

## **ACTIVITY: DEVELOPING A HOSPITAL POLICY ON UNDOCUMENTED ALIENS**

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Please assume that you are a member of the board of trustees of a general, acute-care hospital in an industrialized country. Your hospital has 400 beds and provides a wide range of inpatient and outpatient services. There is no other hospital within a fifty-mile radius.

Your hospital is a public hospital in the sense that it is owned and operated by a unit of local government. The local government appoints all members of the hospital's board of trustees, which has the authority to establish all policies for operation of the hospital. The local government also provides some financial support for the hospital from tax revenues. However, most of the hospital's operating expenses are funded by revenues from patients and their insurance plans.

During the past few years the hospital has experienced some serious financial difficulties. The economic recession has reduced the amount of tax revenue collected by the local government. Therefore the local government has reduced its level of financial support for the hospital. That reduction in government financial support has forced the hospital to rely more heavily on revenue from patients. However, patients and their insurance plans have not been willing to accept a rate increase for hospital services, and the hospital has been providing an increased volume of uncompensated care. Due to these financial difficulties, the hospital has been forced to close some of its health programs and terminate some of its employees.

A large number of undocumented aliens reside in your community. Some of those undocumented aliens have arrived recently; others have lived and worked in the community for several years. The vast majority of undocumented aliens in your community have no health insurance coverage, and they are excluded by law from participation in government health programs.

Pursuant to the applicable laws in your country, the hospital is required to provide emergency treatment without regard to the patient's citizenship or immigration status, and without regard to the patient's ability to pay for his or her care. The applicable laws are silent on the issue of providing nonemergency care for undocumented aliens. Therefore hospitals may choose to provide nonemergency care for undocumented aliens and may use their public funds to provide those services for free or at a discount. However, hospitals are not legally required to provide nonemergency care for undocumented aliens and may choose to limit their nonemergency services to those undocumented aliens who are willing and able to pay for their care.

Your hospital fully complies with legal requirements in regard to providing emergency treatment without regard to immigration status. Moreover, under its current policy, your hospital provides nonemergency care for free or at a discount to any resident of the community who cannot afford to pay for his or her care. In fact many of the patients who have received nonemergency care from the hospital for free or at a discount have been undocumented aliens. This situation, together with the hospital's financial difficulties, has led to a discussion about possible changes in the hospital's policy about nonemergency care for undocumented aliens.

Last month, the hospital's board of trustees held a town hall meeting on this issue. The purpose of the meeting was to solicit input from the local community and to provide an opportunity for local residents and hospital personnel to express their opinions. Almost two thousand people attended the meeting, which was held in the auditorium of the local high school.

At the meeting, the head of the Local Taxpayers' Association (LTA) argued against providing any services whatsoever to undocumented aliens, other than the emergency services that the hospital is required by law to provide, and he made this statement:

These people have no legal right to be here in our country. They are here illegally. What part of the word 'illegal' do you not understand? The hospital has a limited amount of money and cannot meet all of the needs of people who have a legal right to be here. In fact the hospital has been closing health programs and terminating employees. The local government cannot provide any more funding, and insurance plans cannot increase the rates that they pay to the hospital. So, this is really a zero-sum game. Any resources that the hospital gives to undocumented aliens are being taken away from people who have a legal right to be here. I understand that the hospital has to provide emergency care. That's fine, but that's all. After the hospital has provided emergency treatment and stabilized the patient, he is well enough to travel. At that point, the only thing that our public hospital should give that person for free is a one-way plane ticket, economy class, back to his own country!

The representative from the Immigrant Rights Organization (IRO) strongly disagreed with the previous speaker. She made this argument:

Health is a universal human right. Therefore, everyone has a right to health, regardless of the technicalities of their citizenship or visa status. Despite their irregular status, many immigrants have lived and worked in this community for many years. They are your neighbors, your tenants, your customers, and your employees. Undocumented aliens contribute to the community by paying many types of taxes, and by performing difficult, low-paid work that many local residents do not want to perform. Therefore, undocumented aliens have the right to be treated like everyone else in our community.

The hospital's chief executive officer (CEO) also spoke at the meeting:

The hospital administration wants to retain the current policy of providing nonemergency care for free or at a discount to any resident of the community who cannot afford to pay for his or her care, regardless of immigration status. We don't even want to ask patients about their visa status. We run a hospital. We are not the immigration police!

Finally, the chief of the hospital's medical staff spoke at the meeting:

The fundamental concept of medical ethics is providing services to people in need. When someone needs medical care, we do not ask about things that have nothing to do with the individual's need for medical care. We provide medical care to convicts in prison, and we do not deny care on the ground that they were convicted of terrible crimes. We provide medical care to prisoners of war, and we do not deny care on the ground that they tried to kill our soldiers. We provide medical care to people who did not pay their taxes as required by law, and we do not deny care on the ground that they failed to meet their legal obligation to pay their taxes. We should not deny care to people on the ground that they don't have a proper visa.

After the meeting, the hospital's CEO prepared two policies for consideration by the hospital's board of trustees. These two policies, which set forth the alternatives discussed at the meeting, are referred to as Plan A and Plan B.

Specifically, Plan A provides as follows:

1. **Emergency care.** As required by applicable laws, the hospital will provide emergency treatment without regard to the patient's citizenship or immigration status, and without regard to the patient's ability to pay for his or her care.
2. **Nonemergency care.** The hospital will continue its current policy of providing nonemergency care for free or at a discount to any resident of the community who cannot afford to pay for his or her care, regardless of the person's immigration status.
3. **Notification to police and immigration authorities.** Hospital personnel will not notify police or immigration authorities about the actual or suspected immigration status of any patient or the family member of any patient.
4. **Use of a false name by a patient.** Even if a member of the hospital staff knows or has reason to believe that a patient has provided a name that is not that patient's legal name, the staff member shall continue to use the name provided by that patient in all medical records for that patient. In addition, hospital staff shall use the name provided by that patient in billing health insurance programs and government health programs for treatment of that patient.
5. **Translation services.** If a patient requires translation services in order to communicate effectively with hospital personnel, the hospital will provide translation services at the hospital's expense, regardless of the immigration status of the patient.

In contrast, Plan B provides as follows:

1. **Emergency care.** As required by applicable laws, the hospital will provide emergency treatment without regard to the patient's citizenship or immigration status, and without regard to the patient's ability to pay for his or her care.
2. **Nonemergency care.** The hospital will provide nonemergency care to those undocumented aliens who pay the hospital's regular rates and charges, in advance. In nonemergency situations the hospital will not provide care to undocumented aliens for free or at a discount. If the undocumented alien does not require emergency care, the hospital will offer the undocumented alien, at the hospital's expense, a free, one-way plane ticket (economy class) back to the patient's country of origin.
3. **Notification to police and immigration authorities.** If any member of the hospital staff knows or has reason to believe that a patient is an undocumented alien, the staff member shall immediately notify the local police or immigration authorities about that patient.
4. **Use of a false name by a patient.** If any member of the hospital staff knows or has reason to believe that a patient has provided a name that is not that patient's legal name, the staff member shall attempt to determine the patient's legal name. To the extent possible, the staff member shall use the patient's legal name in all medical records for that patient, and shall not use the false name provided by the patient in any medical record. Under these circumstances the hospital staff shall not use the false name provided by the patient in billing any health insurance plan or government health program for treatment of that patient, and the staff member shall not sign or submit any document that the staff member knows or has reason to believe is false.
5. **Translation services.** In an emergency situation, if a patient requires translation services in order to communicate effectively with hospital personnel, the hospital will provide translation services at the hospital's expense, regardless of the immigration status of the patient. However, in a nonemergency situation, the hospital will not provide or pay for translation services for any undocumented alien.

Please analyze the ethical issues presented by proposed plans A and B and determine which plan is more ethical. You should also evaluate whether the most ethical approach may be some modification or combination of those plans. Be prepared to explain and justify your conclusions.