

CROWLEY | FLECK PLLP
ATTORNEYS

Rural Health Challenges

Presented by: Stewart Kirkpatrick
Megan McCrae



Health Care Compliance Association
Regional Annual Conference
June 10, 2016

Rural Health Facts

- Rural populations are generally older, poorer, less educated, have greater health disparities, and are more dependent on government health care programs.
- 51 million Americans (15%) live in rural areas and depend on the hospitals and other providers in their communities for their health care.
- Common issues impacting rural health care include remote geographic locations, often great distances to other communities (especially to urban areas), small populations, limited workforce, provider shortages, difficulty in recruiting and retaining providers, and limited financial resources.

CROWLEYFLECK.COM

Rural Health Care Facts

- Typically 10% - 15% of the jobs in rural communities are in the health care sector, second only to education as the largest employer.
 - In MT, the health care industry is responsible for creating 18% of the state's total workforce.
- A National Center for Rural Health Works 2012 Research Study finds that a typical CAH has 141 employees, and generates \$6.8 million in wages, salaries, and benefits annually, yet generates 248 jobs, \$10.3 million in wages, salaries, and benefits from hospital operations and construction investments.
- Once a rural community loses its hospital, other health services (e.g. physicians, pharmacies) soon leave the community and other businesses follow.

CROWLEYFLECK.COM

Rural Health Care Facts

- Physician and nursing shortages have a significant impact on rural hospitals. Rural hospitals are increasingly relying on mid-level providers.
- The AAMC estimates that by 2015 there will be a shortfall of between 12,500 and 31,100 primary care physicians.
- According to the Bureau of Labor Statistics, 1.2 million vacancies will emerge for registered nurses between 2014 and 2022.
- Some CAHs in MT have had to begin recruiting overseas in places such as the Phillipines.

CROWLEYFLECK.COM

Rural Health Care Facts

- According to iVantage's Hospital Strength INDEX, since 2010, 74 rural and critical access hospitals have closed and 673 are at risk of closure.
- If all 673 rural hospitals closed, NRHA estimates that could result in the loss of 99,000 health care jobs, 137,000 community jobs, and \$277 billion in GDP over 10 years.
- The National Conference of State Legislatures has said that 60% of trauma deaths in the United States occur in rural areas, despite the fact that only 15% of the population lives in rural areas.
- As more rural hospitals close, rural trauma deaths will likely increase, because those residents will have limited access to emergency services and will have to travel longer distances to receive emergency medical care.

CROWLEYFLECK.COM

Rural Health Care Facts

Yet there is a "Dark Side" to Rural Health Care--Quality of Care at Critical Access Hospitals (CAHs)

- A Wall Street Journal article published this past December, based on an analysis of CMS records, showed that inpatient joint replacement surgeries in CAH's for Medicare beneficiaries rose 42.6% from 2008 to 2013-much higher rate than for general hospitals
[<http://www.wsj.com/articles/new-risks-at-rural-hospitals-1451088096>]
- CAH Medicare patients receiving the 5 most common major orthopedic procedures were about 34% more likely to die within 30 days than patients at general hospitals

CROWLEYFLECK.COM

Rural Health Care Facts

- Even with risk adjustment, the mortality rate at general hospitals was 5/1,000 while at CAH's it was 9/1,000
- A CMS spokesperson agreed that changes are needed to the CAH designation and payment systems
- CMS analysts report that the Medicare program would save on average \$860,000/year/CAH if CMS decertified those CAHs that no longer meet the location requirements
- An August 2013 OIG Study found that most CAHs would not meet the location requirements if required to re-enroll in Medicare

CROWLEYFLECK.COM

Types of Health Care Providers Common to the Rural Health Care System

- Critical Access Hospitals (CAHs) and Rural Health Networks
- Rural Health Clinics
- Indian Health Service Facilities
- Community Health Centers
- Private Practice Physicians
- Ancillary Service Providers:
 - Pharmacy
 - Ambulance
 - Air Flight

CROWLEYFLECK.COM

Types of Health Care Providers Common to the Rural Health Care System

- Public Health
- Nursing Homes
- Supporting Organizations (Montana)
 - MHA—Montana's hospital association
 - MIHA—Consortium of hospitals to develop services to support business and health care operations
 - MHN—Another consortium of providers
 - MPCA—Association of Montana's community health centers

CROWLEYFLECK.COM

Economic Issues Common to Rural Health Care Providers

- Patient population
- Lack of Specialists
- Cost-based reimbursement
 - 101% of costs; just staying afloat
- Rural hospitals often burdened with huge debt
- Rural hospitals closing
 - in Montana, 7% of the population travels more than 50 miles to see a physician, and 13% travels more than 30 miles.
- Aging infrastructure and lack of resources to replace.

CROWLEYFLECK.COM

Challenges Faced by the Rural Health Care System

- Infrastructure needed to comply with federal regulations alone.
- Lack of residency trained Emergency Department, Board certified, physicians.
 - Rely heavily on mid-level providers.

CROWLEYFLECK.COM

Challenges Faced by the Rural Health Care System

Recruitment and Retention

- Need for training in medical schools to include rural components.
- Lack of GME approved residency programs in rural hospitals.
- How to reconcile compensation for physicians in rural settings with high medical school debt.
- Disruptive physicians.

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System

Alignments and Affiliations

- Government Affiliations
 - Hospital Districts
 - County Owned Facilities
 - Facility Infrastructure Ownership
 - Public Community Health Center Models (Co-Applicant Arrangements)
- Rural Health Networks
- Hospital-CAH and For-Profit Management Agreements
- Rural ACOS

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System

Telehealth

- Increases access to specialized physicians in rural areas.
- Medicare reimburses for telehealth services when the originating site (the site where the patient is located) is in a Health Professional Shortage Area or in a county that is outside of any Metropolitan Statistical Area.
- There is no widely accepted standard for private payers.
- State Medical Boards are the primary regulators of the use of telemedicine through licensure requirements. Some efforts are being made in Congress to "federalize" regulation--at least for Medicare and other federal health plan beneficiaries.
- Common telehealth services include, medical office visits, psychiatric and other behavioral services, telestroke, and tele-emergency.

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System

Funding

- Federal Reimbursement Programs
 - Medicare
 - Medicaid
 - Tricare
 - IHS
 - VA
- Third-Party Payor Arrangements
- Grant Funding
- Private Payers

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System
Funding

- Government Funding
 - HRSA Flex Funding
 - County Mill Levy Funds
 - County General Fund
 - Community Block Grant Funds
 - PILT Money
- Capital Funding

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System
NCQA Recognition Based on 6 Standards

- Patient Centered Access: Accommodate patients' needs during and after hours, provide medical home information, offer team-based care.
- Team Based Care: Engage all practice team members by providing medical home information, meet cultural and linguistic needs of patients and offer team-based care .
- Population Health Management: Collect and use data for population management.
- Care Management and Support: Use evidence-based guidelines for preventive, acute and chronic care management.
- Care Coordination and Transitions: Track and coordinate tests, referrals and care transitions.
- Performance Measurement and Quality Improvement: Use performance and experience data for continuous improvement.

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System
Insurance and Other Coverage

- Ability of small, stand-alone hospitals and providers to negotiate favorable payer contracts
- Rural settings often = very high Medicaid and Medicare populations
- Alignment with health systems for favorable payer contracts

CROWLEYFLECK.COM

Opportunities for the Rural Health Care System

Health Information Technology

- Receive payment for meeting EHR meaningful use requirements
- Cost of EHR systems
- Alignment of rural hospitals with larger systems and supporting organizations for EHR donation and/or support

CROWLEYFLECK.COM

Stewart R. Kirkpatrick is a partner at Crowley Fleck, PLLP practicing in the firm's Billings, Montana office. His clients include hospitals, particularly rural hospitals, physician groups and organizations, community health centers, long term care facilities, home health and hospice providers, dental practices, ancillary service providers, and for-profit and nonprofit affiliates. He advises clients on a wide range of transactional, regulatory and compliance matters, including business, governance, operations and transactional issues, HIPAA privacy matters, compliance counseling, and employment matters. Stewart graduated from Brigham Young University in 1983 and obtained his law degree in 1986 from Creighton University School of Law. From 1990 until joining the firm in 2008, Stewart practiced with the firm Murphy, Kirkpatrick and Fain, PLLP.

Megan D. McCrae is an associate with Crowley Fleck, PLLP in the firm's Billings, Montana office. Megan regularly advises hospitals, critical access hospitals, federally qualified health centers, physician practices, long-term care facilities, home health and hospice providers, and dental practices on a broad range of operational issues, including compliance with medical staff bylaws, rules and regulations, peer review, credentialing and privileging, HIPAA, and federal fraud and abuse rules, including the Stark Law, the False Claims Act and the Anti-Kickback Statute.

CROWLEYFLECK.COM
