

Retail Clinics: Summary of National Survey

Source: National Academy for State Health Policy: “Analysis of State Regulations and Policies Governing the Operation and Licensure of Retail Clinics” February 2009.

Methodology

An email survey of 50 states’ and the District of Columbia was conducted by the National Academy for State Health Policy to explore how states are using their regulatory and licensing tools to promote, structure, or limit the growth of retail clinics. Survey tool was with input of state officials and national experts. Surveys returned from 48 Medicaid agencies and 48 Licensing and Certification agencies. The three states that did not return surveys do not have any retail clinics. Findings are summarized below.

Based on advice from experts and research from the web, six states – California, Florida, Illinois, Massachusetts, New Jersey, and Texas – were selected to further explore state policies. Interviews were conducted with stakeholders in each of the states to understand state policies for regulating health services in retail settings. Interview protocols were tailored for each stakeholder group. Findings are summarized in a separate paper entitled: “Retail Clinics: Lessons Learned from Six States’ Approaches”.

Private/Medicare/Medicaid Insurance

Most retail clinics now accept private insurance, some accept Medicare and only a few accept Medicaid, mainly citing low reimbursement rates. Only one of the retail clinics interviewed, Take Care Health, is currently accepting Medicaid payments, although not in all the states in which they operate. Other retail clinic operators are currently in negotiations with Medicaid agencies.

Most Medicaid billing systems do not distinguish retail clinics separately from physician offices and so the Point of Sale (POS) would most likely indicate “office” during the claims submission. In many states, practitioners can submit claims for services at retail clinics under their individual provider numbers, but most Medicaid officials interviewed thought it unlikely that Medicaid beneficiaries are seeking services at retail clinics.

Managed Care Plans. A few states indicated in their survey that Medicaid managed care plans include retail clinics in their networks and therefore reimburse for care provided to Medicaid beneficiaries. Some Medicaid managed care networks in Georgia, Kansas, and Tennessee include retail clinics. Arizona indicated that if services are emergent or urgent, then the plans would be obligated to pay for those services at retail clinics. But if the services provided are routine and should have been obtained from the member’s primary care provider, then the health plan could deny payment for those services.

Idaho and Illinois both use primary care case management programs to manage their Medicaid beneficiaries and stated that retail clinics could be used by beneficiaries if prior authorization

was received from the primary care provider. Retail clinic operators said prior authorization is a significant hurdle for patients and can significantly deter their use of retail clinics.

Quality of Care. Although many states monitor patient safety and quality data by requiring health facilities—not practitioners’ offices—to report patient safety data, none collected data from retail clinics because retail clinics are generally treated like practitioners’ offices. States are monitoring quality of care through licensure of practitioners and health care facilities and consumer complaints.

Statutes/Regulations. In a majority of states, retail clinics are treated like private physician offices and, therefore, are not subject to regulation. Massachusetts is the exception and it has promulgated new regulations. These regulations specifically addressed the physical space standards for retail clinics as well as issues such as continuity of care.

According to the retail clinic representatives, the most powerful state regulatory tools affecting their operations are the scope of practice regulations that govern nurse practitioners and other non-physician medical personnel. These kinds of regulations can greatly affect the cost structure of retail clinics and may affect where retail clinics locate, their staffing, hours of operation and potentially have a large impact on the services offered by retail clinics. Because nurse practitioners are the primary practitioners in most retail clinic models, any restrictions on their scope of practice will affect how they can provide care in retail settings.

Only two other states, Arizona and Florida, license retail clinics. In Florida, some corporate-owned retail clinics are licensed, while those that are owned by licensed practitioners are not. Retail clinics in Arizona are licensed by the Department of Health Services under the category of Outpatient Treatment Centers.

Kentucky and New Hampshire are currently in the process of drafting regulations to license retail clinics. Kentucky is proposing licensing regulations for retail clinics under the title “minor care health clinics.” Under these proposed regulations, retail clinics would be allowed to perform only those services that the state defines as “minor health care” and retail clinics would be prohibited from treating patients younger than 18 months. Both physicians and nurse practitioners at retail clinics would be required to work from established protocols. Physician’s assistants would be permitted to work in the clinics, but a nurse practitioner would be required be on site during operating hours.

New Hampshire plans to license retail clinics. In New Hampshire, they will fall under the category of “outpatient clinics, laboratories, and collection centers.” There are currently no retail clinics operating in New Hampshire.

Medical Homes

Physician provider groups tend to feel that a retail clinic is not a substitute for a regular source of comprehensive primary care, fails to adequately communicate with primary care providers about services delivered and ultimately undermines the doctor/patient or medical home relationship.

But a recent study found that most people who seek care at retail clinics do not have medical homes.

In response, a Take Care retail clinic representative stated that within 24 hours of their visit all patients receive a follow-up phone call from the nurse practitioner who provided treatment to check on the patient's health and treatment status. Clinic representatives stated that all patients leave with a copy of their visit record and, if consent is given, a copy is also faxed to their primary care provider's office. Clinic representatives also stressed efforts to help patients find a primary care provider if they did not have one already and some said they keep lists of nearby providers who are accepting new patients.

Conflicts of Interest

Two areas of concern related to conflicts of interest were identified in the survey:

- (1) Because retail clinics are often located within a larger store that includes a pharmacy, there is a concern that practitioners in the retail clinic will over-prescribe or selectively prescribe both prescription and over-the-counter medications that are for sale at the host store. For instance, CVS recently introduced its Rx Health Savings Pass program, through which customers who enroll receive both discounted generic drugs and discounts on Minute Clinic visits. Retail clinic operators told us that patients are informed that they can purchase their medications at any location of their choosing.
- (2) Some physician groups feel that alcohol and tobacco products should not be sold in stores that also provide health care. In Illinois, the Illinois Medical Society supported a bill prohibiting retail clinics statewide from operating in stores that sell alcohol and tobacco but the bill did not pass. The Federal Trade Commission criticized components of this bill as anticompetitive and pointed out that cigarettes are already for sale at many drug stores and grocery stores that house a pharmacy.

Corporate ownership and organizational issues

In some states, corporations are expressly prohibited from employing physicians; in other states, this "corporate practice of medicine" rule is derived from multiple sources of law. In the paper, the corporate practice of medicine is defined as a legal doctrine that generally prohibits anyone who is not a licensed medical provider from "interfering with or influencing the physician's professional judgment." The doctrine bans for-profit and not-for-profit corporations from directly employing physicians. The intent of this doctrine is to ensure that non-physician entities do not influence treatment decisions so that physicians retain ultimate responsibility over the practice of medicine.

Because corporate practice of medicine guidelines vary from state to state, legal ownership of retail clinics is an important factor that decides how and whether states will regulate those clinics.