



**Statement of the Kansas Medical Society on
Physician Ownership of Specialty Hospitals and Other Health Facilities
*Adopted by the KMS Executive Committee July 2005***

Background

In recent years the growth of non-traditional, specialty hospitals and other health facilities which are either owned in whole or in part by physicians has generated controversy, particularly among traditional hospitals, lawmakers, and payors. Advocates for specialty hospitals contend that the focused mission and dedicated resources of specialty hospitals improve quality and reduce costs. Critics of physician-owned specialty hospitals and other physician-owned ambulatory facilities, (e.g., ambulatory surgery centers, GI labs, imaging facilities, radiation oncology centers), say they damage existing community hospitals by reducing their volume of high-paying surgical and other services which have typically been used to cross-subsidize their less profitable, and safety net, services. Additionally, many critics of physician owned health facilities contend that there is an inherent conflict of interest in such arrangements.

The issue of physician owned health facilities and their impact on community hospitals is a topic that needs thoughtful study and discussion. This issue is complicated, and divides the physician community somewhat. Overall, physicians clearly understand and are very sensitive to the needs of traditional community hospitals, and the importance of keeping them financially viable. Critical community safety net services, such as caring for the uninsured, require the services of both hospitals and physicians, working together. Both groups provide substantial amounts of uncompensated care to patients who must rely on these safety net functions.

On the other hand, there are a number of physicians who believe their ownership and operation of specialty hospitals and other health facilities has provided an alternative that produces high quality care at less cost because they focus their mission and resources on a limited set of services and operate more efficiently than conventional hospitals. Many physicians are concerned that attempts to stop physician ownership of specialty hospitals is really just the beginning of a broader effort by hospitals to prevent physicians from developing patient care facilities to provide any surgical, diagnostic or other medical services that traditionally have been provided by community hospitals. In response to criticism that it is a conflict of interest for physicians to own and operate hospitals, some physicians point to the fact that hospitals and vertically integrated health systems have for years acquired physician practices to assure patient referral to their facilities. They ask why it is not a conflict of interest for hospitals to operate medical practices to compete with community physicians, but it is a conflict for physicians to have a role in the operation/ownership of a hospital, or other health facilities.

One of the biggest criticisms of the health care system is that the system resists normal market forces which produce enhanced value by delivering higher quality at lower cost. There is great pressure from government, employers, and patients to interject competitive market forces into the health care equation, in order to bring about changes that produce greater value. Physicians and others are expected to compete, improve quality and find ways to lower costs. However, allowing market forces to operate will inevitably bring about changes to the status quo.

Recommendations

Consistent with ethical guidelines, existing KMS policy, and the *Health Care Reform Principles* adopted by the KMS House of Delegates in May 2004, the KMS Executive Committee adopts the following policies regarding physician ownership of specialty hospitals and other health facilities:

1. KMS supports and encourages competition between and among health facilities as a means of promoting the delivery of high-quality, cost-effective health care.
2. KMS continues to support, consistent with ethical guidelines, the ability of physicians to have an ownership interest in a health facility if they directly provide care or services at the facility.
3. Because Certificate of Need (CON) laws have failed to achieve their intended purpose, i.e., the reduction of health care costs, KMS opposes enactment of a federal CON program, and opposes efforts to reinstate CON in Kansas law, or to extend it to physician-owned ambulatory health care facilities.
4. KMS believes that the disclosure requirements for physician self-referral should also apply to hospitals and integrated delivery systems that own medical practices, contract with group practices, or that require members of their medical staff to utilize their facilities and services.
5. KMS opposes efforts to either temporarily or permanently extend the moratorium on physician referrals to specialty hospitals in which they have an ownership interest.
6. To ensure that community health services and safety-net hospitals are available, Congress needs to act to change the prospective payment system to minimize the need for cross-subsidization by more accurately reflecting the relative costs of hospital care, and fix the flawed methodology for allocating Medicare and Medicaid Disproportionate Share Hospital Payments to ensure that safety-net hospitals receive this funding.
7. KMS encourages physicians who contemplate formation of a specialty hospital to consider the best health interests of the community they serve.