

## To Terminate or Not to Terminate? William L. Scheuermann, Manager of Managed Care Contracting, Orange Regional Medical Center



Much like the play on words in Shakespeare's Hamlet,

*To be, or not to be: that is the question: Whether 'tis nobler in the mind to suffer the slings and arrows of outrageous fortune, Or to take arms against a sea of troubles, and by opposing end them? To die: to sleep; No more; and by sleep to say we end the heartache and the thousand natural shocks, That flesh is heir to, 'tis a consummation devoutly to be wished"*

We recognize that Hamlet was torn between what action to take, what extreme to go to and how to push on: such decisions can, at times, be the same within your managed care strategy.

To help us navigate through some of the challenges, NY hospitals were recently treated to a great audio conference by the Healthcare Association of NYS (HANYS) with the focus being, **what to consider before terminating a managed care contract**. The program hits on the trials, tribulations and perspectives of HANYS' own Jeffrey Gold, Vice President of Managed Care, as well as those of two local hospital CEOs and legal council who have recently found themselves going down such a path. The content left me with a better perspective on how and when this strategy should be used and how to avoid it. I thought this might be a good forum to share some of what we learned.

Terminating a contract is not something to be taken lightly; it affects a number of areas including the medical & hospital staff, community employers and, worst of all, it could potentially disrupt patient care. Any decision to resort to this final action requires adequate due-diligence internally on the part of the provider. At times this is a solution that organizations threaten when not getting what they want, but has the organization made a strong case as to why it's contract expectations are such? Demanding rate hikes without justification does not help the organization negotiate in good faith or follow the "high moral ground". If a provider can justify to the carrier why it is looking for specific increases you often may find favorable outcomes.

For example, when the provider has a significant change ahead, it should try to make the carrier a partner in this progress. If a service line has become greatly under funded, it should illustrate the shortfall to the carrier and look for assistance in sustaining and providing the service to their enrollees. Simply demanding an increase because your competitor is potentially getting paid more or because the market can bear it does not go far in building an economic case as to why a specific increase is needed.

Some keys to avoiding a scenario that might lead to a discussion involving contract termination are:

- Begin your negotiations anywhere from 6-8 months out.

- Stay away from "evergreen clauses" – keep the contract term defined.
- Keep negotiations private and professional.
- Keep all parties abreast of the contract time frame and on longer negotiations make it a habit to set routine meeting times to discuss the status / progress.
- Use an extension rather than agreeing to a contract that does not correlate with internal strategy, if the negotiations do not appear to be headed for resolution by current term's end.
- Understand the payor's market and when open enrollment occurs.
- Evaluate provisions related to notice of termination, legal formalities and continuation of care once the organization has decided to terminate – it is key to do so properly.
- Being cognitive of state public health law will go a long way to keep providers out of the news as related to continuation of care.

Too often, contract termination is a solution that one threatens without considering the consequences. Contract termination is a strategy that will effect everyone involved. Therefore it is essential, once an organization has exhausted all of its options, to obtain both internal and external support before going down this path. The provider's board members, community employers, physicians and staff all need to be in the loop and understand what is going on.

HANYS – Top 10 things to consider:

1. Understand your contract.
2. Examine your book of business.
3. Assess your advantage.
4. Think about timing.
5. Engage key stakeholders.
6. Educate the public.
7. Seek out others' experience.
8. Prepare for government involvement.
9. Know your responsibilities as a provider.
10. Educate the medical staff.

Additional details surrounding the "Top-10" can be found at [www.HANYS.org](http://www.HANYS.org) under the Members Only, Managed Care Forum. Shakespeare must have been envisioning a career in managed care contracting.

*William Scheuermann is the Manager of Managed Care Contracting at ORMC. He received his Masters in Business Administration from the State University of New York at New Paltz. William has been a member of the chapter since 1999 and is the Co-Chair of the Finance/Managed Care Committee as well on the Board of Directors (Class of 2007).*