

TEXAS HEALTHCARE TRUSTEES Trustee *Bulletin*

Nonprofit Hospitals Face Increased Scrutiny About Community Benefits

Since the days of Florence Nightingale, hospitals have been providing an array of health services and much needed benefit to their communities, including charity care. In today's highly advanced health care arena, the mission and contributions are far-reaching.



In Texas, nonprofit hospitals provide some of the finest medical and health services, education programs and medical research in the world. As charitable institutions, they have provided billions of dollars a year in free and discounted services to poor and uninsured patients.

Yet, on a national level, nonprofit hospitals have been facing increasing challenges from the Internal Revenue Service and the media about how charity care is defined and provided to maintain their tax-exempt status.

According to Charles Bailey, Texas Hospital Association senior vice president and general counsel, the good news is that "Texas law is very specific and defines very clearly how hospitals must carry out and report their community benefits. If a health care organization is following Texas law, I would argue that it is in compliance with federal law," he adds.

Texas Requirements

In May 1993, the Texas Legislature passed legislation that established minimum levels of charity care that must be provided by nonprofit hospitals to retain their tax-exempt

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Trustee Bulletin

The *Trustee Bulletin* is produced by the Texas Healthcare Trustees in cooperation with the Texas Hospital Association.

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Nonprofit Hospitals Face Increased Scrutiny about Community Benefits... continued from page 1

status. The law also aimed to establish uniform planning, budgeting and reporting requirements relating to charity care and community benefit activities of nonprofit hospitals. In subsequent years, technical corrections were made to the law, including expanding the scope of hospitals required to report charity care and community benefits.

Texas Charity Care Law

Under the law, Texas nonprofit hospitals must examine their charitable community benefits role and report the charitable services and benefits provided to policy makers and the community. All nonprofit hospitals and all hospitals designated as Medicaid disproportionate share facilities must follow reporting requirements. The State of Texas also has established three specific standards for the provision of charity care by nonprofit hospitals. Hospital systems are allowed to satisfy standards on a consolidated basis.

Reasonableness Standard.

Charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the needs of the community. Those needs are determined through a community needs assessment, the available resources of the hospital or hospital system, and any tax-exempt benefits received by the hospital or hospital system.

- **100 Percent of Tax-Exempt Benefits.** Charity care and government-sponsored indigent care are provided in an amount equal to 100 percent of the hospital's or hospital system's tax exempt benefits, excluding federal income tax.
- **Charity Care/Community Benefits Mix.** Charity care and community benefits are provided in a combined amount equal to at least 5 percent of the hospital's or health system's net patient revenues, provided that charity care and government-sponsored indigent health care are provided in an amount equal to 4 percent of the hospital's net patient revenue.

The Trustee's Role

"Hospital boards play an important role in protecting their mission as a charitable institution and ensuring that their organizations are properly defining and measuring community benefits," explains Bailey. Trustees can play a proactive role by ensuring that community need is identified and addressed, then measured and analyzed using rigorous data collection and reporting methods.

To be in compliance, a nonprofit hospital is required to develop a mission statement and community benefits plan that identifies the hospital's commitment to serving the health care needs of its community. The plan must spell out goals and objectives of the hospital for providing community benefits that include charity care and government-sponsored indigent health care.

Develop a Specific Plan

“Hospitals must address the specific needs in their communities,” Bailey explains. “South Texas most likely will have different needs than Dallas or East Texas. For example, if diabetes is occurring in high rates in your community, a community education program may be developed and aimed at particular populations who are particularly susceptible. If you live in an area with a large elderly population, you look at their health care needs and concerns.”

SPECIFIC QUESTIONS TRUSTEES SHOULD ASK ARE:

- ✓ What are the needs in our community?
- ✓ How are we planning for them?
- ✓ What programs do we have in place?
- ✓ How are they being measured?
- ✓ What do we need to do to comply with state law?

Tell the Story

Hospitals give back to their communities in hundreds of ways. These include services that generate little or no revenue, such as emergency care, free local screenings, indigent care clinics or other health and wellness initiatives.

Yet, hospitals face a big challenge in defining what community benefits are and how they are providing them. “Community benefits have a broad definition,” says Bailey. “One hospital measures community benefits in one way, and another may measure it differently. However, in general, community benefits include care provided to low-income patients or care not fully reimbursed by Medicaid, Medicare or other governmental programs. Other programs that count toward community benefits are medical

education, wellness programs and services that are costly and often subsidized, such as trauma care,” he says.

No matter which programs a hospital provides as community benefits, trustees need to make the case in their communities that their hospital’s efforts improve, enhance and change lives. Use the annual community benefits report in community presentations or even use it in paid advertising to show ways in which the hospital is giving back to the community.

Be Proactive

Under state law, nonprofit hospitals in Texas must proactively plan and

provide community benefits. Trustees should make sure that senior management is regularly assessing community needs, planning and budgeting properly and reporting community benefit in accordance with state guidelines.

Documenting and communicating the community benefits that a hospital provides are essential from a legal and a public standpoint. After all, the community benefits that hospitals provide enhance the quality of life for the entire community.

DEFINING COMMUNITY BENEFITS

Though no uniform federal definition of community benefits exist, the Catholic Health Association has published a guideline to help facilities define community benefits. According to *A Guide for Planning and Reporting Community Benefit* (a publication from the CHA and Voluntary Hospitals of America), “community benefits are programs or activities that provide treatment and/or promote health and healing as response to identified community needs. They are not provided for marketing purposes.”

CHA further states that generally, services that can be reported as community benefits include those that:

- Result in a financial loss to the organization,
- Can be quantified in terms of dollars spent or numbers of persons served,
- Are not of a questionable nature that jeopardizes the inventory’s credibility, and
- Have an explicit budget.

For more information or to order a copy of *A Guide for Planning and Reporting Community Benefit*, go to the Catholic Health Association Web site, www.chausa.org.

Texas Hospitals Score 'Wins' in Legislative Session

The 80th Texas Legislature adjourned May 29, and when the dust settled, some important measures had won approval, and the budget for the 2008-09 biennium was set. "Texas hospitals had some real wins in terms of Medicaid and CHIP, nursing education, transparency, quality and patient safety," said Dan Stultz, M.D., FACP, FACHE, president/CEO of the Texas Hospital Association. In addition, THA helped secure additional funding for the Texas Medical Board to increase its staff so that applications for physician licensure may be processed more quickly.

Uninsured

THA's top priority for the 2007 legislative session – addressing the state's growing uninsured population – produced success in several areas. The 2003 reductions in Children's Health Insurance Program eligibility and services were restored through **House Bill 109** by Rep. Sylvester Turner (D-Houston). The final bill will add some 127,000 children up to 200 percent of poverty to the program, which provides a full-range of health benefits. A key issue was 12-months continuous eligibility, which ultimately was approved, with an income verification for families at or above 185 percent of poverty at six-months. The assets test was modified, including deductions for child care and for a second car.

The framework for comprehensive Medicaid reform passed as **Senate Bill 10** by Sen. Jane Nelson (R-Flower Mound). The legislation allows the Texas Health and Human Services Commission to develop a federal Medicaid waiver to more efficiently and effectively use federal money by creating the Texas Health Opportunity Pool Trust Fund. Development of the trust fund will transition some or all federal Medicaid disproportionate share and supplemental upper payment limit funds plus newly identified dollars into an account created outside the state treasury. The pool will be used to fund uncompensated care costs and any expanded coverage of the uninsured through premium-assistance. THA ensured that intergovernmental transfers and hospitals' supplemental payments are

protected, and the waiver development and implementation processes will have appropriate legislative oversight.

S.B. 10 also created a committee on health and long-term care insurance incentives that will explore ideas for expanding coverage to individuals and businesses.

With more than a dozen bills related to the uninsured filed, awareness of the issue has been raised. "The fact that legislators even *talked* about the state's growing uninsured population is a major accomplishment," Stultz added.

Proactive media relations by THA and an advertising insert in *Texas Monthly* magazine helped bring awareness and attention to the issue. "We've laid the foundation, and we will keep up the drum beat in 2008, particularly for the elections. We need to hold state-level candidates – as well as the presidential contenders – accountable for making health insurance more accessible and affordable. Without a national health policy, it's up to the states to address this issue, as they are now," he added.

Budget

Hospitals achieved several victories in the state budget. For the first time since 2001, hospitals will see an increase in Medicaid reimbursement when rates are partially rebased in state fiscal year 2009. THA also worked successfully to:

- eliminate the 2005 appropriations rider that required budget savings associated with the rollout of Medicaid managed care for the aged, blind and disabled populations, which has resulted in \$117 million in hospital payment reductions in certain areas of the state for the current biennium;
- continue Medicaid cost-based reimbursement of rural hospitals;
- direct \$14.7 million for the Nursing Shortage Reduction Program to expand nursing education programs;
- use \$4.05 million from the tobacco settlement fund to provide grants to nursing education programs; and
- spend \$51 million per year from Driver Responsibility Program funds dedicated to uncompensated trauma care at designated trauma facilities, plus any amount over the biennial revenue estimate.

Miscellaneous

THA negotiated for a fair, broad-based approach to provider transparency in terms of both financial and quality information. Sen. Robert Duncan (R-Lubbock) passed **Senate Bill 1731** which establishes public reporting requirements for hospitals, doctors and health plans. The bill also requires notification of patients of the potential for balance-billing by non-network physicians.

A THA-supported measure, **Senate Bill 288** by Sen. Nelson, requires hospitals and ambulatory surgery centers to report the rate of certain health care-associated

infections to the state, and the bill also creates a permanent panel of experts to advise the Texas Department of State Health Services. Due to a lack of funding in the budget for this new TDSHS function, questions remain regarding the bill's implementation.

Changes to the Texas Advance Directives Act ultimately failed when the legislation ran out of time in the House of Representatives. THA worked extensively with lawmakers to improve the communications process with families, clarify that the law does not apply to those solely with disabilities and modify the dispute resolution process.

THA also worked to maintain the autonomy of the Office for Rural and Community Affairs, including its focus on rural health care.

Special Edition Capitol Update

A more complete overview of what happened on key health care legislation that THA worked and followed during the session has been published in a special edition of the *Capitol Update*, which is available on THA's Web site at www.texas-hospitalsonline.org. The chairman of each THT-member governing board received a printed copy as well.

By Ann Ward, APR, vice president of communications and public relations for the Texas Hospital Association.

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Creating Board Committees That Work

Most trustees quickly become familiar with hospital board meetings, usually a monthly affair where important discussion is held and final decisions are made. Yet, much of the nitty gritty work of boards occurs away from the traditional meeting, during different committee sessions. How can hospital boards ensure that their committees are effective and high performing?

Effective Committees Equal Board Success

“Hospital board committees serve an important purpose in the governance structure, and can contribute to the overall effectiveness of the board, if well-organized and supported,” says Joseph F. Damore, FACHE, president and chief executive officer of Mission Health and Hospitals in Asheville, N.C., and author of “Getting the Most from Your Board Committees,” an article in the American College of Healthcare Executives’ publication, *BoardRoom Press*. Damore adds that “the first building block for effective committees (and an effective board) is building trust among the chief executive officer, the board and its committees.”

Start with the Basics

To be most effective, each board committee should have a defined role, purpose, function and level of authority. Damore says that the CEO and board should determine the size and expertise for each committee, based on what they feel is best for their organization.

He also suggests recruiting committee members from outside the board. This “ensures that the committee is not limited to the expertise of the board – extensive though it is – and also provides a training ground for future board members.” Committee members can include interested community members, local experts, staff and other professionals.

Types of Committees

Most health care organizations have **standing committees** for the areas on which the board spends the most time. These can include finance, planning, fundraising and credentialing. The committees may be created in the bylaws, outlined in a board policy manual or established by custom, and the work of these committees is used on a continual basis.

On the other hand, **ad hoc committees** are formed for a limited time to address a specific need and then

disbanded. These committees can address issues such as the need to amend the bylaws, recruit a new CEO or develop a strategic plan.

“The bulk of the board’s work is usually done through its standing committees,” says attorney Eileen Morgan Johnson, author of the American Society of Association Executives’ report, *Board Committee Structure*. “Some boards have board development plans where members rotate through the different committees to gain a broad understanding of the organization. Others allow members to stay with the same committee each year to develop a deeper knowledge of the subject area to provide greater service to the organization.” She explains, “A balance of the two strategies allows board members to gain experience with different committees and to develop some expertise with the work of one or two committees.”

Sometimes, a new committee is not warranted. A **task force** can be created for an objective that can be achieved in a relatively short period of time, such as special events planning or analyzing a joint venture. An **advisory council** provides expertise and advice in selected areas to the board.

Tips for High-Performance Committees

Board committees can play an important role in organizational success. Yet, says Johnson, “Committees should not take on a life of their own, nor should they overshadow the board itself.” Follow these tips for effective performance:

- **Ensure transparency.** Committee members should be able to ask questions and receive honest answers on any issue. If trust is established, they are more open to advice and feedback.
- **Define roles and expectations.** Make sure that each committee has a written frame of reference. This can include a clear description of purpose, timeframe, authority and responsibilities.
- **Provide education.** Board members must obtain a level of expertise. Educational forums or seminars allow for “an experience in board education as well as camaraderie and networking,” says Damore.

- **Limit committee service.** To be effective and to avoid burnout, board members generally should not serve on more than two committees. This gives a board member the opportunity to focus on an individual area and develop expertise that is valuable to the organization.
- **Review committee structure.** Periodically review the number of committees, the make-up and the work of each. If there are overlapping responsibilities or work

that is not being accomplished, it is time to revamp or eliminate the committee.

- **Support committee members.** Assign a hospital executive to support each committee. For example, the chief financial officer should be assigned to the finance committee and provide timely information and analysis.

Conducting an Effective Board Self-Assessment

Does your board deserve an A in health care governance or merely a C+? To find out where your board stands and what needs to improve, trustees should conduct a board self-assessment annually.

According to James E. Orlikoff and Mary K. Totten in *The Trustee Guide to Board Accountability in Health Care*, there are two basic reasons why boards should perform periodic self-evaluations. The first is that today's unforgiving health care environment demands nothing less than excellence in governance. The second is that a well-constructed self-evaluation process can help a board improve its performance and achieve and maintain excellence in governance.

What Results Can be Expected?

Larry W. Walker, president of the Walker Company, a Lake Oswego, Ore.-based health care management consulting firm, says that an excellent board self-assessment process will achieve several key outcomes:

- Define the most critical governance success factors;
- Create an opportunity to address major issues in a non-threatening, collaborative manner;
- Clearly demonstrate where the

board is in and out of alignment on leadership fundamentals;

- Objectively assess the degree of common trustee understanding, expectations and direction for the board;
- Assess the deficiencies that may impact the board's ability to fulfill its fiduciary responsibilities;
- Identify opportunities for meaningful leadership improvement; and
- Help administration better understand and respond to the board's leadership education and development needs.

What is the Process?

The board may choose to conduct its own self-assessment, purchase a packaged self-assessment product or hire a consultant to assist with some or all of the process. Once the format is selected, each trustee independently and confidentially completes a questionnaire. Results of the survey serve as a starting point for discussion and for planning appropriate action steps.

At www.tht.org, trustees will find self-assessment tools in an online and print format. In addition, Orlikoff and Totten offer several tips for effective board self-evaluation:

- Never conduct the session as part of a regular board meeting or at the regular meeting location;
- Use an outside facilitator who can provide an outside perspective;
- Develop annual board goals and objectives and use them as the basis for the questionnaire and discussion;
- Allow at least three hours for the entire process; and
- Make sure it results in the development of a board action plan.

Walker says, "Conducting the board self-assessment is only the first step in improving leadership performance. An excellent board self-assessment process does not simply measure trustee viewpoints about governing performance.

"To be successful it must be a catalyst to engage trustees in a wide-ranging discussion of assessment findings that highlight performance gaps and areas where trustees lack consensus. Finally, it must facilitate the development of a governance improvement action plan with responsibilities, time frames and projected outcomes," added Walker.

Texas Governance: People and Places



Bill Reeder

Hospital/Health System: King's Daughters Hospital, Temple

Occupation: After 40 years of service, Bill Reeder retired from Texas Utilities in 1992. At the time of his retirement, Reeder worked as the district manager in Temple.

Length of service: Reeder has served on the hospital board for 24 years. Because of his human resources background, the chair initially asked him to serve on the nominating committee. He also chairs the compensation committee, and the stock and property committee. Currently, he is vice chairman of the board.

Facility description: King's Daughters Hospital is a full-service, 150-bed community hospital that was founded in 1896. The hospital recently added a \$3 million women's facility that includes nine private labor/delivery/recovery/postpartum suites.

Most satisfying: "It means a lot to me to know we are providing quality health care to the citizens of Temple and the surrounding area."

Most challenging: "It's a constant challenge to meet our financial needs, especially given the cost of ever-increasing medical advances and sophisticated equipment."

Biggest surprise: "I have been astounded by the effects of Medicare reimbursement on the hospital. We could raise our prices and still it won't improve the bottom line. We cannot correct that except by initiating new product lines and constantly watching our efficiencies and expenses."

Proudest moment: "One of the best things we have done was hire our CEO, Tucker Bonner. He was recommended by a search firm but was asking for a salary above our range. The committee recommended to the board to hire him at the higher figure; it turned out to be a real blessing for the hospital that we did."

Valuable lesson: "I'd say our most important lessons have revolved around the changes in reimbursement. Having such a tight budget really puts a different focus on how you operate. The only thing the board can do is develop and approve a workable budget; the CEO figures out how to cut costs."

Advice for new trustee: "Do a lot of listening, and ask a lot of questions. There are no dumb questions except the ones that do not get asked."

Hometown: Reeder graduated from high school in Port Arthur, attended Lamar Junior College in Beaumont and then Texas Christian University. He lived in Dallas for nine years before he moved to Paris, Texas, and then settled in Temple in 1963.

Family: Reeder and his wife, Shirley, were married in 1950. The couple has two daughters, Katheryne and Cynthia Jo. They also have two grandchildren and three great grandchildren.

Hobbies: In addition to golf and playing piano, Reeder is a gemstone lapidary, meaning that he cuts and polishes gemstones, such as rubies, sapphires and tourmaline.



Recognized Trustee



Pablo T. Carrasco

Hospital/Health System: Reeves County Hospital District, Pecos

Occupation: For the past four years, Pablo T. Carrasco has held the position of correctional officer. For 22 years prior to that position, he was an office manager.

Length of service: Carrasco joined the board of Reeves County Hospital District in May 2003. He has served as vice president and secretary of the Reeves County Hospital District board since 2004, and recently was re-elected for another two-year term.

Facility description: Reeves County Hospital District is a rural community hospital providing acute care to meet the needs of the residents in Reeves County and surrounding areas. The 25-bed facility is accredited by Medicare and provides inpatient, outpatient, ICU and dialysis services.

Board involvement: “When I was asked to become a board member, I said ‘yes’ because I wanted to help the people here in our precinct. I decided to get involved.”

Most satisfying: “What I find most satisfying is to work together with the other board members and to help the citizens of Reeves County.”

Most challenging: “We renovated the hospital and opened our new dialysis center about two years ago. The whole process took about one year to complete. Although it made some of us nervous to borrow the money, the board took the right action and got it done. Before we opened the dialysis center, the nearest one was 85 miles from Pecos. Some of the people who use our center now used to have to drive more than 150 miles for treatment.”

Biggest surprise: “I was truly surprised when I was appointed vice president of our board, and also again when I was recognized by the Texas Academy of Governance.”

Proudest moment: “It was a proud day when we opened our dialysis center and served 20 patients the first day.”

Valuable lesson: “I’ve learned a lot about understanding the different needs of people involved with the hospital. We’ve all learned a lot about working with each other and about being faithful to each other and to the mission of the hospital.”

Advice for new trustees: “This is a challenging opportunity that takes a lot of work and a lot of time. It’s worth it, but you have to be patient.”

Hometown: Carrasco was born in Pecos.

Family: Carrasco isn’t the only member of his family who is involved with the hospital. His wife, Angelita, is a member of the Reeves County Hospital District Auxiliary. Their son, David, is a captain in the U.S. Army and is stationed at Fort Bliss. Their daughter, Belinda, lives in Odessa.

Hobbies: “I enjoy reading and spending time with my two grandchildren, Joshua and Jacob.”



TEXAS GOVERNANCE: PEOPLE AND PLACES

Trustee profiles give you a “snapshot” look at different trustees from across the state. From Laredo to Lufkin, you can see first-hand the efforts they are making for their communities.

If you know of an exceptional trustee to profile in this section, please call THT’s Emily Brown at 512/465-1562, or in Texas, 800/252-9403.

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THT wished to acknowledge the contribution of the Texas Hospital Association.

THT Spring Forum Summary

Texas Healthcare Trustees held the Spring Forum on March 2-4 at the Doubletree Hotel in Austin, Texas. The annual event which offered educational programs and networking opportunities for the trustees covered such topics as finance, credentialing and the legislative outlook. At the March 3 luncheon, Recognized Trustees were honored, the new president/CEO Stacy Cantu was introduced and a fond farewell was given for **Mary Walker, RN, Ph.D., FAAN**.

Recognized Trustees

Honoring Texas Trustees for Achieving Texas Academy of Governance Standards:

- Noble Allen**, Knapp Medical Center, Weslaco
- Robert B. Dunkin**, Valley Baptist Health System, Harlingen
- Louis Romero**, Sid Peterson Memorial Hospital, Kerrville

Honoring Texas Trustees for Continuing to Achieve Texas Academy of Governance Standards:

- Ronald J. Epps, D.V.M.**, Providence Healthcare Network, Waco



Recognized Trustees (l-r): Robert Dunkin, Ronald Epps, D.V.M., Louis Romero and Noble Allen.



Peggy Allison, right, past chairman, THT, proposing a toast to Mary Walker, R.N., Ph.D., FAAN, at her retirement reception.

New Tool Allows Consumers to Compare Hospital Pricing Information



In March, the Texas Hospital Association launched **Texas PricePoint** (www.txpricepoint.org), which allows consumers to view and compare charge data on inpatient hospital services provided at Texas hospitals. Texas PricePoint includes pricing data on the most common inpatient services, links to quality data, and general and contact information on all Texas hospitals. Through basic and advanced queries, users can request information on a single hospital or from several to allow comparisons. Once a hospital's information is displayed, users have the option of clicking on a link to the hospital's own Web site if one exists, where they can find more specific information on hospital billing policies, and patient rights and responsibilities.

"More than anything, Texas PricePoint is designed to promote consumer/hospital interaction," said Richard Schirmer, FACHE, vice president of health care policy analysis for THA and leader of Texas PricePoint's

implementation. "The information serves as a factual starting point for more informed discussions with your hospital, physician or insurance company.

Several lawmakers and Texas Gov. Rick Perry commended THA and its member hospitals for their commitment to greater transparency in health care. "The Texas PricePoint Web site provides Texans an important new tool to help them make informed decisions about their medical care," said Gov. Perry.

The public's response to the Texas PricePoint Web site has been overwhelming, with the number of visits reaching nearly 16,000 since its launch. "Texas Price Point is just one of the many ways that Texas hospitals are demonstrating their commitment to providing information that can help consumers, employers and insurers with health care decisions," said Schirmer.

Hospitals are encouraged to link to Texas PricePoint from their own Web sites.



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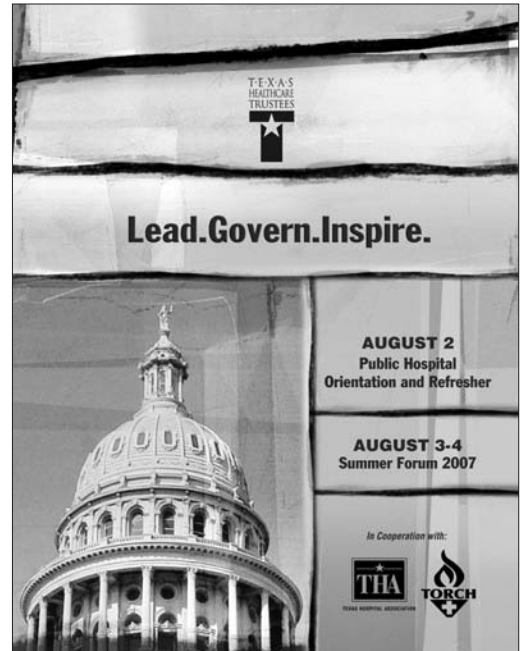
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Trustees work hard every day to make a difference in the lives of Texans. Board members must stay on top of the current needs and trends facing their hospitals. This conference offers education and networking with your peers to help you serve your community more efficiently. Topics included this year are quality, improving hospital governance, health disparity impacts, employment issues, fundraising, staff shortages, trustees and advocacy, governance overviews, legislative session overview and inclusion.

THT's Summer Forum 2007 keynote speaker is Simon T. Bailey – author, consultant, former Disney executive and hospital board member. Bailey will bring more than 15 years of leadership, sales and customer service experience to the Forum presenting on *Inclusion... The Bottom Line Impact*. Discover how understanding and leveraging diversity within your hospital drives the bottom line.



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