

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

313



**FROM:** Executive Office

**SUBMITTAL DATE:**  
September 29, 2009

**SUBJECT:** Update to Board of Supervisors on proposed federal legislation concerning physician-owned hospitals.

**RECOMMENDED MOTION:** That the Board of Supervisors receive and file this update on proposed federal health care reform legislation.

**BACKGROUND:** On September 1, 2009, the Executive Office was directed to provide an update on pending federal legislation concerning physician-owned hospitals and report back to the Board of Supervisors.

The House of Representatives health care reform bill (H.R. 3200) closes a loophole that has allowed doctors to send patients to hospitals in which they have a financial interest. Section 1156 proposes limits on the Medicare exceptions to the prohibition on certain physician referrals made to hospitals and prohibits physician ownership in new hospitals. The health care reform bill grandfathers the ownership structures of existing physician-owned hospital and allows for growth within certain parameters but would effectively put a halt to construction of new physician-owned hospitals.

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Debra Cournoyer, Principal Management Analyst

Departmental Concurrence

**FINANCIAL DATA**

Current F.Y. Total Cost:	\$	In Current Year Budget:
Current F.Y. Net County Cost:	\$	Budget Adjustment:
Annual Net County Cost:	\$	For Fiscal Year:

**SOURCE OF FUNDS:**

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

**APPROVE**

BY:   
Gary M. Christmas

**County Executive Office Signature**

- Consent
- Policy
- Consent
- Policy

Dept't Recomm.:  
Per Exec. Ofc.:

**Prev. Agn. Ref.:**

**District:**

**Agenda Number:**

**3.9**

A summary released on September 9, 2009 from the Senate Finance Committee also includes restrictions on physician-owned hospitals who do not have Medicare provider agreements in place prior to September 1, 2009, although at this time, the formal text of the bill is not yet available.

Currently, physicians are generally prohibited from referring Medicare patients for designated health services to facilities in which the physician, or an immediately family member, has a financial interest. However, among other exceptions, physicians are not prohibited from referring patients to hospitals if they have ownership or investment interests in the "whole hospital", or if the designated health services are to individuals living in rural areas. The proposed legislation would eliminate the whole hospital and rural exceptions; creating a new exception which would grandfather existing physician-owned hospitals with effective Medicare provider agreements subject to specific requirements.

The controversy over physician-owned hospitals began over twenty years ago when legislation was passed prohibiting doctors from, among others things, having a financial stake in labs that performed tests for their patients. The Stark Law, named for California Representative Pete Stark, has been strengthened over the years to include more facilities and apply to Medicare and Medicaid (MediCal in California) payments. However, the loophole for physician-owned hospitals has remained.

Critics of physician-owned hospitals argue that physicians who refer patients to hospitals in which they have an ownership interest drive up costs, because they order more tests or perform unnecessary surgery. They argue that physician-owned hospitals also cherry-pick the healthiest patients leaving more difficult, less profitable cases to non-profit community hospitals hurting their finances. Few have emergency rooms, labor and delivery services, mental health departments or provide other community services. Although hard data is not yet available, the most common procedures performed at physician-owned hospitals bring in some of the highest margin reimbursements from insurers, money community hospitals use to cover the cost of low-margin or money-losing services, including treating the uninsured. According to a 2008 report from the inspector general of the Department of Health and Human Services, a troubling concern is that despite being physician-owned only about 30% have a doctor on site at all time and about two-thirds instruct staff to call 911 in the event of an emergency.

Supporters argue that physician-owned hospitals, which often focus on one or two lucrative services, such as cardiac care or orthopedics, are highly efficient, saving expenses for both patients and insurance programs. Furthermore, they claim they save the government money because they have lower complication rates, lower infection rates and lower return-to-surgery rates than other hospitals. Physician-owned hospitals tend to sell themselves on better quality care and the promise of comfort, if not luxury, with some even offering gourmet meals and wine as well as on-site hotels for friends and family.

The Office of Statewide Health Planning and Development (OSHPD) reports that as of December 31, 2008, there are 22 licensed hospitals in Riverside County. At present, there are no physician-owned specialty hospitals in Riverside County. Riverside County Regional Medical Center is the county run hospital. In addition, there are several district hospitals such as those in Hemet, Menifee, Palo Verde and San Gorgonio, private non-profits like Eisenhower, Kaiser and Parkview, with investor owned hospitals making up the remainder.

At this time, there are two hospital projects in the works for the southwest county. The Temecula Regional Hospital, a 300 bed facility, proposed by Southwest Healthcare System which is owned and operated by Universal Health Services, Inc., has not yet received final approval from OSHPD, but would not be effected by the proposed legislation. Loma Linda University Medical Center (LLUMC) has partnered with a group of physician investors and construction is underway to build a new 200 bed facility in Murrieta which is scheduled to open in early 2011. It is likely because this facility is a joint venture between LLUMC and physician investors, that under the proposed legislation, it would not meet the requirements for Medicare certification and therefore would not be eligible for Medicare reimbursement.

Recent reports indicate that national average is 2.7 hospitals beds for every thousand residents. The rate for California is 1.9 with Riverside County even lower at 1.47 hospital beds per thousand residents. Although this rate is significantly below the national average, the 2007 Hospital Annual Disclosure Report published by OSHPD, indicates that the licensed bed occupancy rate for existing hospitals in Riverside County is 64.6%.

In conclusion, the legislation at the federal level is still being negotiated and final language has yet to be determined with regard to the inclusion of provisions related to physician-owned facilities.