

SUMMER
2009
ISSUE



Neighborhood Healthcare Turns 40

Neighborhood Healthcare, a network of eleven community clinics serving San Diego and Riverside counties, celebrates its 40th anniversary this year. CEO Tracy Ream, at the helm for the past 22 years, takes pride in the organization's achievements but is far from complacent—some of the toughest challenges ever faced by the nonprofit are taking place right now.



Tracy Ream
CEO of
Neighborhood Healthcare

"Some of our current funding streams are in jeopardy," Ream says. "The crisis could result in fewer Californians being eligible for Medi-Cal. People who are very sick may be unable to pay even our minimum fees, but we will still care for them, as long as we can."

Examples of funding threatened by cuts include the Expanded Access to Primary Care (EAPC) program of the state Department of Health Care Services, which provides the organization \$400,000 annually from the state's general fund.

"EAPC truly helps California's community clinics," she says.

Family planning could be cut up to 20% starting in July, which could translate into a \$300,000 cut to Neighborhood Healthcare. Then there are looming changes to Medi-Cal eligibility and the proposed elimination of the Healthy Families insurance program for children that will result in more uninsured patients.

"Things could get to the point that we have to limit the number of uninsured we see," Ream says. "It's almost bizarre to be on the brink of desperately needed healthcare reform at the same time that the state is in such a financial crisis."

Another problem faced by Neighborhood Healthcare is the growth in the number of chronically ill adults without insurance. "This trend in much sicker patients dramatically changes the level of clinical proficiency required" she says. "At the same time, these patients can't pay for the true cost of the care they need."

Once a Small-Town Clinic

Neighborhood Healthcare started in Escondido. "When I came to Escondido, it was a small town of about 40,000 people," she recalls. "Next to the clinic was a migrant worker camp." Today, there are 140,000 people in the city.

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Neighborhood Healthcare employs 450 people and provides a wide array of services—including dental, mental health and wellness promotion—to 65,000 people a year, including 20,000 children, who collectively make about 248,000 visits annually.

Out of a community need expressed by the local hospital, Neighborhood Healthcare started a hospitalist program in 1998 to provide all of the inpatient care for individuals who don't have a primary care physician or whose physicians don't have privileges. Currently the program, through a stipend with the hospital system, has 18 physicians who care for both privately insured and uninsured patients at two hospitals, ensuring that Neighborhood Healthcare patients and other uninsured adults have continuity and a medical home.

"Every community clinic is unique because it is rooted in and serves a unique community," Ream says. To illustrate, she tells the following anecdote involving Temecula, in Riverside County.

"We have two clinics in a community where explosive growth of large, easy-to-buy houses led to an influx of new homeowners. Now many of these houses are in foreclosure. Compared to some of the communities we serve, this has been a relatively affluent area. But with unemployment and COBRA benefits running out, I don't think we've seen the full impact yet of what's really going on," she says.

Temecula physicians recently had a new patient who arrived at the clinic in his late-model BMW, mentioned that he had never heard of a community clinic until he lost his job and insurance, and said he was both embarrassed and grateful to be there.

Recruiting Physicians

"Across the United States, we desperately need more physicians, especially PCPs," says Ream. Recruiting physicians to work at clinics is especially difficult. The large medical groups and hospital systems can offer larger salaries and better benefits.

"We seek mission-driven doctors, and we do find them," Ream says. "But then the trick is to retain them. We find that after 3-5 years, when they have acquired a mortgage on top of their student loans and begun having children, they seek greater reimbursement."

To meet this challenge, Neighborhood Healthcare has developed an incentive program based on productivity. "We've also structured our benefit compensation with rewards at 5 years, so our physicians won't lose ground and can stay with us."

An important part of recruitment is the University of California at San Diego Medical School. Residents rotate through Neighborhood Healthcare and get to know the organization. "Often, they love our mission and how we fulfill it," says Ream.

CPG a Good Partner

Ream appreciates the medical professional liability insurance coverage through CPG. "FTCA doesn't cover everything, and sometimes it's hard to know where the gaps are," she says. "We need a policy that let's us serve in many different ways. CPG provides a security blanket that works very well. It is one policy that covers all the various kinds of physician arrangements we have and all the activities we engage in. There is huge flexibility with the CPG. NORCAL is very responsive and a good partner."

California Enacts Stricter Privacy Laws – Broader Scope and More Fines

After some high profile cases involving unauthorized access to medical record information, California enacted two new bills that became law on January 1, 2009. The laws provide new oversight, stricter requirements and increased penalties for breaches of medical information. They hold providers, community clinics, hospitals and other healthcare organizations accountable for unauthorized access to medical

information.

Here is a brief look at the new laws, followed by several risk-management recommendations.

Unauthorized access is considered the inappropriate review or viewing of patient medical information without a direct need for diagnosis, treatment or other lawful use as permitted by the California Medical Information Act (CMIA).

AB 211 (Section 130203 of the Health and Safety Code) requires that health care providers establish safeguards to protect the privacy of confidential patient information from unauthorized access, use or disclosure. This law gives a patient the right to sue over a privacy breach, while the federal HIPAA law does not. SB 541 (Section 1280.15 of the Health and Safety Code) applies the standard of AB 211 to licensed health facilities, including clinics.

The new medical privacy laws mandate confidentiality and safeguards, authorize fines and civil penalties, and establish stricter oversight. Within five days of detecting a breach in your clinic, you must self-report to the California Department of Public Health (CDPH) and to the affected patient(s). Failure to do so results in a \$100-per-day fine until the report is made. Other institutional fines include \$25,000 (per patient) for the initial violation and \$17,500 for each subsequent occurrence, up to a maximum penalty of \$250,000. Individuals who violate the laws face fines of \$2,500 to \$25,000 per violation, with a maximum penalty of \$250,000, plus the potential for civil action by the patient.

At least one fine has been assessed under the new legislation. On May 15, 2009, the CDPH announced that Kaiser Permanente Bellflower Hospital became the first facility fined after 21 employees and two physicians improperly accessed a patient's medical record. (Source: CDPH Issues \$250,000 Administrative Penalty to Kaiser Permanente Bellflower Hospital in Los Angeles County. California Department of Public Health website accessed June 1, 2009 at <http://www.cdph.ca.gov/HealthInfo/news/Pages/NR2009-43-AdministrativePenaltyKaiser.aspx>)

Risk Management Recommendations

- Create and implement appropriate administrative, technical and physical safeguards to protect the privacy of a patient's medical information from unauthorized access, use or disclosure.
- Conduct confidentiality training for all new hires during orientation and annually for established employees. This training should include a review of policies and procedures related to confidentiality, including: medical records; computer security; release of patient information by telephone, fax, electronic mail and conversations; disciplinary action for violations; and fines associated with violations. Consider utilizing videos, DVDs or CD-ROMs as training tools.
- Ensure employees know that they can be held individually liable for unauthorized access.
- Require all employees who undergo confidentiality training to sign a confidentiality agreement. Place the employee's signed agreement in his or her personnel file.
- Discipline employees who violate confidentiality policies.
- Report any violations made by anyone in the clinic.
- Cooperate with the authorities who investigate the unauthorized access.

10 Ways to Maximize Your FTCA Protection

The Federal Tort Claims Act (FTCA) provides primary medical malpractice protection for eligible community healthcare clinics. One of the benefits of FTCA is that claim coverage is provided by the federal government for most claims, with no cost to the clinic after the claim is accepted.

For CPG clinics that have been “deemed,” or authorized, for FTCA coverage, NORCAL offers “gap” coverage to “wrap around” the FTCA coverage. Many healthcare facilities covered by FTCA offer services that fall outside federal protection, leaving them potentially exposed to major liability risks. CPG’s Gap Coverage creates a comprehensive medical liability solution.

Gap Coverage also offers assistance in tendering FTCA claims to the government, including defense representation and payment of associated costs while the tender is being evaluated.

CPG Gap Coverage is appropriately discounted for clinics covered by the FTCA. This discount is contingent, however, on the clinic maintaining its FTCA protection. Especially during the current recession, it is critical that FTCA-eligible CPG clinics use all available benefits so that limited funds, time and resources are applied to delivering services, rather than dealing with claims.

Here are 10 ways to make sure your clinic maintains access to FTCA protection:

- **Bill properly**—FTCA coverage requires that clinics bill directly for services. An invoice without a 1099 Form sent by a contracted physician may invalidate FTCA coverage.
- **Retain billing records**—Confirm that clinic bills for procedures and service are retained for at least 10 years.
- **Track payments**—Mistakes happen, so keep a detailed trail of payments, especially if a payment issued to a physician is transferred to the clinic.
- **Beware of outside payments**—Under no circumstances will FTCA cover any claim where an outside payment is made directly to a provider.
- **Know who is covered**—Part-time employed doctors are covered. Coverage is also provided for employed locum tenens.
- **Know who is not covered**—An employee of an independent contractor providing services to your patients is not eligible for FTCA coverage. The contractor needs to provide coverage for the employee.
- **Know terms of coverage**—FTCA generally requires independent contractors to work at least 32.5 hours per week in the clinic for coverage to apply. Obstetrics/gynecology, pediatrics, family practice and internal medicine may be excepted if the clinic receives the compensation for the services provided.
- **Keep records on former employees**—Keep records and addresses for former employees. In the event of a claim, their assistance may be required.
- **Update FTCA on new sites**—All sites where services are provided by your clinic must be FTCA-approved and listed on your “project period renewal grant application,” the document you periodically submit to FTCA. You should notify the U.S. Department of Health and Human Services (HHS) of any acquisitions or mergers that add more sites to your organization.
- **Know the rules**—Review the FTCA rules. Refer to the *Clinician’s Handbook on the Federal Tort Claims Act* for a good overview, available online at <ftp://ftp.hrsa.gov/bphc/pdf/quality/2002clinicianhandbook.pdf>