

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

ROCKY MOUNTAIN HOLDINGS, LLC)
)
 Plaintiff,)
)
 vs.)
)
 UNIVERSITY OF IOWA,)
)
 Defendant,)
)
 and)
)
 THE GAZETTE COMPANY, k/n/a)
 FOLIENCE, INC.)
)
 Intervenor.)

No. CVCV079937

BRIEF IN SUPPORT OF THE
GAZETTE COMPANY, k/n/a
FOLIENCE, INC.’S ENTITLEMENT
TO INFORMATION SUBJECT TO THE
FOIA REQUEST

The Gazette Company, k/n/a Folience, Inc. (hereinafter “The Gazette”), in accordance with the court’s Order, hereby briefs the issue of The Gazette’s entitlement to the information and documents at issue in the present action.

I. INTRODUCTION

Recently, Rocky Mountain Holdings, LLC (“RMH”) has been the subject of class action lawsuits and media attention due to the exorbitant amounts it charges patients. *See, e.g.,* John Tozzi, *Air Ambulances Are Flying More Patients Than Ever, And Leaving Massive Bills Behind*, Bloomberg, June 11, 2018, <https://www.bloomberg.com/news/features/2018-06-11/private-equity-backed-air-ambulances-leave-behind-massive-bills> (discussing a \$45,930 bill for a 45 minute ride for a 4-year-old, and a \$34,495 bill for an 18-minute ride later charged to the patient’s estate); Sarah Stewart, *Air Ambulance Lawsuit Becomes Class Action*, KFOR, July 14, 2016, <https://kfor.com/2016/07/13/air-ambulance-lawsuit-could-become-class-action> (noting RMH’s 750% profit margin at the

expense of an Oklahoma patient, who received a \$38,000 bill for a 20 minute ride); Dianne L. Stallings, *NM Patient Slammed with Pricey Air Medical Transport Bill*, BoundTree University's Ruidoso News, Dec. 2, 2016, <https://www.boundtreeuniversity.com/Cardiac/news/148616048-NM-patient-slammed-with-pricey-air-medical-transport-bill> (noting RMH's refusal to become a network provider and its insistence that the patient cover the difference between the \$59,999 RMH bill and the \$19,999 paid by insurance). Similar complaints have been lodged by Iowans, who have been charged exorbitant prices by RMH's parent company, Air Methods, for transports within Iowa. (See Ex. A, Eric Jordan, "Unacceptable" Secrecy Over UI's Air Rescues, THE GAZETTE, JUNE 17, 2018 AT 11A (reporting about a farmer charged \$35,000 for transport from Osceola to Des Moines, a 40-mile trip, only \$11,000 of which was paid by his insurance).)

In 2014, the University of Iowa Hospitals and Clinics ("UIHC"), a public entity, outsourced its helicopter ambulance service to a for-profit corporation by contracting with RMH to provide air medical transport services and support to UIHC. (See Petition for Injunction ¶ 9.)¹ Because of its burn unit and neonatal intensive care unit, UIHC receives 800 to 1,000 air transports every year. RMH's parent company, Air Methods, currently owns and operates the majority of medical helicopters in Iowa. Meanwhile, UIHC is facing a \$7 million deficit caused by a number of factors, including rising costs, state and federal funding cuts, and changes stemming from the Affordable Care Act.

¹ RMH asserted in its Petition that it contracted with UIHC. (Petition ¶ 9.) According to information available to The Gazette, UIHC's Agreement is with Air Methods, which wholly owns RMH. Because RMH has alleged that it, rather than Air Methods, contracted with UIHC, The Gazette will assume the accuracy of RMH's allegations. In any event, RMH is a wholly-owned subsidiary of Air Methods, and the Chapter 22 analysis is the same regardless of which entity contracted with UIHC.

Earlier this summer the Gazette submitted a public records request to the University of Iowa seeking information regarding the relationship between the UIHC and RMH, pursuant to Iowa Code Chapter 22. The Gazette has requested complete copies of the agreement between the parties (hereinafter “Agreement”), its corresponding amendment (“Amendment”), and a payment history/summary between RMH and UIHC.

RMH opposes the disclosure and filed the present action seeking an injunction barring the University of Iowa from complying with the information request. The University of Iowa, through its Answer, has stated that it “resists this Petition to the extent that it requests attorney fees or costs and states that it will comply with any Court Order regarding the records at issue.” (University of Iowa Answer Request for Relief.) The University of Iowa’s neutral position as to the open records requests compelled The Gazette to intervene in this matter, which was granted by the Court on July 13, 2018. The Gazette presents this brief in support of its position.

II. STANDARD

The purpose of Iowa Code Chapter 22 is “to open the doors of government to public scrutiny—to prevent government from secreting its decision-making activities from the public, on whose behalf it is its duty to act.” *Iowa Civil Rights Comm'n v. City of Des Moines*, 313 N.W.2d 491, 495 (Iowa 1981); *see also Iowa Film Prod. Servs. v. Iowa Dep't of Econ. Dev.*, 818 N.W.2d 207, 217 (Iowa 2012). Its purpose establishes “a presumption of openness and disclosure under this chapter.” *Gabrilson v. Flynn*, 554 N.W.2d 267, 271 (Iowa 1996). Under Iowa Code § 22.2(1), “[e]very person shall have the right to examine and copy a public record and to publish or otherwise disseminate a

public record or the information contained in a public record.” Public records are broadly defined to include “all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state.” Iowa Code § 22.1(3)(a). Public records further include “all records relating to the investment of public funds including but not limited to . . . contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.” *Id.* § 22.1(3)(b). The party seeking to prevent disclosure has the burden of proving by clear and convincing evidence that the information is protected by one of the confidentiality exceptions contained in Iowa Code § 22.7. *See id.* § 22.8(3). Additionally, “*the district court shall take into account the policy of [Chapter 22] that free and open examination of public records is generally in the public interest even though such examination may cause inconvenience . . . to public officials or others.*” *Id.* (emphasis added).

“[S]ection 22.8, gives a court authority to ‘grant an injunction restraining the examination, including copying, of a specific public record or a narrowly drawn class of public records.’” *Iowa Film Prod. Serv.*, 818 N.W.2d at 218 (quoting Iowa Code § 22.8(1)). “An injunction may be issued only if the court finds both ‘the examination would clearly not be in the public interest’ and ‘the examination would substantially and irreparably injure any person or persons.’” *Id.* (quoting § 22.8(1)(a)–(b)) In actions for injunctive relief under Chapter 22, “the district court shall take into account the policy of this chapter that free and open examination of public records is generally in the public interest even though such examination may cause inconvenience or embarrassment to public officials or others.” *Id.* (quoting § 22.8(3)). Further, the district court may issue an

injunction “restraining examination of a public record or a narrowly drawn class of such records, *only if the person seeking the injunction demonstrates by clear and convincing evidence that this section authorizes its issuance*” and the “injunction would be justified under this section for every member within the class of records involved if each of those members were considered separately.” § 22.8(3) (emphasis added); *see also Hawk Eye v. Jackson*, 521 N.W.2d 750, 753 (Iowa 1994) (holding “blanket claim of privilege” under exceptions contained in § 22.7 must be rejected and analysis of public interest must be made for all information sought).

III. ARGUMENT

The purpose of Chapter 22 is to remedy unnecessary secrecy in conducting the public’s business. *City of Dubuque v. Telegraph Herald, Inc.*, 297 N.W.2d 523, 527 (Iowa 1980). As noted above, the Open Records law imposes a presumption in favor of disclosure and requires a narrow interpretation to statutory exemptions from disclosure. *Bd. of Directors of Davenport Comm. Sch. Dist. v. Quad City Times*, 382 N.W.2d 80, 82 (Iowa 1986); *City of Dubuque*, 297 N.W.2d at 526-27. “Disclosure is favored over non-disclosure, and exemptions from disclosure are to be strictly construed and granted sparingly.” *Davenport Comm. Sch. Dist.*, 382 N.W.2d at 82.

UIHC records are public records. UIHC is a state hospital. The Iowa Supreme Court has previously held UIHC records are “public”. *See Burton v. Univ. of Iowa Hosp. and Clinics*, 566 N.W.2d 182, 186 (Iowa 1997) (citing *Head v. Colloton*, 331 N.W.2d 870, 873 (Iowa 1983) (holding that because the UIHC is a state hospital its records were public records for purposes of Iowa Open Records Act, defining “public records” to

include “all records and documents of or belonging to this state”). RMH alleges that the UIHC records sought by The Gazette are confidential because they are (1) a trade secret so recognized and protected by law under Iowa Code § 22.7(3), or (2) constitute a report to a government agency, disclosure of which would provide competitors an advantage without serving any no public purpose under Iowa Code § 22.7(6). RMH’s argument fails because the information sought (1) is not a trade secret, and (2) that information’s examination is in the public’s best interest.

A. The Records The Gazette Requested Are Not Trade Secrets Because They Lack Independent Economic Value and RMH Failed to Maintain the Secrecy of the Information Sought.

RMH alleges that the information subject to The Gazette’s Chapter 22 request includes pricing, reimbursement, and marketing information, information that RMH alleges constitutes trade secrets. *See* Petition for Injunction ¶ 17. When considering a Chapter 22 request, the Court uses the definition of “trade secrets” found in Iowa’s Uniform Trade Secrets Act. *See Iowa Film Prod. Servs. v. Iowa Dept. of Economic Dev.*, 818 N.W.2d 207, 219 (Iowa 2012). In order for information to qualify and be protected as a trade secret, the information must (1) derive independent economic value and (2) be subject to reasonable efforts to maintain its secrecy. Iowa Code § 550.2(4). RMH bears the burden of proving both elements. *See Iowa Film Prod. Servs.*, 818 N.W.2d at 220 (explaining the Iowa legislature amended the Iowa Trade Secrets Act to require proof of both elements in Iowa Code §§ 550.2(4)(a), (b)); *US West Commc’ns, Inc. v. Office of Consumer Advocate*, 498 N.W.2d 711, 715 (Iowa 1993).

1. RMH failed to meet the strict requirements for establishing that the requested information is of economic value.

With respect to the first element that the information has “independent economic value”, generally, “information kept secret that would be useful to a competitor and require cost, time, and effort to duplicate” is considered to be of economic value. *US West*, 498 at 714. This applies to information such as customer lists or manufacturing processes. *See Iowa Film Prod. Serv.*, 818 N.W.2d at 220. Business and financial information can be considered to be of economic value in certain circumstances, but Iowa courts, like courts from other jurisdictions, strictly apply the economic value requirement to this type of information. *See Iowa Film Prod. Serv.*, 818 N.W.2d at 220-21 (discussing cases).

RMH alleges vaguely that disclosure of the information sought would provide competitors an unfair advantage. *See* Petition for Injunction ¶ 18. These allegations are supported only by the equally vague affidavit of Lee McCammon, AMC’s Vice President of its Northern Central Region. (Petition, Ex. A) and the vague testimony offered by Brian Loveridge at the July 30, 2018 hearing. Mr. McCannon states generally that AMC “utilizes proprietary contract structures and terms to make its offerings more competitive,” (Ex. A ¶ 7), and considers “information about its marketing programs, pricing structures, reimbursement rates, proprietary contract structures and terms” to be trade secrets (Ex. A ¶ 8). While claiming that “[m]aintaining the secrecy of its trade secret information allows AMC to more effectively negotiate with its customers” (Ex. A ¶ 10), Mr. McCammon does not explain *how* this information would be useful to competitors. Further, it does not address the specific information sought by The Gazette, namely the specific pricing terms of the Agreement with UIHC and UIHC’s billing and

payment information. RMH is willing to disclose all but the financial terms and marketing provision of the Agreement with UIHC. (Ex, 1, redacted Agreement.) As such, it fails to meet the strict requirements for establishing the general categories of information to be of economic value. *See Iowa Film Prod. Serv.*, 818 N.W.2d at 223 (recognizing argument about competitor advantage from learning cost structure and budget information for film as “a reasonable theoretical argument, but the Producers offered nothing in support of it other than theory.”). As in *U.S. West Communications* and *Iowa Film Production Services*, “hard facts” are missing. 498 N.W.2d at 715; 818 N.W.2d at 223.

Mr. Loveridge’s testimony did not cure these deficiencies. His testimony was just as vague as the affidavit provided by Mr. McCammon. Mr. Loveridge essentially testified to the self-evident fact that allowing competitors to know the total contract price and the length of the contract, information he labelled as a “trade secret” with no further elaboration, would allow competitors to undercut RMH by offering a lower price. (7/30/18 Hearing Tr. at 15-19.)

To the extent RMH argued that it changed its contract model, the change from the HBS model of agreement to the ADM model of agreement does not change the relevance of the Agreements to the public. (7/30/18 Hearing Tr. 11-13.) Under the HBS model, RMH directly bills UIHC patients (*id.*), making the Agreement of even greater importance to the public in light of the numerous news articles accusing RMH of gouging patients with exorbitant prices.

RMH's reliance on internal policies of keeping certain information confidential also fails to make the information of economic value. *See Iowa Film Prod. Servs.*, 818 N.W.2d at 224 (“A confidentiality commitment is not enough to establish independent economic value.” (citing *Med. Mut. Ins. Co. of Me.*, 866 A.2d at 121–22, holding that medical mutual company failed to demonstrate salary information had independent economic value where the only information provided in support of this claim “was a corporate policy that prohibits the corporation from disclosing compensation information”)).

Both the affidavit accompanying the Petition and Mr. Loveridge's testimony contain “opinions concerning the deleterious effects disclosure will have on [RMH] or its affiliates, [but] such evidence is self-serving and does not contain hard facts.” *US West*, 498 N.W. at 715; *see also Iowa Film Prod. Servs.*, 818 N.W.2d at 223; *cf. Sysco Iowa, Inc. v. Univ. of Iowa*, 889 N.W.2d 235 (Iowa 2016) (vendor seeking to block contract disclosure had to produce specific industry information sufficient to establish how it would be undercut). The information provided by RMH is not sufficient to establish the independent economic value of the information at issue in the air ambulance industry, and is therefore insufficient to establish that the information is a trade secret.

2. RMH has not maintained the secrecy of the specific information sought.

RMH also fails to meet the high standard for protection of the Agreement, its Amendment, and UIHC's billing and payment information as a trade secret because RMH has failed to establish the second element: that the information sought was subject to reasonable efforts to maintain its secrecy. *See Iowa Film Prod. Serv.*, 818 N.W.2d at

223 At the hearing, RMH provided as exhibits a redacted copy of the Agreement (Ex. 1) and its Amendment (Ex. 2) as well as portions of a document titled “Code of Business Conduct and Ethics” (Ex. 3). Exhibit 3 is part of an employee handbook, specifically Section 5, which defines company records and proprietary information. (*See also* Petition, Ex. A, Aff. ¶ 11 (describing employees being on a need to know basis).)

Notably, RMH’s own internal policies provide: “If the disclosure of confidential information is required, or even likely to be required, to conduct business with a third party, an Air Methods non-disclosure agreement (NDA) must be signed by the third party before disclosure is made.” (Ex. 3, § 5.1; Aff. ¶ 11 (describing utilization of NDAs).) Yet, when RMH entered into the Agreement and Amendment with UIHC, it did not require UIHC to sign a Non-Disclosure Agreement, as it apparently requires of third-party contracting partners when doing business with those entities requires disclosure of confidential information. Nor did RMH include a Confidentiality provision within the Agreement with UIHC, which it easily could have done if RMH considered the information in the Agreement to be confidential.

This fact in itself defeats RMH’s attempt to rely on *Sysco*, where the contract in that case “included a confidentiality provision”. *Sysco*, 889 N.W.2d at 236. The district court had found the information was “the subject of efforts that are reasonable under the circumstances to maintain its secrecy” based on the confidentiality provision. *See Sysco*, 889 N.W.2d at 238. Thus, the appellate court did not even address this prong of the trade secrets test. *Id.* *Sysco* therefore has no application to this case where the agreement in that case included a confidentiality agreement but the agreement here does not.

RMH apparently recognizes the use of NDAs and confidentiality provisions. Its failure to use either when it entered into the Agreement with UIHC reveals that RMH does not deem the information contained in the Agreement to be trade secrets. *See Cemen Tech, Inc. v. Three D Indus., L.L.C.*, 753 N.W.2d 1, 7 (Iowa 2008) (explaining difference between secret and non-secret information, noting that information “which the employer intends to keep secret by, for example, physically hiding it from view or, ... *by requiring confidentiality*” may be subject to trade-secret protection (emphasis added)); *see also Iowa Film Prod. Servs.*, 818 N.W.2d at 224 (requests for “confidential treatment of the budget, expenditure, and investor portions of their original tax credit applications to IDED” did not establish reasonable efforts to maintain confidentiality where no one “requested such treatment on the basis that this information was a trade secret”). That RMH has such a policy, as testified at the hearing, does not change the fact that it did NOT follow that policy and include a confidentiality provision in the UIHC contract.

The manner of acquisition of the information is also relevant to whether the information is protected as a trade secret. “[A] substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information.” *Cemen Tech, Inc.*, 753 N.W.2d at 8 (quoting *Clark v. Bunker*, 453 F.2d 1006, 1009–10 (9th Cir. 1972) (in turn quoting Restatement of Torts § 757 cmt. b (1939))). Again, RMH did not require UIHC to sign an NDA nor did RMH include a confidentiality provision in the Agreement, which could have required UIHC to maintain the confidentiality of the terms of the Agreement and UIHC’s billing and payment information. RMH is a large, sophisticated company and knew it was contracting with a

public entity, making its records subject to public access. If RMH intended the requested information to be protected from public access, it could have made more effort to protect the information. Its failure to do so precludes it from now claiming the information requested by The Gazette—in the hands of UIHC—is protected trade secret information.

RMH has failed to establish the elements required for a trade secret under Iowa Code § 550.2(4), and its opposition to public disclosure under Iowa Code § 22.7(3) fails. *See* § 22.8(3) (requiring clear and convincing evidence that the information is protected by one of the confidentiality exceptions).

B. Examination of the Information Sought Is in the Public’s Best Interest.

RMH alleges that the disclosure of the information The Gazette seeks “would not be in the public interest.” Petition for Injunction ¶ 20. Iowa Code § 22.7(6) protects “[r]eports to governmental agencies which, if released, would give advantage to competitors *and serve no public purpose.*” *Iowa Film Production Servs. v. Iowa Dept. of Economic Dev.*, 818 N.W2d 207, 210 (Iowa 2012) (emphasis added). Not only does RMH fail to provide more than conclusory, vague statements about potential harm from competitors, it also fails to establish that disclosure of the information would serve no public purpose.

The Gazette’s investigative target is the relationship between UIHC and RMH. UIHC is governed by the Regents, which controls the budgets for the state’s universities. All three state universities have faced budget cuts, forcing the universities to raise tuition and cut scholarships, issues that have been prominent in the public discourse over the last few years. UIHC previously provided its own helicopter ambulance service, the costs of

which were subject to public oversight. However, it recently outsourced those services to a for-profit entity through a negotiated contract that is currently being hidden from the public eye. This was done at a time when UIHC is facing financial struggles and a \$7 million deficit, in part from rising costs. It further subjects Iowa citizens to unknown contractual rates for air ambulance service when they need to be flown to the UIHC. Given the public outcry against RMH for allegedly gouging patients and refusing to enter into network provider agreements with insurance companies, the terms of the Agreement between UIHC and RMH are very much in the public's interest. This is not a matter of how much is spent on creamed corn in UIHC's cafeteria, *cf. Sysco Iowa, Inc.*, 889 N.W.2d at 235 (addressing contract for food distribution between UIHC and Sysco), but the very public issue of rising costs of health care and exorbitant prices charged by RMH for its air transport services.

In *US West*, the Court found that "it would serve a public purpose to reveal information to the public which might be perceived as West's self-dealing to favor stockholders over ratepayers." *US West*, 498 U.S. at 715. Here, it is even more in the public's interest to reveal whether the Agreement between UIHC, a public entity, and RMH, the self-proclaimed largest provider of air ambulance service in the country, provides opportunities for RMH to overcharge patients, or continue to function as an out-of-network provider to the detriment of those seeking treatment, insurance payors, and government payors.

IV. CONCLUSION

The Gazette Company, k/n/a Folience, Inc. is entitled to access to the Agreement between University of Iowa Hospitals and Clinics and Rocky Mountain Holdings, LLC, its corresponding Amendment, and any history and/or summary of payments between them. Therefore, The Gazette Company, k/n/a Folience, Inc. respectfully requests the court deny Rocky Mountain Holdings, LLC’s Petition for Injunction, and order the University of Iowa to comply with The Gazette Company, k/n/a Folience, Inc.’s Open Records Request.

/s/ Samuel E. Jones
SAMUEL E. JONES AT0009821
KRISTYMARIE SHIPLEY AT0012789
for
SHUTTLEWORTH & INGERSOLL, P.C.
115 3rd Street SE, Suite 500
Cedar Rapids, IA 52401
PHONE: (319) 365-9461
FAX: (319) 365-8564
E-mail: ks@shuttleworthlaw.com

ATTORNEYS FOR THE GAZETTE
COMPANY, k/n/a FOLIENCE, INC.

Copy to:

Michael A. Dee
Nathan J. Borland
Brown, Winick, Graves, Gross,
Baskerville & Schoenebaum, P.L.C.
666 Grand Avenue, Suite 2000
Des Moines, IA 50309-2510
E-mail: md@brownwinick.com
E-mail: borland@brownwinick.com

ATTORNEYS FOR ROCKY MOUNTAIN
HOLDINGS, LLC

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that a copy of this document was served upon counsel of record for each party to the action in compliance with the applicable I.R.C.P. on August 20, 2018 by:	
<input checked="" type="checkbox"/>	Electronically via EDMS for EDMS registrants
<input type="checkbox"/>	U.S. Mail _____
<input type="checkbox"/>	Fax _____
<input type="checkbox"/>	Overnight Courier _____
<input type="checkbox"/>	Hand Delivery _____
<input type="checkbox"/>	E-mail _____
By: /s/ Paula Pohlpetter _____	

George A. Carroll
Assistant Attorney General of Iowa
Hoover Building, Second Floor
1305 East Walnut Street
Des Moines, Iowa 50319
E-MAIL: George.carroll@ag.iowa.gov

ATTORNEYS FOR UNIVERSITY OF IOWA

The Gazette

Eastern Iowa's independent, locally owned newspaper

RAIN GARDENS
Program promotes plants to soak up rainwater **1E**

TRUCKER SHORTAGE
Companies are spending more to get drivers **1F**

FLAVOR OF SEASON
Lemons go with nearly everything in summer **1L**

Sunday, June 17, 2018

www.thegazette.com

\$3.00

HEALTH CARE



Jim Slosiarek/The Gazette
An AirCare helicopter comes in for a landing in 2017 at the University of Iowa Hospitals and Clinics in Iowa City.

'Unacceptable' secrecy over UI's air rescues

Helicopter company at UI Hospitals faces scrutiny over its charges

By Erin Jordan, The Gazette

IOWA CITY — Four years after the University of Iowa Hospitals and Clinics quietly outsourced its AirCare helicopter ambulance service to a for-profit corporation, the public hospital won't say how much money it's receiving from the company facing patient complaints about sky-high costs.

Walter Brant, 66, of Osceola filed a complaint with the Iowa Attorney General's Office against Air Methods for charging him \$35,000 for a 40-mile flight to Mercy Medical Center in Des Moines in 2014 — a trip he's not sure was necessary. "I said next time, let me die, because I'm not paying that," Brant said.

The Gazette investigated the relationship between UIHC and Air Methods because the company now owns and operates the majority of medical helicopters in Iowa. UIHC, with a burn-treatment center and a neonatal intensive care unit, receives 800 to 1,000 helicopter transports a year, providing significant business for Air Methods.

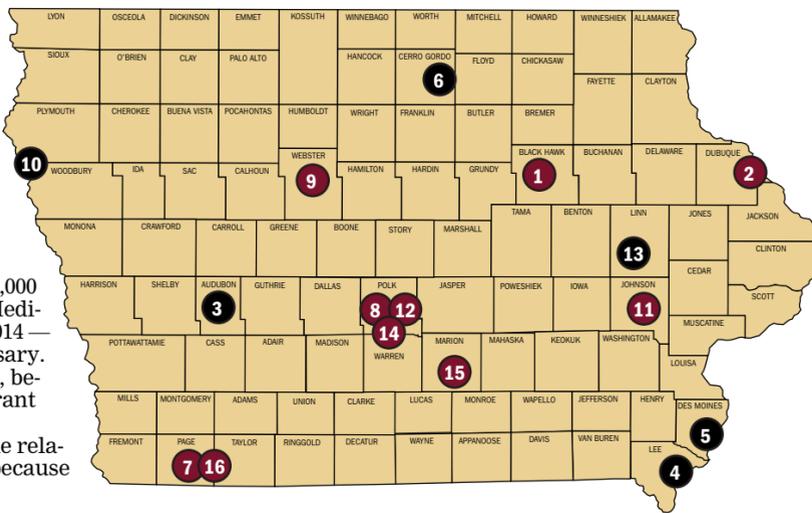
The Iowa City hospital is facing a \$7 million deficit caused by rising costs, state and federal funding cuts and Affordable Care Act changes. The hospital's rocky finances make it particularly important the public be able to see whether officials got a good deal when outsourcing a vital state service. But the UIHC blacked out all financial details of the contract.

"As chair of the Government Oversight committee for the state of Iowa, I find it completely unacceptable that they sent you redacted financial documents,"

► **AIR AMBULANCE, PAGE 11A**

Iowa medical helicopters

Sixteen medical helicopters are registered with the Iowa Department of Transportation. These helicopters are stationed at hospitals and airports to transport patients in emergency situations to hospitals across the state. The Gazette investigated the relationship between the University of Iowa Hospitals and Clinics, the state's largest hospital, and Air Methods because the company now owns and operates the majority of medical helicopters in the state.



	N Number	Base	Year made	Owner name	State
1.	151AC	Waterloo	2003	Air Methods Tax Dept.	Colo.
2.	152AC	Dubuque	2001	Air Methods Tax Dept.	Colo.
3.	162MW	Audubon	2000	Bank of Utah, Trustee (MidWest Medair)	Utah
4.	288AE	Fort Madison	1989	Air Evac EMS INC	Mo.
5.	305PH	West Burlington	2005	PHI, INC	La.
6.	424MT	Mason City	2012	Med-Trans Corporation	Texas
7.	458AM	Clarinda	2014	Air Methods Corp.	Colo.
8.	534LN	Des Moines	2006	Air Methods Corp.	Colo.
9.	615LF	Fort Dodge	2004	Air Methods Corp.	Colo.
10.	705MT	Sioux City	2013	Med-Trans Corporation	Texas
11.	741AC	Iowa City	2015	Air Methods Corp.	Colo.
12.	779LF	Des Moines	2007	Air Methods Corp.	Colo.
13.	911LG	Cedar Rapids	2013	Med-Trans Corporation	Texas
14.	911ED	Des Moines	2009	Air Methods Corp.	Colo.
15.	911KX	Knoxville	2011	Air Methods Corp.	Colo.
16.	911CN	Clarinda	2006	Air Methods Corp.	Colo.

Source: Iowa Department of Transportation

Gazette graphic

ELECTION 2018

Reynolds, Hubbell spar from a safe distance

Hubbell picks Rita Hart of Wheatland as running mate

By James Q. Lynch and Erin Murphy, Gazette Des Moines Bureau

DES MOINES — Iowa Gov. Kim Reynolds and her Democratic challenger, Fred Hubbell, threw punches at each other Saturday from the safety of their political fan bases.

At the Democratic Party state convention, Hubbell accused Reynolds of "fiscal mismanagement, misguided priorities and an extreme agenda." "She's dismantling everything that makes our state a great state," Hubbell told more than 700 delegates at Hy-Vee Hall in Des Moines.

Across town at the Iowa State Fairgrounds, Reynolds accusing the wealthy, retired Des Moines businessman Hubbell of trying to buy the election. He spent nearly \$3 million of his own money during the competitive Democratic primary.

Reynolds also criticized Hubbell for doubting Iowa is the No. 1 state in the nation.

"Are you kidding me? That man wants to lead this state, and he just announced to the rest of the country and the rest of the world that Iowa isn't the best place to live. Wow," Reynolds said about Hubbell during a debate that he disagreed with U.S. News rating of Iowa as the No. 1 state. "Should someone who doesn't think

INSIDE

• GOP picks Naig as agriculture secretary nominee, **9A**



Fred Hubbell Democratic candidate for governor



Sen. Rita Hart Democratic candidate for lieutenant governor

► **CONVENTIONS, PAGE 9A**

HEALTH CARE

Suicide crisis lines see influx of calls for help

Deaths of Spade, Bourdain result in jump in inquiries

By Michaela Ramm, The Gazette

On June 5, fashion designer Kate Spade died by suicide. Three days later, chef Anthony Bourdain also killed himself.

As much of America and elsewhere react to the deaths of these well-known names, Iowa mental health professionals say they are seeing an increase in inquiries at area crisis centers — a sign, they say, of the heightened awareness of

the issue of suicide.

As details of these celebrities' deaths become public knowledge, the risk of more people attempting death by suicide increases, some experts say. Spade's sister, for example, has said Spade "seemed fixated" on Robin Williams' death in 2014, according to the Kansas City Star.

Pat McGovern, data manager and suicide prevention coordinator at the Iowa Department of Public Health in Des Moines, said seeing someone else take their own life — no matter how close they are to that person — to some extent can normalize suicide.

For individuals who agonize

INSIDE

- What to know and what you can do to help, **10A**
- How to get help, **10A**

about whether to kill themselves, seeing another successfully complete the act is like being shown a path down that road.

In addition, the fact that these conversations happen publicly only after a high-profile suicide "really keeps it in the closet," said Theresa Graham-Mineart, licensed mental

► **SUICIDE, PAGE 10A**



Bloomberg News

Anthony Bourdain speaks during the South By Southwest Interactive Festival in Austin, Texas, in 2016. He was found dead on June 8 in his apartment.

VOL. 136 NO. 159

© 2018 The Gazette

• BUSINESS 3801F	• DEATHS7C	• LIVING1L	• RIVER LEVELS12B
• COMICSINSIDE	• HOME + GARDEN1E	• LOTTERY2A	• SPORTS1B
• CROSSWORDS7D, 8L	• HOROSCOPES8L	• MILESTONESINSIDE	• TV7L
• DEAR ABBY8L	• IOWA TODAY1C	• PUZZLES8L	• WEATHER12B

EXHIBIT A

Air ambulance/Payments not revealed

► FROM PAGE 1A

Rep. Bobby Kaufmann, R-Wilton, said Friday. “I would strongly urge they release that information before I make them.”

AIRCARE FIRST IN IOWA

Started in 1979, UI AirCare was the first hospital-based air ambulance in Iowa and one of the first 15 programs in the nation, the hospital reported. Early flights were in a D model A-Star helicopter with room for only two people, according to Mike Dillard, an AirCare nurse for more than 30 years.

“Flying alone with the pilot made for some very interesting flights and you haven’t lived until you have done one-person CPR at 5,000 feet!” Dillard wrote in an online history.

AirCare added a second helicopter in 1987, moving it to Waterloo a year later. AirCare II now is stationed there at Covenant Medical Center, which is planning a 30-year celebration of the flight service June 24. AirCare III has been based at Mercy Medical Center in Dubuque since 2016.

In April 2014, the UIHC signed a five-year, renewable contract with Rocky Mountain Holdings, an Air Methods subsidiary, making it the “preferred provider” for all helicopter transports to UIHC.

“It allows UI Hospitals and Clinics to focus on providing high-quality clinical care for critically ill patients, while contracting with an air medical provider with experience and expertise in providing safe and efficient medical transport,” UIHC said in an email to The Gazette.

Air Methods, founded in 1982 in Denver, is the nation’s largest air ambulance company. It serves 41 states, according to the company’s 2016 annual report. The company flew 71,700 patients in 2016, up 14 percent in 2015, and reported revenue of \$1.17 billion, up from \$1 billion in 2015.

PAYMENTS KEPT SECRET

Air Methods provides the helicopters and pilots for all three AirCare sites, according to the contract The Gazette obtained through a public records request. The hospitals supply a registered nurse and a paramedic or other provider for each flight. A UI medical director oversees the clinical care provided on all AirCare flights.

Air Methods has “sole authority to bill and collect any and all non-physician service fees” from patients. Those fees and billing policies aren’t outlined in the contract.

The payments Air Methods makes to UIHC for clinical care, medical direction and program management were blacked out in the 43-page document, as were payments for medical equipment and supplies.

Hospital officials refused to give The Gazette an estimate of how much Air Methods paid the public hospital for each of the last three fiscal years.

“At the advice of our counsel, the University is unable to provide the information you requested regarding the amount paid by Air Methods to UIHC since Air Methods’ attorney represented that Air Methods is filing for injunctive relief to enjoin the disclosure of this information that it considers to be trade secret information,” Ann Goff, UI transparency officer, wrote in a May 14 email.

The Gazette has filed an application to intervene in these court proceedings to argue for openness.

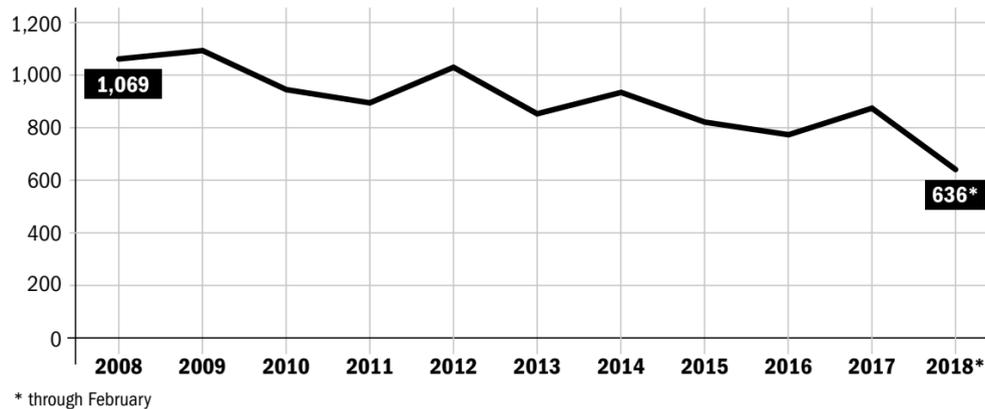
LIFESAVING CARE

There’s no question air ambulances provide lifesaving services for many patients.

A 2014 study in the Canadian Journal of Surgery showed patients with traumatic injuries who were transported by air ambulance often have better outcomes than those who come in ground ambulances because of shorter transport times, more advanced equipment and the presence of a flight nurse and paramedic,

AirCare transports

AirCare, an air ambulance service operated out of University of Iowa Hospitals and Clinics, has helicopters in Iowa City, Waterloo and Dubuque. Here is the number of flights the service provided, by fiscal year.

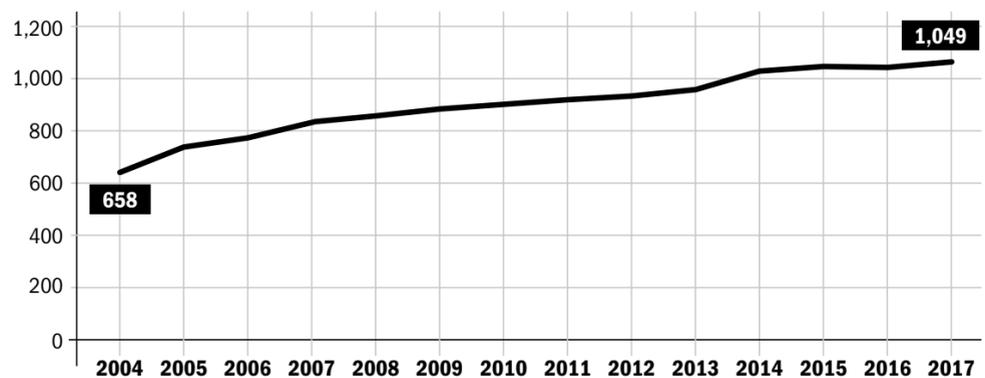


Source: University of Iowa Hospitals and Clinics

Gazette graphic

More medical helicopters

The number of medical helicopters in the United States has increased by nearly 60 percent since 2004. At the same time, national companies are taking over local and regional services.



Source: Atlas and Database of Air Medical Services

Gazette graphic



Submitted photo

Stephen and Kristine Vermeulen of Moline, Ill., are photographed with their sons (left to right) Kase, 2, Sunny, 9 and Asher, 1. Asher was flown by AirCare from Dubuque to Iowa City in February 2017, when he was born prematurely. Then the family got a \$50,000 bill from the company.

Science Daily reported.

Stephen and Kristine Vermeulen of Moline, Ill., are convinced their 1-year-old son, Asher, might not be alive without the AirCare crew that flew him to Iowa City when he was born 10 weeks early.

The couple and their two older sons were on a road trip to Galena, Ill., in February 2017 when Kristine started bleeding and losing consciousness, she said. She was taken by ground ambulance from Galena to Dubuque, where Asher was born at just under four pounds.

“In Dubuque, they airlifted Asher to Iowa City,” Kristine Vermeulen said. “In my mind, there really wasn’t another option if he was going to make it.”

Asher stayed in the UI’s NICU for 40 days before going home with his family. The Vermeulens then received a \$50,000 bill from Air Methods.

“We told them ‘we can’t pay that,’” Stephen Vermeulen said.

The couple made numerous calls to their insurer, which paid the bulk of the bill, and Air Methods before negotiating an out-of-pocket payment of \$500.

“They just wanted whatever they could get,” he said. “Maybe we were just lucky.”

ALLEGED PRICE GOUGING

Air Methods faces several lawsuits across the country that allege price gouging.

Michael and Tabitha Cox of West Virginia are proposing a class-action lawsuit against Air Methods over \$46,000 the company says it is owed for a 76-mile flight for their sick son in 2015, according to Bloomberg. The dispute focuses on the difference between the actual cost of the flight and what Air Methods is charging.

In a federal lawsuit filed in Ohio, Billy Byler claims Air Methods charged him \$25,344 for a 36-mile flight, court filings show. He and co-plaintiff Donald Reid, charged \$48,000 for a 31-mile flight, allege the company hides its pricing structure and doesn’t work with managed care organizations. That means patients have to pay up front and then seek their own reimbursement.

Three people have complained to the Iowa Attorney General’s Office since 2015 about air ambulance billing practices. Two complaints concern Air Methods.

“I had an incident in December (2014),” said Brant, the Osceola farmer and veteran. “I got real dizzy, real sick. I had elevated blood pressure.”

The first emergency medical technician on the scene couldn’t figure out what was wrong and decided to call an air ambulance, Brant said. The helicopter landed in a field north of his house and airlifted him to Mercy Medical Center in Des Moines.

Brant stayed there for two days without being admitted and without a diagnosis, he said. The hospital had to give him scrubs to wear home because EMTs had cut off his clothes. He later saw an ear nose and throat doctor who determined the illness probably was because to an inner ear imbalance or vertigo, Brant said.

Brant was shocked when he got the \$35,000 bill from Air Methods.

“I don’t know how you can justify that kind of billing,” he said. His insurance company paid \$11,000 and then Brant filed a complaint with the AG’s office to try to persuade Air Methods to settle. It did. Brant said he can’t say how much he ended up paying, but “they came down a considerable amount.”

Air Methods tries to find financial assistance for every patient, pairing patients with employees who help them “navigate the complexities of their insurance reimbursement,” according to a statement Air Methods sent The Gazette.

The company also has a membership program allowing people in about 30 states to pay \$40 a year (or \$75 for families) for Air Methods to accept as full payment in advance of whatever a person’s health insurance will pay for a medically necessary helicopter transport.

“That could save you thousands of dollars for just a single transport,” the Air Methods website notes.

PROFIT POTENTIAL DRIVES CONSOLIDATION

The profit potential for helicopter transports has led to a steady increase in the number of air ambulances, according to the Atlas and Database of Air Medical Services.

But 1,049 helicopters nationwide in 2017 are owned by a shrinking number of firms, as for-profit companies have bought out local, hospital-based services.

Four operators — includ-

ing Air Methods — now claim half the industry’s revenue, according to a 2017 article by Consumer Reports.

Air Methods’ average charge went from about \$13,000 in 2007 to \$50,000 in 2016, reported Jon Hanlon of Research 360, an independent research and analysis firm. The real cost of transport averages from \$7,000 to \$10,000, Consumer Reports noted.

Rick Sherlock, president and chief executive of the Association of Air Medical Services, told Consumer Reports air ambulance operators try to collect more from people with private insurance to make up for patients on Medicare or Medicaid, which pay only \$200 to \$6,000 per transport.

Another major player is Med-Trans Corp, owned by Texas-based Air Medical Group Holdings. Med-Trans owns and operates the LifeGuard helicopter at UnityPoint Health-St. Luke’s Hospital, in Cedar Rapids, as well as helicopters at hospitals in Mason City and Sioux City.

St. Luke’s LifeGuard averages about 300 flights a year in a coverage area that ranges north to the Mayo Clinic in Rochester, Minn., east to the Quad Cities, west to Marshalltown and south into part of Johnson County.

WHO CALLS THE CHOPPER?

Some patients, including Brant, have questioned whether they needed to be flown by helicopter.

A 2015 study by Gary Ver-cruysse, a trauma surgeon at the University of Arizona Medical Center, showed nearly one-third of airlifts to his hospital over six years weren’t necessary.

“Education to physicians calling for transport and identification of alternate means of transportation would be both safe and financially beneficial to our system,” the study notes.

Under a Johnson County policy revised in 2016, first responders decide whether to call or cancel a helicopter, said Tom Jones, director of the Johnson County Joint Emergency Communications Center. He’s heard concerns about for-profit companies in other states prematurely launching helicopter transports to make more money.

“That’s one of the reasons we caution that we want to have first responders decide,” he said. “We’re (dispatchers) not going to assume that role.”

Air Methods said its pilots respond only when called.

“We only act when a first responder or an attending physician determines the patient needs us,” a statement said.

REACTION FROM THE PUBLIC

UIHC hasn’t advertised its contract with Air Methods, with many people believing AirCare’s black-and-gold helicopters still are university-owned and operated.

“I checked with UIHC and was informed that there were no press releases or Board of Regents reports/presentations that relate to UIHC’s agreement with AirMethods,” reported Goff, the UI transparency officer. The regents govern the hospital.

Josh Lehman, regents communication director, said of the contract with Air Methods: “The board was not involved in that process and has no information about it.”

Cathy Glasson, president of the union that represents UI nurses, and a former Democratic gubernatorial candidate, said if the Air Methods contract is saving money, UIHC should be proud to talk about it.

“It would be irresponsible for a public entity to not be forthcoming,” she said.

Iowa Sen. Pam Jochum, D-Dubuque agreed.

“The UIHC needs to provide their rationale for contracting with this company — especially in light of the legal problems it is facing in other states.”

• Comments: (319) 339-3157; erin.jordan@thegazette.com