



## **Rx: Health Care FYI #6**

**Subject:** *Protect Volunteer Physicians at  
Community Health Centers*

**From:** *Rep. Tim Murphy (PA-18)*

*“The great strength of America lies in the hearts and souls of our fellow citizens . . . people who are willing to take time to volunteer to make America a better place.” (President Bush, January 5, 2005, President Discusses Medical Liability Reform)*

**The Problem:** Community Health Centers (CHCs) provide valuable health care services to the uninsured and underinsured. As the numbers of CHCs expand they will need more doctors; however, many are hesitant because of the high cost of medical liability insurance.

### **Community Health Centers:**

- CHCs are non-profit, community supported health care providers who offer primary and preventive health care services to everyone, including low-income, underinsured and uninsured families.
- CHCs offer a sliding fee schedule based on family income.
- Nearly 70 percent of CHC patients are members of the working poor and have family incomes at or below poverty. (\$15,206 annual income for a family of three in 2003). (*Bureau of Primary Care, 2003 Uniform Data System*)
- Over 30 percent of CHC patients are uninsured. (*Bureau of Primary Care, 2003 Uniform Data System*)
- Saves Medicaid 30 percent in annual spending for patients using CHCs. (*“Nation’s Health At Risk II, Special Topics Issue Brief #7,” National Association of Community Health Centers, August 2004*)

### **Background:**

- The President’s FY 2006 budget request calls for \$2 billion in funding for the CHC program to create 1,200 new or expanded sites to serve an additional 6.1 million people. To staff these new facilities, CHCs must double their workforce by adding 12,000 clinicians and 48,000 administrative staff by 2006. (*National Association of Community Health Centers*)
- While the Volunteer Protection Act of 1997 protects volunteer physicians from “ordinary negligence,” a loophole in the law still allows claimants to sue volunteer physicians at CHCs for “gross negligence.” However, volunteer physicians at free clinics are protected from “gross negligence,” under the Federal Tort Claims Act (FTCA). Paid physicians at CHCs are also protected under the FTCA.

### **The Community Health Center Volunteer Physician Protection Act of 2005:**

- Encourages physicians to volunteer their services at CHCs by including them under FTCA coverage (medical liability protection from gross negligence and punitive damages) -- the same medical liability protections currently provided to volunteer physicians at free health clinics.
- Ensures the protection of CHCs from medical liability lawsuits.
- Closes the Volunteer Protection Act of 1997 loophole that allows claimants to automatically sue volunteer physicians at CHCs for gross negligence.

### **FTCA Coverage:**

- Provides immunity from gross negligence and punitive damages for torts committed within the scope of doctors' employment.
- Holds negligent doctors accountable by allowing the Department of Health and Human Services to settle claims in accordance with the law of the state where a tort occurs. Also allows an additional 6 months for denied claimants to file a lawsuit in a federal district court.
- Limits frivolous lawsuits by requiring claims to be filed within 2 years of an injury.

### **The federal government's role:**

- Congress granted FTCA coverage to paid physicians at CHCs under the Federally Supported Health Centers Assistance Act of 1992.
- Congress granted FTCA coverage to volunteer physicians at free health clinics under the Health Insurance Portability and Accountability Act of 1996.
- Congress should also extend FTCA coverage to volunteer physicians at CHCs.
- FTCA coverage for volunteer physicians at CHCs will increase the number of volunteer physicians and help meet the President's commitment to expand access at CHCs to millions of Americans.

### **An Example of Success:**

- Volunteers in Medicine, a free clinic in South Carolina, increased its numbers of volunteer physicians from 55 to over 100 with the introduction of FTCA coverage.

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*Congressman Tim Murphy, a member of the Energy and Commerce Committee, is a psychologist, and holds two Adjunct Associate Professor positions at the University of Pittsburgh (Pediatrics, and Public Health). He is Co-chair of both the Congressional 21<sup>st</sup> Century Healthcare Caucus and the Congressional Mental Health Caucus.*