

4700 Pt. Fosdick Drive N.W. in Gig Harbor, Washington. SAPC was the oldest of FMG's prompt care clinics and. Romney and Bauer were the longest serving providers there. Both had been hired in 2007, January for Romney and August for Bauer. Kristen Childress started at about the same time as Bauer. The situation unfolded over several years.

The prompt care clinics had onerous working conditions. The SAPC clinic was open 7 days a week, and providers and staff worked 12 hour shifts on a varying schedule. The prompt care personnel, both providers and staff (nurses, medical assistants, etc.) turned over frequently. These three providers were respected and generally well liked. No workplace is problem free of course, and this one was no exception. Respondents' witnesses testified that it had more conflict and turnover than most. Director Dr. Jeffrey Harrison described "continued weirdness in SAPC over the last couple of years" in 2011 (Exhs. 11, 12). This conclusion, reiterated by Respondents' witnesses, is not borne out by many of the contemporaneous documents. (Collective Exh. 218 HR summaries; contrast HR Director Cheree Green's testimony, hearing day #13 with Exh. 218.)

In the broader health care landscape, FMG grew quickly during Claimants' employment. It had 150 clinics and its chief Medical Officer (CMO) at the time of these events, Dr. Stephen Spare, testified that when he arrived at FMG it had 200 to 250 doctors, while by the time he left in July 2014 it employed 600 doctors.(1043:6-12) Given the size of the organization, it is not surprising that Spare testified that they needed consistency in operations. (1248:20-1249:7)

To oversee the clinics, Respondents relied on top down management with a military flavor. Several of Respondents' witnesses used that terminology to describe their understanding of their responsibilities and those of others above them in the organization.<sup>4</sup> This structure is understandable given the vast size of the organization, but it created a tendency on the part of middle managers to push decisions to a higher level in the "chain of command." It also fostered a remote relationship between providers and decisionmakers, a result Claimants also noted in pressing their concerns in this case. (*See, e.g.*, Exh. 117, Romney handwritten note concerning his meeting with Green)

The evidence showed that clinic management likewise was a revolving door. That fact contributed to ongoing disagreements between the providers and upper management as to the clinics' optimum focus. Romney, who had worked in urgent care for many years and owned two urgent care clinics in his career, had his own ideas as to the direction SAPC should take. Bauer shared his views concerning experimentation and different clinic models, but higher management did not. This naturally caused tension.

While FMG had a progressive discipline system, Respondents did not use it in this case. (Respondents' Green testified at her deposition (pages 80-100), that was because the organization favored using the simple "without cause" termination route given the providers'

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as to the proper title for Childress. Claimants call her "doctor" since she has a PhD, though Respondents claim others referred to her using her first name and without the title doctor. The Arbitrator notes that Peter O'Connor, also a PhD and not a physician, was nonetheless referred to by other employees as "doctor" from time to time. For convenience this Interim Statement of Decision eliminates the titles.

<sup>4</sup> Harrison, for example, testified that he demoted Bauer for "conduct unbecoming." (3476:4)

contracts.) She testified that as a result there existed no written record for the provider and implied that this was good for the provider since if he was looking for another job after termination, he would not have anything “bad” in his personnel file.

In this case, the two doctors were fired late on Sunday afternoon, May 19, 2013. “without cause” by Spare and COO Peter O’Connor in person. Claimants, who were the only providers staffing the clinic, were told to see all remaining patients before turning in their keys and leaving with all of their personal effects. Romney, 72 at the time of his termination, never worked again, and Bauer, 47, took many months to find employment. In June 2013, they (together with ARNP Childress) filed a class action in Washington state court.

### **SAPC Governance**

SAPC had a dual track reporting system. A clinic manager oversaw the staff, and a medical director oversaw the providers. Bauer was the medical director for about 2 years. During that period, he reported to Harrison, the Regional Medical Director at the time.

For a while, all went well (Exh. 6) and Harrison offered Bauer directorship of a Prompt Care Service Line FMG apparently intended to create. When those plans failed to jell, the clinic kept its orientation and the day to day work continued. Later, Harrison apparently became dissatisfied with Bauer’s performance, and on March 11, 2011, demoted him (Exh. 11). Once Bauer was demoted, SAPC never again had an on-site medical director; Harrison simply installed himself in that position. As time went on, the vision of the clinic providers more obviously differed from that of FMG. (Exh. 19; Spare 1023:4-25)

The problems with Harrison as medical director immediately emerged. Harrison was already medical director of the family practice clinic, and was officed on a different floor of the building. He did not have an office in SAPC and was rarely seen there. Moreover, Harrison was a hands off manager (Exh. 13) and his efforts to delegate his responsibilities to non-physicians prompted discontent at SAPC. He gave increasing responsibility to SAPC clinic manager, Sarahbeth Bilyeu, who then left. She was replaced in mid 2011 (Exh. 19) by Betti Wilson, whose office was also on a different floor from SAPC.

Meanwhile, fifteen clinic staff rotated through shifts at SAPC. (1927) At first, all of the clinic staff reported to Wilson. Then, in October 2011, she installed nurse Jesse Bivens as nursing supervisor to oversee the clinic staff. (Exhs. 21, 198) Later, in 2013, she hired a clinic operations supervisor who oversaw the front office staff. (1926:10-12)

Of course, if medical issues arose, Wilson testified she did not handle them. She took them to Harrison (1927), who had a significant follow through problem. At the October 19, 2011, provider meeting the minutes noted: “Prompt Care providers feel that they need more communications from Dr. Harrison as their leader.” (Exh. 21)

### **SAPC clinic hours, scheduling, and “Overtime”**

Respondents claim that other providers left SAPC due to their dissatisfaction with Romney and Bauer, but the contemporaneous documents do not bear this out. Dr. Lomotan left in mid 2011.