

Issue: Physician-Owned Specialty Hospitals**Framing the Issue**

In cities and towns across America, not-for-profit community hospitals like those in the St. Luke's Health System provide a full range of health care services available to everyone regardless of their ability to pay. Like local law enforcement and fire departments, these hospitals exist to provide critical community services, not to generate profits for owners.

Community service hospitals operate around the clock 365 days a year, making available the array of experienced medical professionals and state-of-the-art medical technology required for virtually any health care eventuality. In addition to treating a range of medical conditions such as heart disease and cancer, full-service community hospitals provide continuous emergency care and the medical component of a community's disaster response system. This wide-ranging community responsibility requires full-service hospitals to make significant financial investments in staff and technology, even for resources not fully utilized every day.

Nationwide, community hospitals face complex challenges that threaten their ability to provide the wide assortment of high-quality health care expertise their communities expect and need. These challenges include: shortages of skilled health care professionals such as nurses and technicians; rising demand and constrained capacity; escalating costs of medical technology and prescription drugs; inadequate financial reimbursements from Medicare/Medicaid; and growing numbers of uninsured and indigent patients unable to pay their hospital bills.

An evolving challenge to a community hospital's ability to provide a full range of services is the negative impact from limited-service for-profit "specialty hospitals," the vast majority of which are physician-owned. These specialty facilities are not subject to the same stringent rules by which community hospitals must abide as they compete with one another. Specialty hospitals offer physicians a means of supplementing their income in the face of declining reimbursement rates from public and private health care insurers.

This profit potential can motivate physicians to select only the most profitable mix of medical procedures and patients for treatment at facilities they own. These facilities typically limit themselves to a narrow range of relatively predictable services such as certain cardiac and orthopedic procedures, as well as imaging and diagnostic services often restricted to

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outpatient settings. Physician-owned specialty hospitals rarely have emergency care capabilities to handle unanticipated complications; instead, they rely on the community hospital ERs to handle their patients' complications. Nor do they invest in essential yet unprofitable services such as a neonatal intensive care unit or trauma programs.

Specialty hospitals treat primarily full-paying, lower-risk patients during convenient daytime hours. These for-profit enterprises do not have to treat uninsured and indigent patients or those covered by limited health care reimbursement payers such as Medicare or Medicaid.

Community Health Services Undermined

At first glance, specialty hospitals appear to represent no more than business owners' legitimate enhancement of their personal income. Closer inspection reveals the risk specialty hospitals pose to full-service hospitals and the communities they serve.

Community hospitals must remain financially healthy while providing a full-range of health care services – those that are financially lucrative and those that aren't. This fiscal reality requires hospitals to produce enough revenue to cover operating costs, plus generate sufficient additional revenue to invest in anticipated future health care services. In a not-for-profit hospital such as St. Luke's, 100% of these additional revenues are reinvested in the hospital's community service mission, not distributed as profits to a limited number of owners.

Current rules and regulations make it easy for specialty hospitals to unnecessarily duplicate financially lucrative medical services, leaving community hospitals with the financially burdensome ones. Communities suffer because their hospitals find it increasingly difficult to provide financially draining medical services such as 24-hour emergency rooms, to reinvest in the community through outreach efforts that promote healthier lifestyle choices, and to be prepared for large-scale community health crises such as pandemics and natural disasters.

Physician Conflicts of Interest

Critics assert that specialty hospital physician-owners have created an ethical conflict of interest for themselves.

Most of these physician-owners also practice at full-service community hospitals.¹ This dual practice option leaves these physicians free to perform a financially lucrative procedure on their full-paying patients at the facility they own and profit from, while using the hospital to perform the same procedure on patients who can't fully reimburse the doctor and whose cases

¹ Only physicians can admit patients to a hospital.

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would be financially less attractive. This physician-owner version of "having it both ways" enhances the physician's income while undermining the economic foundation of the community hospitals.

Federal law already prohibits physicians from referring patients to medical facilities in which they have ownership. However, loopholes in the law have enabled physician-owned specialty hospitals to proliferate. Federal lawmakers have expressed concern. Senators Charles Grassley (R-Iowa) and Max Baucus (D-Mont.) introduced the Hospital Fair Competition Act of 2005, which includes a provision that would close this loophole for specialty hospitals. To date, Congress has not passed this legislation, and has let lapse the moratorium on specialty hospitals enacted as part of the Medicare Modernization Act.

Additionally, Centers for Medicare and Medicaid Services (CMS) issued regulations in 2006 designed to alter the way Medicare pays for care at specialty hospitals. The goal is to correct competitive inequities that benefit these facilities to the disadvantage of community hospitals.

Addressing the Problem

States around the country are also moving to counter the specialty hospital risk to community hospitals. These steps have included moratoriums on new specialty hospitals; requiring specialty hospitals to accept Medicare, Medicaid, and indigent patients, as well as maintain a full-service emergency department; imposing the same quality and patient safety standards as apply to full-service community hospitals; and strengthening certificate-of-need laws.

St. Luke's Position & Practices

The number of physician-owned specialty hospitals starting up in our area is growing. At last count, nearly 30 limited-service health care businesses of one sort or another were operating in the Treasure Valley, up from three such operations in 1997.

These for-profit ventures are unnecessarily duplicating an increasing number of services offered at St. Luke's and other full-service community hospitals. For example, the number of ear-nose-and-throat (ENT) procedures performed at St. Luke's decreased 50% in the year after a physician-owned ENT surgery center opened. The fewer such services are performed at St. Luke's, the harder it becomes for the hospital to justify the financial investment required to make these services available at all.

"St. Luke's is owned by and operated for all the people in the communities we serve," explains St. Luke's Health System president Ed Dahlberg. "We have a responsibility to all of

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our 'owners' to ensure that the medical services they might need are available whenever they need them. Specialty hospitals' negative impact needlessly increases the chances that full-service hospitals won't be able to satisfy this essential community service mission."

Specialty hospitals aren't subject to the same regulatory scrutiny, medical peer review, and overall quality assurance measures common at full-service community hospitals.

"A comprehensive array of checks and balances at St. Luke's ensures a much higher level of health care safety and quality than you'll typically find at specialty hospitals," said Dahlberg.

Unlike specialty hospitals, St. Luke's has available when needed the range of professional medical staff, state-of-the-art technology, and health care facilities to handle virtually any health care situation – expected and unexpected.

"At St. Luke's, a physician has access to our full range of qualified staff, services, and equipment just in case the patient suffers unexpected complications," said Dr. Gary Krouth, St. Luke's Health System Chief Medical Officer. "That's an important extra layer of safety typically not offered by specialty hospitals."

Possible Actions to Address These Issues

St. Luke's believes that all facilities that wish to provide hospital services should be subject to the same regulatory requirements expected of any community hospital.

To avoid conflicts of interest, physicians should not be permitted an ownership position in any entity to which they refer patients.

St. Luke's applauds any legitimate effort to ensure that specialty hospitals do not unfairly undermine our community hospitals and the essential services they provide to everyone.

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