# Baldrige interrupted

**Premier and North Mississippi both took home the prestigious quality award, but their victory celebrations were shortlived**

By Joseph Mantone
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When a company wins the prestigious Malcolm Baldrige National Quality Award, the company's typical reaction is celebratory. The company, its executives and its employees revel in the fact that the federal government has bestowed upon it the highest honor the government can award a business. Celebration then gives way to visions of dollar signs as the company's leaders ponder ways to parlay the award and the recognition that comes with it into more business, increased revenue and higher profits.

But for two 2006 Baldrige winners, the celebration was short-lived. Joy gave way to anger and frustration as what was supposed to be the pinnacle of business achievement turned into a public relations nightmare. Clients, the media and others questioned whether the pair was deserving of such an honor given their past business practices—practices that were the subject of investigations, hearings, lawsuits and legal settlements. They had a past, and their critics made sure that no one would forget it. So much so that less than a month after announcing the winners, the Baldrige program had to publicly defend itself and its choices.

"The employees realize how hard they worked," said Blair Childs, senior vice president of public affairs at Premier, one of the 2006 Baldrige winners. "It's an incredible accomplishment no matter what people might say. I don't think that takes away from what we've done. It's disappointing that people who have an agenda get as much coverage as people who have worked so hard."

The lesson learned by Premier—and others who devote considerable resources applying for the Baldrige—is that winning the prestigious award doesn't necessarily absolve them from past sins. Premier and 757-bed North Mississippi Medical Center, Tupelo, which also won a 2006 Baldrige, both hired Baldrige consultants and spent thousands of hours following the Baldrige criteria, filling out the 50-page application and being monitored by the program's examiners. Even with the wins, neither has been able to put the past behind it.

Daniel Fell, a healthcare marketing expert with Daniel Douglas Norcross in Chattanooga, Tenn., said even when winning an award as prestigious as the Baldrige, organizations can't ignore their critics. Or at the very least, he said, winners should brace themselves for attacks. "They should be prepared to show how they are changing practices," Fell said. "The more specific they can get, the better they address the critics."

North Mississippi has had to deal with questions, but it hasn't faced the public relations fiasco that hit Premier.

Premier, the San Diego-based health alliance of 1,700 hospitals, won in the Baldrige service category, which recognizes companies from any industry that provides a service. North Mississippi, which is the flagship of six-hospital North Mississippi Health Services, won in the healthcare category, which is limited to companies or organizations that provide care.

The U.S. Commerce Department announced North Mississippi, Premier and a company called Mesa Products, a manufacturer of corrosion-control systems, as the only three Baldrige winners on Nov. 21, 2006.

Not surprisingly, both Premier and North Mississippi said they were proud of being recognized. A Premier written statement said: "The award is a testament to our commitment to continually challenge ourselves to better serve our not-for-profit hospital members."

John Heer, president and chief executive officer of the North Mississippi system, said in an interview: "The whole thing is recognition that you achieved world-class performance."

Those behind the Baldrige were also happy with their selections.

"President Bush and I applaud the three 2006 recipients of the prestigious Baldrige Award," said Commerce Secretary

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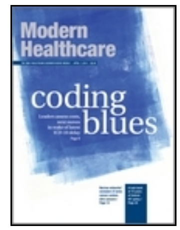


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Carlos Gutierrez in a news statement. "With their innovative practices, commitment to excellence and outstanding results, these organizations are among America's best and are role models for any organization striving for world-class performance."

It was Gutierrez's use of the phrase "role model" that seemed to energize the pair's critics and set off the blaze that ensued.



## Billing practices under scrutiny

Both North Mississippi and Premier have been less than business Boy Scouts, if legal scrutiny is the measure.

Under threat of a lawsuit, North Mississippi's parent, North Mississippi Health Services, reached an agreement in 2004 to settle accusations that the system was overcharging the poor and uninsured. A January 2005 *Washington Post* article highlighted some of the system's alleged billing practices tactics that included suing an uninsured patient when he asked for more time to pay his bill.

North Mississippi was one of dozens of not-for-profit hospital systems targeted nationwide by the law firm of Richard Scruggs, who led a multibillion-dollar series of lawsuits against the tobacco industry. The hospital lawsuits charge that not-for-profits were failing to live up to their charitable obligations in return for tax exemptions.

Various state and federal courts have thrown out a number of those lawsuits, but several prominent systems settled without going to trial. The settlements affected 10 Oregon hospitals from two Portland systems—seven from Providence Health System in Oregon and three from Legacy Health System—and 25 Northern California hospitals from Sutter Health, Sacramento, Calif. Also, 37-hospital Catholic Healthcare West, San Francisco, agreed to a settlement in one of two class-action lawsuits against the multistate system. All of those systems agreed to discount or even rebate care to the poor and uninsured (Aug. 14, 2006, p. 6).

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North Mississippi's 2004 agreement required it to provide free care for patients earning less than 200% of the poverty level. The agreement came after Scruggs offered a settlement before his office filed a lawsuit against the system.

The system started instituting the new policies in the agreement before the settlement received court approval. North Mississippi then filed a motion to dismiss the case in 2005 because it said it was treating patients from out of its service area—including neighboring states—and the settlement was more costly than the system thought it would be (Aug. 14, 2006, p. 16).

The U.S. District Court in Oxford, Miss., dismissed the case, saying the plaintiffs' "claims seek to make unprecedented use of Mississippi common law principles and statutes to impose upon nonprofit hospitals broad duties to provide charitable care to indigent patients."

Despite the lack of a formal legal settlement, North Mississippi began offering discounts to the uninsured, said Bruce Toppin, vice president and general counsel of the system. Instead of charging list prices to the uninsured who earn more than 100% of the federal poverty level, the system started charging those patients the most common rates negotiated by managed-care providers, Toppin said.

Toppin added that the system is "extremely flexible" in setting up payment plans with patients but it will use collection tactics if patients don't respond to requests for payment. Those tactics could end up in litigation.

More recently, North Mississippi drew the attention of Sen. Chuck Grassley (R-Iowa), the outgoing Senate Finance Committee chairman. Grassley's office conducted a survey of 10 not-for-profit health systems about their charity care and community services. Among the questions Grassley's office asked the systems was if they paid country-club dues for their executives. North Mississippi was one of four that had.

From 2002-04, the system paid nearly $30,000 for country-club memberships for four top executives, according to documents sent to Grassley's office. The system said it had been paying the dues because at one time there were few restaurants in the area and the country club was the best spot for networking. Since then new restaurants have been erected and the system stopped paying the dues as of Jan. 1, 2006 (Sept. 18, 2006, p. 7).

The system also sent information to Grassley that explained its long-standing practice of not charging the uninsured who earn less than 100% of the federal poverty level. It also explained its discounts to uninsured patients that were started after the Scruggs allegations.

Problems for Premier began in 2002, when the antitrust subcommittee of the Senate Judiciary Committee instructed group purchasing organizations—the outfits that negotiate discounts on supplies for providers—to consider divesting financial



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purchasing organizations—the outfits that negotiate discounts on supplies for providers—to consider divesting financial interests in manufacturers that they contract with. The subcommittee said this during a hearing, which turned out to be the first of four examining the business practices of GPOs.

The committee launched the hearings after small manufacturers complained they couldn't gain entryway into hospitals because GPOs were too cozy with large manufacturers. The small manufacturers have also called for the repeal of the safe harbor in the anti-kickback statute that allows GPOs to receive payments—called administrative fees—from suppliers.

In 2003, an audit by HHS' inspector general's office found that Premier was granted equity in lieu of administrative fees from four vendors under contract with Premier. The inspector general's office also found that Premier's president and CEO, Richard Norling, held stock in Express Scripts, which was also a vendor contracted to Premier. The HHS instructed Premier that it must disclose detailed information about its financial investments to its members.

Meanwhile, the Senate subcommittee hearings prompted Premier and other GPOs to form the Healthcare Group Purchasing Industry Initiative in 2005. GPOs that belong to the self-regulatory initiative answer questions about their ethical policies and business practices and those answers are publicly posted on the Internet.

## Baldrige as redemption

What better way to put the past behind and build a business for the future than to win the Baldrige Award? The award recognizes companies or organizations that deliver value to customers and improve internal operations and learning among its employees. The prize is sought because it's the only quality award given out by the U.S. president, and many in the business community hold it in high regard.

North Mississippi first applied for the Baldrige in 2003, one year before it hired Baldrige veteran Heer as president and CEO. Heer was president of 492-bed Baptist Hospital, Pensacola, Fla., when it won the Baldrige in 2004.

North Mississippi also hired Joel Ettinger as a consultant in 2004. Ettinger, who has been a Baldrige examiner for 14 years, operates his own Baldrige consultancy, Category One. Ettinger has now consulted for three of the six Baldrige healthcare winners: North Mississippi, Baptist and 472-bed St. Luke's Hospital of Kansas City (Mo.), which won in 2003. Ettinger, who is considered an alumnus of the examiner program, reads through his clients' past Baldrige applications and instructs them on how to improve.

Alumni examiners like Ettinger make up a reserve pool of examiners, and can mentor new examiners on site visits. But examiners who are consultants are not allowed to examine their own clients.

The examiners score applicants' applications and conduct the site visits. The judges select which applicants receive site visits, make sure the examiners on the site visits have no conflicts of interest with the applicant and they nominate winners who are officially selected by the Commerce Department.

Premier's Baldrige journey started in the '90s. Premier's Norling has been a director since 2000 on the board of the Baldrige Foundation, a fundraising arm for the Baldrige program, and served as president of the foundation in 2001. Norling said he wanted to follow the Baldrige criteria to help with integration after the 1996 merger of American Healthcare Systems, Premier Health Alliance and SunHealth Alliance. That union of alliances created the current Premier.

But Norling isn't the only connection between Premier and the Baldrige program. Thomas Schamberger, the foundation's current executive director, is a former Premier employee. Schamberger was the vice president of performance excellence and left in March 2005. Part of his responsibilities with Premier included putting the Baldrige criteria into practice, Premier spokesman Hunter Kome said in an e-mail.

And three current Premier employees—Kelli Price, Pat Lapekas and Tyra Rodriguez—are Baldrige examiners. Price works in human resources and helps with the company's Baldrige efforts as well as leading employee development, improvement and management programs, Kome said. Lapekas reports to Price and leads Premier's process development, improvement and management efforts. Rodriguez reports to Lapekas.

Seven years ago, Premier hired consultants who had been judges or examiners with Baldrige to score the company according to the program's standards. After five years of working with the consultants, Premier first applied for the award in 2005. It didn't merit a site visit. It reapplied in 2006. In September, Baldrige judges selected Premier as one of 15 applicants that would receive a site visit.

But on Nov. 20, one day before the Commerce Department announced the 2006 Baldrige recipients, Rochester Medical Corp., Stewartville, Minn., which manufactures catheters, announced an $8.8 million settlement with Premier. Rochester alleged that GPO contracts were hurting its ability to gain market share, and that GPOs' "true function in the medical-device market is to deliver substantial market share to monopolistic device manufacturers … in exchange for administrative fees." Premier settled the case without admitting wrongdoing.

Then came the stories in the *Charlotte Observer*, *San Diego Union-Tribune* and *USA Today*. All three highlighted the apparent conflicts of interest of the current and former Premier employees being involved with the Baldrige Foundation and serving as examiners. The newspapers also rehashed the subcommittee hearings and allegations about GPOs.

Premier officials blamed the negative press on longtime GPO critics Retractable Technologies and the Medical Device Manufacturers Association, saying both were orchestrating a smear campaign to discredit Premier. Retractable Technologies is a manufacturer of safety needles, and the MDMA is a trade association that represents small devicemakers.

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Both have complained for years that GPOs' business practices are anti-competitive and don't allow small devicemakers to compete.

Retractable Technologies is now under contract with Premier and pays the administrative fees that they have spoken out against. However the company still isn't happy with Premier.

Phil Zweig, a spokesman for Retractable, said Premier winning the award is akin to "putting lipstick on a pig." He said Premier's practices have not changed. Retractable and the MDMA accused Premier of having a conflict of interest with the awards program because of Norling's role with the Baldrige Foundation.

Premier's Childs said after learning that Premier was a Baldrige finalist last year, Norling offered to step down from the foundation board to avoid an appearance of a conflict. Harry Hertz, director of the Baldrige program, said he told Norling there was no need to step down because the program had enough firewalls in place that wouldn't allow the foundation to influence selection of the winners.

Zweig also e-mailed members of the media on Dec. 1, 2006, with a link to a blog written by former Baldrige Foundation Chairman Dale Crownover. In his e-mail, Zweig said Crownover called for the Baldrige committee to strip Premier of the award. But a close reading found that, while he questioned the rigor of the process, he didn't call for the award to be stripped away.

But on Dec. 11, Crownover wrote that Premier should withdraw its application (See chart, p. 14). Crownover, himself, was a member of the Baldrige Foundation when his company, Texas Nameplate Co., won its second Baldrige in 2004.

Hertz defended this year's selections. No one has a pristine past, he said. "Something always comes up on the background check," he said. However, Hertz said he wasn't aware of the Rochester litigation until after Premier was chosen. He said he did know about the 2002 Senate subcommittee hearing on GPOs.

Attorney Sidney Backstrom, a partner with the Scruggs Law Firm, said the firm still hears complaints from North Mississippi patients. "Since the settlement fell through," Backstrom said, "we've got quite a few calls from patients who were treated in much the same manner. It's anecdotal but based on the number of calls it seems that they haven't changed their practices substantially."

All of the criticism forced the National Institute of Standards and Technology to take the unusual course of issuing a Dec. 15, 2006 statement reaffirming its confidence in its selection process and its 2006 winners. *Modern Healthcare* received a copy of the statement via e-mail from Premier's Childs. He said Premier did not request the statement.

"They decide these things for themselves," Childs said in an e-mail.

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