



**Strengthening Oklahoma's Safety Net,
One Community At A Time**

Board Bulletin

Volume 4, Number 8 • August 2006

Legal Liability

Through effective governing and safeguarding resources, community health center (CHC) boards ensure that thousands of their fellow residents receive access to health care - now and in generations to come. With this in mind, it is critical that associated legal responsibilities and liabilities be fully understood to protect not only the health center but also the volunteer board members serving their community.

Avoiding Danger Areas

In recent decades, lawsuit mania seems to have become part of American culture. Risk management and corporate compliance are now familiar concepts embraced by the business world. With this in mind, CHC boards should be aware of the most common issues that result in lawsuits:

- ◆ **Employment** - Many disputes arise from hiring and firing practices, employee benefits and contracts. Health centers can minimize risks by instituting sound employment practices that include hiring policies, employee evaluations and termination policies. Since policies are only good when followed, CHC boards must take measures to ensure that policies are being adhered to as designed.
- ◆ **Contracts** - CHC boards are being advised by project officers to implement employment contracts with senior management. While most would agree it is a good business practice that helps promote leadership stability, this trend is also part of risk management efforts to guard against disputes centering around employment terms - hiring, firing, benefits. All contracts should be carefully worded and reviewed by legal counsel before being executed to ensure protection of the health center's interests. Before entering into any contract (employment, service, etc.), boards must pay particular attention to the length of the agreement, specification of the work being contracted, payment terms and termination issues.
- ◆ **Torts/Negligence** - While the Federal Tort Claims Act (FTCA) coverage for deemed 330 CHCs protects against malpractice for services delivered within scope, boards must recognize other areas that need to be addressed. Many health centers offer transportation services. Policies must be adopted that ensure proper screening of individuals allowed to drive company vehicles - particularly those used for transporting patients. Proper maintenance of vehicles must be documented. Safety measures must be instituted and compliance monitored to minimize workplace injuries. Policies to protect against theft must also be adopted as part of corporate compliance.
- ◆ **Discrimination** - Even though Oklahoma is an 'at will' state (meaning employees can be terminated at the will of the employer), workers are protected from discrimination. Employment Discrimination laws seek to prevent discrimination based on race, sex, religion, national origin, physical disability, sexual orientation, and age by employers and should be considered when personnel policies are developed. Health center programs must also be careful not to discriminate.
- ◆ **Release of Records** - Litigation forcing the release of records generally is used to gather evidence for related lawsuits. This is why documentation of board activity, health center operations (financial reporting), etc., is so critical. "Transparency" is the buzz word of the day in regard to how information is shared by organizations. Funders want to make sure spending is appropriate and resources are not being wasted. Public watchdogs are holding organizations accountable for ethical conduct - including how and why money is spent. It is expected that this information is transparent and readily available when requested.
- ◆ **Defamation** - The intent of defamation law is to protect people's reputations from unfair attacks. In a world where freedom of speech is treasured, spokespersons for the organization must be carefully advised regarding defamation to prevent lawsuits of this nature. Two types of defamation are *slander* (oral) and *libel* (written). Comments on behalf of the organization must be carefully guarded and remember that nothing you say or write is "off the record".

To review OPCA's entire *Board Bulletin* series, visit the 'CHC Boards' section of www.okpca.org.

Oklahoma Primary Care Association
4300 N. Lincoln Blvd., Ste 203, OKC, OK 73105
(405) 424-2282, Ext. 104 • Fax (405) 424-1111 • www.okpca.org

Funded by Health Resources and Services Administration (HRSA)/Bureau of Primary Health Care (BPHC).