

## **THE TRIALS OF MIKE HATCH: IS THE ATTORNEY GENERAL REFORMING HEALTH CARE, OR IS HE GRANDSTANDING?**

Star Tribune (Minneapolis, MN)  
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February 20, 2005

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The story line might go like this: Populist attorney general takes on the faceless health care industry. Panicked hospitals and health insurers change their money--grabbing ways. Costs go down. Delivery improves. Everyone applauds.

If only it were that simple.

Since Minnesota Attorney General Mike Hatch began his march through the financial books of the state's largest nonprofit health care insurers, and providers five years ago, much has changed.

Executive country club memberships no longer are paid by patient premiums. Boards of directors think long and hard before hiring expensive outside consultants or authorizing anything but the most essential in terms of travel and entertainment. And sales representatives meet clients in their offices instead of posh restaurants where expense accounts once paid for lunch and dinner served on well-appointed tables.

"Hatch should be given credit for having made major changes in the health care industry in the state there's no question," Fairview CEO David Page told MPR recently.

But then again, much has stayed the same. Health care costs continue to skyrocket and care issues remain a top priority with the public.

And in recent months, Hatch appears to have renewed his onslaught on what he sees as organizations that place profits over patients.

"What accomplishments?" said state Rep. Fran Bradley, R-Rochester, chairman of the House Health and Human Services Finance Committee. "What has been happening with health care costs? Nothing he's done has affected health care cost *drivers*."

Bradley and others assert that Hatch goes too far in his oversight and criticism of the nonprofit insurers and care providers, that he is headline-driven and has chosen to battle the big players in health with a view to

running for higher office.

"Health care is one of the top attention-getters of voters," Bradley said. "It doesn't take a rocket scientist to recognize that."

At least one health care target of Hatch's is fighting back. When he sued Allina Hospitals and Clinics last month over its growing cardiology practice on antitrust grounds, Allina executives were at Hatch's Capitol office trying to explain their position almost before the lawsuit ink was *dry*. The meeting ended after seven strident minutes, and no one emerged satisfied, according to both sides.

In an internal memo to senior executives and board members last week, Allina's general counsel suggested that Hatch's lawsuit bordered on harassment. A dismissal motion is pending.

Allina Chairman Mike Dougherty, who joined the board at Hatch's request, called the litigation "irresponsible" and said: "This lawsuit only diverts health care funds from their intended purpose."

Hatch is unrepentant about his office's zeal in monitoring the health care industry.

"This is a function never before performed by this office," Hatch acknowledged. "It's had an effect. Organizations are much more cognizant about how they spend money. I suppose my name is brought up in vain in boardrooms, but that's okay."

Former U.S. Sen. Dave Durenberger generally credits Hatch with recognizing that there are systemic problems in the delivery of health care. But Durenberger, who heads the National Institute of Health Policy at the University of St. Thomas, questioned some of his methods.

"Why go after golf memberships if the problem is much bigger than that?" he asked. "Is this a good way to make policy? No. But if hospitals and insurers aren't cleaning up their act, then who's going to make them do it? Not you or I. So Mike says, 'I've got some leverage.'"

The fact that Hatch has rankled many in the health care industry is no secret. But the power of his office to oversee nonprofits organizations and enforce antitrust laws make him an influential force to contend with.

Indeed, top executives of some of the largest providers declined to comment for this article. Blue Cross and Blue Shield of Minnesota, Medico and HealthPartners declined to comment on Hatch's relationship with the health care industry. Fairview's Page was out of town and unavailable for

comment.

Only Allina CEO Dick Pettingill agreed to talk on the record. "It's frustrating that the attorney general would rather use depositions instead of dialogue to have a conversation," Pettingill said. "We're both looking at the (same) world and drawing different conclusions."

Hatch long has been considered a likely candidate to run for governor in 2006 and recently, with the decision of Sen. Mark Dayton not to seek reelection, Hatch's name also has been on the shortlist of potential DFL candidates for that seat.

But Hatch contends that his motivation isn't political. It's to do with protecting the working men and women of Minnesota who struggle to make ends meet and struggle even more with a health care system that is broken.

Hatch first turned the spotlight on health care in late 2000 when he criticized Blue Cross and Blue Shield of Minnesota for failing to provide adequate mental health coverage to children. Blue Cross initially challenged Hatch's assertions but then agreed to expand its coverage and reimburse the state for \$8.2 million in uncovered claims.

Hatch then went after Allina and Medica, which then were one company. *His* high-profile investigation detailed hundreds of thousands of dollars of questionable administrative expenses, including consultants and entertainment. He successfully split the organization into separate entities.

But some question whether Hatch did anything more than spur the inevitable divorce of an ill-fated conglomerate.

"That would have happened on its own power," said Allan Baumgarten, an HMO consultant. "(Corporate) leaders would have reached the conclusion that this was not a good idea, that the synergies they thought were there had not occurred, and that there were unshakable conflicts in goals."

Hatch conducted subsequent audits of HealthPartners and Fairview, both of which resulted in compliance actions. HealthPartners agreed to use Mankato businessman Glen Taylor as a corporate consultant for a year; Fairview agreed to review its charity care and debt collection policies. Medica and Hatch still have ongoing issues about the composition of Medica's board. That goes to arbitration this week.

Allina, however, has taken a much more assertive response to Hatch's cardiology lawsuit filed last month. Last week, the provider filed a dismissal motion in Ramsey County District Court claiming that Hatch has no grounds

to bring the antitrust lawsuit because merger plans between Allina and two independent cardiology groups were dropped more than a year ago.

"I didn't come to Minnesota to have confrontations with the attorney general," said Pettingill, who assumed the top job at Allina two years ago. "He's frustrated, we're frustrated."

Julie Brunner, executive director of the Minnesota Council of Health Plans, an umbrella organization for the state's eight largest nonprofit insurers, suggested that Hatch could be just as effective with a less combative approach.

"There are a number of ways to raise issues and bring people's attention to practices that they should be concerned with," Brunner said. You can have positive results without being confrontational."

Hatch gives no indication that his work is done.

"We're the only one willing to say we'll call a foul where there is a foul," he said.

## **The cases**

### **Blue Cross and Blue Shield of Minnesota**

Began: 2000

Findings: Systematic refusal to pay for mental health care for children.

Result: Coverage expanded.

### **Allina and Medica**

Began: 2000

Findings: Excessive administrative expenses, including consulting fees, travel and entertainment.

Result: Allina and Medica split into separate organizations; Hatch appointees placed on boards of directors in oversight role.

### **Medica (pending)**

Issue: Whether Medica administrators appointed by Hatch had the right to become full-fledged board members.

Status: Awaits arbitration.

## **HealthPartners**

Began: 2001

Finding: Excessive executive compensation and administrative expenses, lack of board oversight.

Result: Appointment of Mankato businessman Glen Taylor, also owner of the NBA's Timberwolves, to serve as an unpaid financial and corporate adviser for a year.

## **Fairview**

Began: 2003

Finding: Inadequate levels of charity care to the system's neediest patients; overuse of collection agencies to recoup unpaid bills.

Result: Fairview says it has improved its charity care program and will monitor debt collection practices.

## **Allina (pending)**

Issue: Whether Allina is attempting to monopolize cardiology services in the Twin Cities by merging with two independent practice groups.

Status: Allina says no merger is contemplated and has asked for dismissal of the lawsuit.