they wrote me a nasty letter telling me that I was a dead beat. I told them if they were willing to reduce to what an insurance company paid I would pay them off. They did not

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<sup>16</sup> Case 5105, September 27, 2003.

<sup>17</sup> Case 5106, September 28, 2003.

respond to my request. Instead they started sending default letters and they set up their own payment plan and not one [that] I had asked for and I told them to pound sand up their ass. We went back and forth and they finally sued me. I told them to sue me. I filed a motion to dismiss because they could not spell my name right. They wanted my ... money but they couldn't spell my name right. I played legal games with them, because it appeared they weren't interested in the propriety of the law they just wanted their damn money and they wanted to badger the shit out of me. So, we played back and forth and then finally [they] ...called me and asked what was the problem and I told him that his hospital was my problem because I think you are a bunch of phonies and you overcharge. Somewhere along the line ...the hospital attorney called me and I told him that their hospital rates were outrageous and he said that they were non-profit, that is not really realistic but I guess from a tax status... they got that status. I asked him why they were charging me those outrageous rates and he said that it was a public community hospital or whatever they ... treat lots of people and we have to diffuse the costs amongst those that do pay. I said well insurance companies do pay and you give them a big break. I told them that I don't do a lot of personal injury work but when I do I settle with your hospital system and most of the time it is fifty cents on the dollar. I told you that I would pay you fifty cents on the dollar for my hospital stay but that doesn't seem good enough for you people. Anyway I got in touch with [the hospital's attorney]. I told him that I wanted to pay 50 percent of the bill. I told him I would go to trial and we were going to go to trial. We went back and forth and we got within \$800 bucks of each other from the settlement dollars. I sat down and started thinking that it would cost me more to go to trial, being away from my desk. They are very greedy people. It got dismissed because I paid 60 percent; I paid. Every son of a bitch in the government and in the corporate world: all they want is money and they do not want to give you anything in return for it. I paid the bastards; let's see ...\$6,600 after I had a long history of paying them \$10 bucks here and \$10 bucks there. The lady at the hospital said she was going to [sue me] and I told her to shove her bill up hers and up the hospital's ass. The language that I am using is the way I normally talk, except when I am in formal situations in front of the court; I have a hell of a vocabulary.... [Hospitals] are more concerned with collecting. It is just a mill, these hospital advertise... it is a business; they do not give a shit about health care.”<sup>18</sup>

### ***Maximizing Profits off a Paraplegic***

Another ugly trend by hospitals is to waive the health insurance of a victim of an automobile accident and place a lien on the automobile insurance or personal injury settlement using the outrageously high “full sticker” prices. Health insurance means a hospital will collect a fraction of what they outrageously charged. By waving the health insurance, they can maximize their profits. Joe F., attorney for Tiffany G., reports, “Tiffany, a nineteen-year-old passenger, was involved in a tragic auto accident. She wound up paraplegic. She was taken to Lee Memorial trauma center by helicopter. She was hospitalized there for four days and was charged \$36,000 and was then transferred to the rehab unit and was charged \$60,000. [She] was then transferred to another facility for surgery and then back to the Rehab hospital for less than a month. All together we are looking at \$138,000 in hospital liens. According to their business manager...that if it is an inpatient hospitalization for more than \$5,000 they will file a lien. They have a case manager and they ...try to find all [the patient's] information so that they can record it within ten days of discharge. The case manager[’s] job [is] to find out all of the

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<sup>18</sup> Case 5108, September 30, 2003.

information. Lee Memorial Health System, from my experience...has centralized billing for the hospital services. But... information about insurances is never shared. My client had HMO coverage. Lee Memorial were bound and paid for. Lee Memorial has a provider contract with the HMO and they refused to share the terms of the contract with us. It took us litigation to get the contract. [We] were under confidentiality by the court not to reveal any financial information. Under Florida law you are required to have a term in that contract that requires the HMO to accept whatever is payable under that contract and [the hospital is] not allowed to collect or attempt to collect any funds from the subscriber of the HMO (my client). [T]hey filed a counter claim against us in the lawsuit to collect the full amount of charges, plus attorney fees. We were successful in getting a partial summary judgment...where the court has declared our rights. They collected my client's ...coverage and the court has ruled that [the hospital] did not have a right to do so. We are seeking damages against the hospital ...my client fortunately had additional coverage. They seized it and they are fighting us tooth and nail. Their refusal to bill the HMO was also a breach of contract. They are attempting to maximize their recovery, and their CEO has been quoted saying that this is how they finance their indigent costs.”<sup>19</sup>

### ***Payment Request Rejected by Rude Collectors***

Francisco C. suffers from a liver ailment. He was charged \$16,045 for one hospital visit. An insurance company would have paid \$6,114 for the same services. His wife describes the horrific treatment he received after he left the hospital, “They treated him well at the hospital. The problem came later. Medicaid did not approve him. A specialist did not want to see him unless he paid \$500. A social worker came to speak to us, but they never helped him. He should have qualified because he was not working and is a resident of this country. They never tried offering him another program. We started receiving bills and we were told they were going to put a lien on our home. The attorney was very mean. We tried to make payment arrangement and they did not want to talk to us. The secretary was very rude over the phone. They did not offer us a discount either. They did not want to make any arrangements. We had to take him to Massachusetts and they helped him there. He continues going there every two months.”<sup>20</sup>

### ***Two Payments of \$5,000 Requested from Widow***

Emily G., a hairdresser filed for bankruptcy to protect herself from East Pointe Medical Center. “I went to the hospital for appendicitis. I was there for a few days. The billing office came to see me while I was in the hospital. They did not offer me any assistance; they just wanted to know how I was going to pay the bill. While I was in the hospital we agreed that I would pay \$25 monthly. I was a widow when this occurred. Three weeks later I received a call and I offered them a settlement of \$3,000 and the person said they would take no less than \$10,000 and I would have to make it in two payments. They asked if I had a credit card, and she said they would put lien on my home, and I said to go ahead. A collection agency, attorney or court has never called me. I was treated better when I had insurance. The hospital knew I had filed for bankruptcy. I had no clue that this was in court.”<sup>21</sup>

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<sup>19</sup> Case 5111, October 1, 2003.

<sup>20</sup> Case 5113, October 2, 2003.

<sup>21</sup> Case 5115, October 3, 2003.

### ***Conclusion***

The unconscionable conduct we have document violates the Florida Deceptive and Unfair Trade Practices Act (Florida Statute § 501-204) that prohibits “unconscionable acts or practices in the conduct of any trade or commerce.” The hospitals in Fort Myers and across the Sunshine state must be held accountable. In addition, the Florida Hospital Association should be investigated for what looks like an oligopoly conspiring to charge outrageously high prices to consumers.

#### ***Revoking Lee Memorial’s Non-Profit Status?***

The Lee Memorial Health System website calls their system “the leading provider of health care in Southwest Florida and has served the citizens of Lee County and surrounding communities since 1916” and notes it is “the largest community-owned health care system” in Fort Myers. Dominating the market, Lee Memorial also appears to dominate the courthouse when it comes to settlement liens, property liens, and lawsuits against the uninsured.

Lee Memorial claims in their mission statement to improve the health status of patients by addressing “the spiritual and emotional needs of patients and their families.” There is nothing more that *destroys* the human spirit, emotionally and spiritually, than costly litigation and ruthless hospital collectors.

Lee Memorial executives ought to be ashamed of themselves. Balancing their books on the backs of the uninsured is morally wrong and their unconscionable conduct is unbecoming of a non-profit organization.

#### ***Ending the Myth***

Hospitals justify their immoral and aggressive collection behavior by continually peddling the myth that uninsured patients do not want to pay. The Consejo has been contacted by over 3,000 families in almost three years. Not a single person has ever said they did not want to pay their hospital bill; on the contrary, they always tell us that they want to pay “what we can afford” or “what is just.” The same is true of the families we met with in Fort Myers.

A recent study confirms our empirical evidence:

“Uninsured and ill, many Americans face barriers to medical care because of past bills, according to a new survey by the Access Project, a Boston-based health care think tank. ‘Our findings challenge the myth that Americans without health insurance receive free care,’ said Mark Rukavina, executive director of the project, a program of Brandeis University in Waltham, Mass. The survey found that 46% of uninsured patients had debts from previous medical care, and 24% of the patients said it had deterred them from seeking follow-up care. Thirteen percent also reported not being able to afford any or all of their prescribed medication. The financial stress of medical problems is also reflected in research on bankruptcy trends. ‘About half of the families who file for bankruptcy do

so in the aftermath of serious medical problems,' said Harvard University law professor Elizabeth Warren."<sup>22</sup>

### ***A Positive Solution***

Charging the same discounted prices for services rendered to the uninsured as a hospital charges the insured is a positive solution. Like Tenet Healthcare's Compact with the Uninsured (see Appendix B), hospitals should adopt a universal policy that charges the uninsured the same discounted managed care rates as the insured regardless of race, ethnicity, or income.

We hope that hospitals will be willing to adopt policies that incorporate four fundamental changes:

- Uninsured patients, regardless of race, ethnicity or income, will be charged reasonable rates like the insured.
- Uninsured patients will be offered reasonable payment plans over a reasonable period of time.
- No litigation will be engaged until all charity and government programs have been exhausted and the uninsured has been offered a reasonable rate and payment plan.
- No litigation will ever be engaged whatsoever against uninsured patients whose only sole asset is the family home.

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<sup>22</sup> AMS News, February 3, 2003.

***About the Author***

K.B. Forbes is the Executive Director of the Consejo de Latinos Unidos, a national nonprofit organization which educates and assists Latinos and others in the areas of health care, immigration, education, and police protection. Forbes is the author of three other Consejo reports: *Cinco*, an investigative report on hospital price gouging in Southern California (2001); *Ahora*, an investigative report on allegations of police brutality in Southern California (2002); and *Infierno*, an investigative report on hospital price gouging in Chicago, Denver, Oklahoma City, and Orlando (2003). Forbes has served on three presidential campaigns. A former English as a Second Language teacher near Watts, Los Angeles, he is the son of a Latino immigrant.

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**APPENDIX A**

The Consejo collected over \$1 million in medical bills in Fort Myers. Of the \$761,000 in medical bills we were able to analyze, an insurance company would have paid \$257,000 on those same procedures and services.

On average, these uninsured victims were charged almost three times more.

Patient Case	Hospital Name	DRG	DRG Description	Gross Charge	Medicare Payment	Typical Insurance Payment
1201	Lee Memorial	486	Other O.R. Procedures For Multiple Significant Trauma	\$123,895	\$22,891	\$25,638
1203	E Pointe Hospital	211	Hip & Femur Procedures Except Major Joint Age > 17 Without Complications	\$22,372	\$6,176	\$6,917
1205	Lee Memorial	141	Syncope & Collapse W/Complications	\$23,940	\$3,468	\$3,885
1210	Lee Memorial	442	Other O.R. Procedures For Injuries W/ Complications	\$22,751	\$11,474	\$12,851
1210	Lee Memorial	500	Back & Neck Procedures Except Spinal Fusion W/O Complications	\$9,876	\$4,511	\$5,052
1220	Lee Memorial	373	Vaginal Delivery W/O Complicating Diagnoses	\$4,781	\$1,870	\$2,095
1231	Gulf Coast Hosp.	493	Laparoscopic Cholecystectomy Without C.D.E. With Complications	\$32,362	\$9,010	\$10,092
1233	Lee Memorial	359	Uterine & Adnexa Procedures For Non-Malignancy W/O Complications	\$14,439	\$3,967	\$4,443
5102	Lee Memorial	371	Cesarean Sections W/O Complications	\$7,271	\$3,206	\$3,591
5103	Lee Memorial	219	Lower Extremity & Humer Procedure Except Hip, Foot, Femur Age>17 W/O Complications	\$15,100	\$4,880	\$5,466
5105	Lee Memorial	143	Chest Pain	\$6,496	\$2,563	\$2,870
5106	Lee Memorial	31	Concussion Age>17 W/Complications	\$4,879	\$4,186	\$4,689
5108	Lee Memorial	277	Cellulitis Age > 17 W/Complications	\$11,009	\$4,085	\$4,575
5110	Lee Memorial	164	Appendectomy W/Complicated Principal Diagnosis W/Complications	\$29,041	\$10,916	\$12,226
5116	Lee Memorial	311	Transurethral Procedures W/O Complications	\$18,440	\$2,977	\$3,334
5118	Lee Memorial	517	Percutaneous Cardiovascular Procedures W/Non-Drug Deluting Stent W/O AMI	\$35,540	\$10,358	\$11,601
1236	Lee Memorial	121	Circulatory Disorders W/AMI & Major Complications, Discharged Alive	\$45,564	\$7,709	\$8,634
1236	Lee Memorial	514	Cardiac Defibrillator Implant W/Cardiac Catheter	\$76,821	\$30,128	\$33,743
1208	Lee Memorial	89	Simple Pneumonia & Pleurisy Age > 17 W/Complications	\$7,549	\$4,954	\$5,548
5113	E Pointe Hospital	188	Other Digestive System Diagnoses Age > 17 With Complications	\$16,045	\$5,459	\$6,114
5109	E Pointe Hospital	20	Nervous System Infection Except Viral Meningitis	\$40,879	\$13,487	\$15,105
5115	E Pointe Hospital	165	Appendectomy With Complicated Principal Diagnosis Without Complications	\$15,794	\$6,057	\$6,783
5112	Gulf Coast Hosp.	183	Esophagitis, Gastroenteritis & Misc Digestive Disorders Age > 17	\$8,149	\$2,835	\$3,176
1228	E Pointe Hospital	174	Gastrointestinal Hemorrhage With Complications	\$27,930	\$4,936	\$5,528
1226	E Pointe Hospital	134	Hypertension	\$8,967	\$2,931	\$3,283
1225	E Pointe Hospital	97	Bronchitis & Asthma Age > 17 Without Complications	\$6,943	\$2,710	\$3,035

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1223	E Pointe Hospital	95	Pneumothorax Without Complications	\$7,764	\$3,036	\$3,400
1217	Gulf Coast Hosp.	449	Poisoning & Toxic Effects of Drugs Age > 17 With Complications	\$5,961	\$4,112	\$4,605
1237	Lee Memorial	31	Concussion Age >17 W/Complications	\$5,600	\$4,186	\$4,689
1219	Lee Memorial	442	Other O.R. Procedures For Injuries W/ Complications	\$62,073	\$11,474	\$12,851
1218	Lee Memorial	487	Other Multiple Significant Trauma	\$18,389	\$9,534	\$10,678
1216	E Pointe Hospital	143	Chest Pain	\$8,827	\$2,698	\$3,022
1222	E Pointe Hospital	188	Other Digestive System Diagnoses Age > 17 With Complications	\$10,201	\$5,459	\$6,114
1238	E Pointe Hospital	252	Fracture, Sprain, Strain & Dislocation of Forearm, Hand, Foot Age 0-17	\$5,310	\$1,257	\$1,408
<b>Totals</b>				<b>\$760,957</b>	<b>\$229,499</b>	<b>\$257,039</b>

**APPENDIX B**

<b>Tenet's Compact with the Uninsured</b>
(a) Patients without insurance at Tenet hospitals will be treated fairly and with respect during and after their treatment, and regardless of their ability to pay for the services they receive.
(b) Tenet hospitals will provide financial counseling to all uninsured patients. This will include help in understanding and applying for local, state and federal health care programs such as Medicaid.
(c) After uninsured patients receive treatment at Tenet hospitals and are provided with financial counseling, they will be offered discounted pricing for the services provided at rates that are within the range of discounts provided to managed care patients.
(d) All patients without insurance at Tenet hospitals will be offered reasonable payments and payment schedules and, subject to their acceptance, self-pay patients will be billed at discounted rates. Whenever possible, this will occur before the patients leave the hospital, as part of the financial counseling process.
(e) Tenet hospitals will not pursue legal action for non-payment of bills against any patient who is not gainfully employed at the time services are rendered. Before taking legal action, hospitals will assure that the patient is not eligible for any assistance program and does not qualify under the hospitals' charity care policy. Nor will they pursue legal action if the only recovery available would be to place a lien on the patient's home.