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Tenet's Woes Deepen

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Tenet ([THC Quote](#) - [Cramer on THC](#) - [Stock Picks](#)) could be swamped with new legal headaches.

The discovery of 45 bodies in one of the company's New Orleans hospitals has grabbed headlines this week. Now, some Tenet critics see new patient lawsuits and government probes down the road.

"This many deaths scream (for) investigation by everyone with authority to do so," says Peter Young, a business consultant at HealthCare Strategic Issues.

The *New Orleans Times-Picayune* reported on Monday that government officials have recovered 45 bodies from Memorial Medical Center, a Tenet-owned hospital that was abandoned during this month's devastating flood. Hospital staffers were cited as heroic. But some people believe that Tenet should have better prepared for the looming disaster by removing its patients and staff from danger in the first place. Young stresses that **HCA** ([HCA Quote](#) - [Cramer on HCA](#) - [Stock Picks](#)), Tenet's larger peer, managed to do just that.

For its part, Tenet said in a statement on Tuesday that it is "grief-stricken by the tragic toll" experienced at Memorial after the hurricane hit. At one point, the company said, more than 2,000 people -- including patients from other facilities -- had sought shelter inside the hospital. The company indicated some very sick adult patients simply could not survive the brutal conditions that followed, though it added that nobody drowned or died from lack of food or drinking water.

Even so, Young expects Tenet to pay a high price -- totaling \$125 million for lawsuits alone -- as a result of the patient deaths. In the meantime, he believes the company faces some tough questions.

"I think that the state of Louisiana has a [moral responsibility](#) to investigate this -- and that they will do it," he says. "This is a no-win situation for Tenet."

Tenet didn't return a phone call seeking comment. The company's stock, which set a 52-week high of \$13.06 a month before the storm, slid 26 cents to \$11.62 on Tuesday.

Florida Heat

Outside of its crucial New Orleans market, Tenet has weathered a legal setback as well.

The company recently lost its motion to dismiss a racketeering lawsuit filed earlier this year by the attorney general of Florida. The company has been accused of engaging in a pricing scheme that improperly boosted its so-called Medicare outlier payments -- those designated for especially expensive cases -- by more than \$1.6 billion. Under the federal racketeering law -- formally known as the Racketeer Influenced and Corrupt Organizations Act, or RICO -- the company could face triple damages if it ultimately loses the case.

Tenet did manage to fight off one claim accusing the company of unjust enrichment. However, it must now address the RICO allegations as it moves through the discovery process.

The court summarized Tenet's alleged wrongdoing in August when it denied Tenet's motion for dismissal. In rendering a decision on the dismissal motion, the court doesn't pass judgment on the merits of the allegations made in the lawsuit. Instead, it simply rules whether the allegations made in the lawsuit satisfy all the elements required to support claims made in the suit.

"As alleged, Tenet intentionally stole from the Medicare outlier system by grossly inflating its hospitals' charges and engaging in a 'systematic, ongoing course of conduct with the goal and intent to steal and/or convert money from the outlier pool,'" the court noted. Moreover, "the complaints continue to allege that Tenet transmitted these 'stolen' funds in interstate commerce over several years in amounts that exceeded \$5,000 for most, if not all, of the thousands of predicate acts it committed. ... The

necessary elements for proving violations of the National Stolen Property Act under RICO have, therefore, been pled."

The Tenet Shareholder Committee, a group long critical of Tenet management, has often warned that the company pocketed nearly \$2 billion more than it should have from its outlier strategy. So far, however, federal agencies -- such as the Centers for Medicare and Medicaid Services and the Department of Justice -- have yet to secure any outlier repayments from the company. Instead, a state prosecutor has led the way.

"The state of Florida has stepped ahead," says Jeff Villwock, a Caymus Partners analyst who conducts research on behalf of the Tenet Shareholder Committee. "I think somebody needs to go after that money."

Leadership Change

News of the Florida ruling came amid reports of a company leadership change there.

Tenet is reportedly in the process of replacing Don Steigman as director of Florida operations. Tenet itself has yet to announce any move by Steigman. But both Young and Villwock say they believe that he is definitely on his way out.

Young believes that Tenet hopes to bring in fresh management so that it can better settle the RICO charges it faces in that state. But Villwock's group has been calling for Steigman's ouster based on the performance of Tenet's Florida hospitals alone.

The company's once-prized Florida hospital system last year swung to a pretax loss of \$378 million, according to financial reports filed with the state and gathered by Villwock's committee. Of the company's 15 Florida hospitals, the group says, nine operated in the red last year.

Moreover, the bleeding hasn't necessarily stopped. The company recently pointed to weakness in its Florida market when delivering poor first-quarter results.

By then, the Tenet Shareholder Committee had already called -- more than once -- for Steigman to leave.

"When Tenet ticks off claimed reforms, one item on their list is the elimination or replacement of 40 senior executives," the group noted back in February. "We believe they should quickly increase that number, by at least one. ... To continue with the same management that presided over the deterioration of what was once called the crown jewel of Tenet's regions makes no sense at all."

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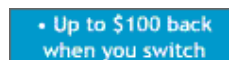
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