

## **Q&A with Dr. Bojko, MD, MS, JD, FCLM Managing Partner and Hospital Administration Expert**

### **What inspired you to pursue your initial career in medicine and medical administration?**

I grew up living and breathing medicine. My parents were physicians in post WWII, communist Poland. My father was an orthopedic surgeon and my mother a pediatrician so there was a lot of medical talk around the dinner table.

We spent a few years in Nigeria where my father was a professor of orthopedic surgery, and then moved to Israel where my parents continued their medical careers and my brother left for medical school in Italy. Shortly thereafter I went to medical school in Rome, so I kind of followed the family path.

After completing my education in Rome, I was required to do a yearlong rotating internship in Israel. Though I was initially interested in psychiatry, I ended up choosing pediatrics for a variety of reasons.

I decided to come to America for better medical education and started my residency in pediatrics. I found I loved the adrenaline rush of the ICU and thrived in the critical care environment. I got the opportunity to train at Cornell's Intensive Care Unit, which at that time was one of the best in the world.

At the completion of my training, I was given a unique opportunity to become director of two intensive care units simultaneously at Brooklyn Hospital Center and Bellevue Hospital in lower Manhattan. When you're director of the intensive care unit, there are a lot of administrative duties. So that was my initial introduction in administration and I especially liked the program building aspect of it.

Enjoying the administrator's role, I decided to pursue a Masters degree in healthcare administration at New York University's Wagner School of Public Service. Soon after graduation I became the Director of the Intensive Care Unit and Director of Medical Services and Clinical Operations at Bristol-Meyer's Squibb Children's Hospital. It was a unique opportunity to build programs from scratch. We started a neonatal intensive care unit, a cardiology program, an open-heart program, and endocrinology and diabetes programs that were at the cutting edge. Those experiences cemented my interest in hospital administration. I assumed hospital wide responsibilities on various committees such as the medical executive committee, critical care committee, and the performance improvement committee. On the state level, I served as chair of the New Jersey graduate medical education council and on the national level, I assumed executive positions in organizations such as the American Academy of Pediatrics and the National Association of Children's Hospital and Related Institutions.

## **Why, after a successful career in the medical field, did you choose to pursue a law degree?**

Law was always in the back of my head since I was a teenager. While I enjoyed the sciences and medicine, I was always intellectually interested in law. As my career progressed I considered what my next steps should be and how I was going to move forward. I already had a Masters, but I wanted to cultivate a broader skillset that would help me develop healthcare systems on a wider scale.

During that time, a lot of new laws and regulations started percolating into the medical world. Stark Law, reimbursement issues, CHIP (Children's Health Insurance Program), and others, so I felt going to law school would help me with the interface between law and medicine..

## **How did you become involved with Hospital EXPERTS™?**

After stepping down as a hospital CEO I was looking for my next step. I'd already obtained my law degree and passed the bar. An attorney friend of mine convinced me to attend a national lawyer's conference that happened to be held in New York that year, and we came upon the Hospital EXPERTS™ booth where I was introduced to the company's owner, Arthur Shorr.

We began talking and realized that the work Hospital EXPERTS™ does perfectly integrates my background in clinical medicine, hospital administration, and my law degree. Arthur was looking to focus more on his expert and consulting work and we began discussing the idea of me taking over the day-to-day management of the firm.

Arthur basically created the field of hospital corporate negligence in the context of medical malpractice since launching Hospital Experts in 1984 and has since become a leading authority on these issues. He even wrote *the* textbook on the subject, *Hospital Negligence: Legal and Administrative Issues*. I spent the better part of a year working for Arthur, getting a full grasp on what Hospital EXPERTS™ does and was very lucky to have such a mentor to guide me through the initial phases. After a year, I took over and Arthur became a contractor with the company, serving on our team of experts.

## **Have you seen an increase in hospital corporate liability cases in recent years?**

We've definitely seen an increase in demand for Hospital EXPERTS™ services on both the defense and plaintiff sides. There's also been an increase in requests to supplement our core expertise with experts in other medical and nursing fields.

**In your experience dealing with hospital corporate negligence cases, what are the most common systemic failures?**

In one word: communication. You can find in almost every case, no matter what the actual failure is, that better communication – in all forms, from written to verbal – would have potentially helped prevent the adverse event. A few of the major areas where communication is of particular concern are: lack of informed consent, nursing advocacy (or lack thereof), hospitals doing things that are beyond their scope of services, and hand-off of patient information.

There need to be systems in place that ensure patient information is adequately passed to the necessary individuals. Nurses always had a structured system for handoff of communication, when one nurse would come to relieve the other, there was a structured way to pass patient information along. The handoff of communication from physician to physician had been left to the individual physicians personalities and preferences, which can lead to mistakes.

One of the safeguards against mistakes of individual doctors is for the nurses to employ the principle of see something, say something. That could be an intimidating thing to do for a nurse in the absence of an affirmative policy on the side of the hospital encouraging that and ensuring there will be no reprisal. Hospitals are to have nursing advocacy programs that articulate how that is supposed to be done through the chain of command so the nurse doesn't have to confront the doctor but go to the nurse's superiors and take away personal interactions.

Another area where we see systemic failure that is more an issue of process than communication is that of credentialing and privileging. A hospital can influence the quality of care and prevent or minimize mistakes through a diligent credentialing and privileging processes.

Credentialing decisions relate to who can practice at the hospital, whereas privileging decisions relate to the specific procedures a physician is allowed to perform. Hospitals can be found liable for an individual physicians mistake if it's proven that they did not do proper due diligence and were negligent in their credentialing of a particular physician.

**There's widespread debate about the healthcare system in this country, from insurance coverage to price gauging etc. What do you believe are the biggest issues facing hospitals and do they put them at risk legally?**

Hospitals are more and more financially strapped with the new healthcare law. With that comes increased responsibility in both patient care and the regulatory arena.

Additionally, more people are using emergency rooms, which is another type of legal concern. When people go to the hospital because they need the ER, an ER physician who's not their own physician sees them. That ER physician is either employed with the hospital or part of a group that has a contract with the hospital.

This opens up a host issues, such as: what type of liability does the hospital have through the agency legal principle for the actions of that physician? To what degree does the principle of agency apply to hospitals now that they're more involved in hiring physicians and deciding who the physicians are? In most states, hospitals have a contract with one group to cover the ER. So the hospital chose that group but not necessarily the individual physician. So if the individual physician made an error, how do you apply that and the different interpretations and case law? These are the types of issues we help resolve at Hospital EXPERTS™.

**Hospital EXPERTS™ is the only firm dedicated solely to healthcare administration issues. What are the benefits, from your perspective, that Hospital EXPERTS™ professionals bring into the courtroom?**

We help attorneys identify issues they might have otherwise not considered. Having experience in courtrooms and the actual hospital environment helps us focus on the right issues both from the defense and plaintiff perspective.

We work with a number of experts from different geographic areas and a variety of specialties so we're able to match attorneys with the perfect expert for their particular case.

For example, in cases that involve children's hospitals I am the more familiar expert in that area. For issues that involve hospital environmental safety, our expert Tim Hawkins is ideal,. Additionally, we have a number of very experienced senior nurse executives who can help with assessing nursing practice issues in different clinical areas such as operating room, emergency room, and labor and delivery.

**When bringing a new expert onto the Hospital EXPERTS™ team, what characteristics and achievements are important to you as the Managing Director?**

I would say both longitudinal and horizontal experience among different aspects of hospital function. You want someone who has spent significant time in the hospital in progressive levels of responsibility so they can speak to what people on all levels of the hospital hierarchy should have done in terms of policy, training, and supervision.

The ability to articulate thoughts professionally and convincingly is also very important, as is the personality to withstand the slings and arrows of depositions and the legal system. Even though hospitals have hierarchies and a chain of command, they're usually much less adversarial than the legal system. People need to be educated on this, or by virtue of personality and experience, be able to adapt to and withstand it.

**What are your passions outside the healthcare industry? Are you active with any volunteer organizations etc.?**

I've done some work in Haiti with an organization called Burn Advocates. The first time we went was a few months after the earthquake, and then we went a few more times to follow up. We were in Cap Haitian on the beach which was less hit directly by the earthquake but became a place of refuge which got overwhelmed by the influx of thousands of people who were injured or homeless. This put a huge strain on their hospital system.

We worked with two hospitals there, one a catholic charity and one the public hospital, to improve burn care. We helped social services there to try and work on prevention because that's always the best with burns, once you're burned even with the best of care there are limits on what can be done. We also supplied the basics, like antibiotics, since there's a high risk of infection with burns

I'm also an animal lover and have a rescue dog (my third) and two rescue cats.