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### *Retail Health Clinics: The New Safety Nets?*

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With news reports of the rising costs of health care and the rate of uninsured, the government is pushing to insure that all Americans have better access to reasonably priced healthcare services. One solution, popular with retailers, is to provide access to reasonably priced health care in retail health clinics (RHCs). RHCs, which first opened in 2000,<sup>1</sup> offer treatments for a limited number of acute illnesses on a walk-in basis through the care of non-physician providers<sup>2</sup> to patients over 18 months<sup>3</sup> at prices below \$60.<sup>4</sup> More than 70% of RHCs are located within drugstores<sup>5</sup> near the pharmacy,<sup>6</sup> with the remainder located in retailers, like Target or Wal-Mart, malls, or even airports.<sup>7</sup>

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<sup>1</sup> Ateev Mehrotra et al., *Retail Clinics, Primary Care Physicians, And Emergency Departments: A Comparison Of Patients' Visits*, 27 HEALTH AFF. 1272, 1273 (2008).

<sup>2</sup> Margaret Laws & Mary Kate Scott, *The Emergence of Retail-Based Clinics in the United States: Early Observations*, 27 HEALTH AFF. 1293, 1293 (2008).

<sup>3</sup> Hedy Dumpel, *Public Health and Retail Clinics*, REGISTERED NURSE, Jan./Feb. 2008, at 20.

<sup>4</sup> Annie Hsu, *Legal Issues Concerning Retail Clinics*, HEALTH LAWYER, June 2008, at 13,14.

<sup>5</sup> Rena Rudavsky et al., *The Geographic Distribution, Ownership, Prices, and Scope of Practice at Retail Clinics*, 151 ANNALS OF INTERNAL MED. 315, 316 (2009).

<sup>6</sup> Dumpel, *supra* note 3, at 20.

<sup>7</sup> Rudavsky et al., *supra* note 5, at 316.

RHCs are beginning to appear as an affordable alternative for those with incomes that cannot keep up with the skyrocketing costs associated with visits to the emergency department (ED), urgent care clinic, or physician office. RHCs rely mostly upon Nurse Practitioners (NPs) to staff clinics because their schooling is focused more on disease prevention and an overall holistic approach to health,<sup>8</sup> and because they tend to have lower salaries.<sup>9</sup> The providers' prescribing ability is kept quite simple and limited to antibiotics, rash creams, and cough syrups,<sup>10</sup> which is sufficient for the limited menu of illnesses that RHCs treat. Patients in need of more serious care are identified through the use of computer software programs or over-the-phone physician consultations and then referred to EDs or urgent care centers.<sup>11</sup>

The overall convenience of RHCs has led them to increase ten-fold from 2006 through 2008, totaling more than 1,000 sites, and has resulted in an estimated three million patient visits since their inception.<sup>12</sup> This paper will explore the criticism that some physician groups have raised about the ever expanding RHC market, but more importantly explore the benefits of RHCs, including the types of services provided, those who benefit the most, the costs associated with RHC care, and how quality and regulatory measures apply to this budding industry.

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<sup>8</sup> Hsu, *supra* note 4, at 13.

<sup>9</sup> Laws & Scott, *supra* note 2, at 1293.

<sup>10</sup> Hsu, *supra* note 4, at 13.

<sup>11</sup> *Id.*

<sup>12</sup> Rudavsky et al., *supra* note 5, at 315. *The Medical Storefront*, 27 HEALTH AFF. 1271, 1271 (2008).

## I. POPULATIONS SERVED AND SERVICES PROVIDED

RHCs are a popular choice for healthcare consumers because they are conveniently located, open extended hours seven days a week,<sup>13</sup> and provide treatment for some of the most common acute conditions.<sup>14</sup> These factors make them an appealing choice for those who work or are unable to make physician appointments during regular business hours. RHCs are also conveniently located in urban areas where an estimated 29.2 million Americans can access a RHC within a short five minute drive and another 80.7 million within ten minutes.<sup>15</sup>

The menu of conditions that RHCs treat, while limited, provides relief from easily treatable, everyday illnesses. The most common acute ailments RHCs treat include respiratory tract infections, otitis media and otitis externa (ear infections), pharyngitis (sore throat), conjunctivitis (pink eye), urinary tract infection, and even provides immunizations.<sup>16</sup> These conditions account for 90% of visits to RHCs, 13% of adult primary care visits, 30% of pediatric primary care visits, and 12% of ED visits.<sup>17</sup> RHCs can help to relieve the stress on EDs in having to care for these minor, acute conditions.<sup>18</sup> With a growing shortage of primary care physicians and an estimated shortage of 200,000 physicians by the

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<sup>13</sup> Rik Kirkland, *Wal-Mart's RX for Health Care*, FORTUNE, Apr. 17, 2006, available at [http://money.cnn.com/2006/03/31/news/companies/walmart\\_f500\\_fortune\\_041706/index.htm](http://money.cnn.com/2006/03/31/news/companies/walmart_f500_fortune_041706/index.htm).

<sup>14</sup> Mehrotra et al., *supra* note 1, at 1272.

<sup>15</sup> Rudavsky et al., *supra* note 5, at 317.

<sup>16</sup> Mehrotra et al., *supra* note 1, at 1274.

<sup>17</sup> *Id.* at 1272.

<sup>18</sup> *Id.* at 1280.

year 2020,<sup>19</sup> RHCs can help fill a void for both patients with primary care physicians and those without insurance.

While the convenience of RHCs excites patients, it frustrates providers. Because patients often find it difficult to obtain appointments with primary care providers on short notice and find frustration in long wait times in the ED, they value the variety of conditions treated and the convenience that RHCs provide.<sup>20</sup> Yet, some physician groups disagree and believe that convenience disrupts the physician-patient relationship rather than actually helping the patient.<sup>21</sup> However, three-fifths of patients who have visited RHCs did not have primary care physicians, making it clear that there is no relationship to disrupt.<sup>22</sup> The American Medical Association and American Academy of Family Physicians (AAFP) are even encouraging physicians to adopt some of the practices that make RHCs successful, such as expanding office hours and decreasing wait times.<sup>23</sup> Proponents of the RHC industry seek to quiet the fears of physicians by assuring them that they do not intend to replace the role of primary care physicians, only to supplement or complement them.<sup>24</sup>

Other physicians and physician groups still worry that the decrease in the number of visits to primary care physicians coupled with an increase in the

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<sup>19</sup> Hsu, *supra* note 4, at 13.

<sup>20</sup> Mehrotra et al., *supra* note 1, at 1279.

<sup>21</sup> *Id.*

<sup>22</sup> Mehrotra et al., *supra* note 1, at 1279; *see also* Ateev Mehrotra et al., *Comparing Costs and Quality of Care at Retail Clinics With That of Other Medical Settings for 3 Common Illnesses*, 151 ANNALS OF INTERNAL MED. 321, 326 (2009).

<sup>23</sup> Julie A. Muroff, *Retail Health Care: "Taking Stock" of State Responsibilities*, 30 J. LEGAL MED. 151, 177 (2009); Hsu, *supra* note 4, at 17.

<sup>24</sup> Muroff, *supra* note 15, at 163; Hsu, *supra* note 4, at 17.

number of visits to RHCs will eliminate the ability of primary care providers to manage chronic illnesses, provide preventative care, or cause follow-up visits to be delayed or absent.<sup>25</sup> Yet, one study conducted by Mehrotra et al. and published in *Health Affairs* revealed that in less than 12% of primary care visits dealing with conditions that could be treated at RHCs, the physician provided chronic illness management or preventative care.<sup>26</sup> So, while the concerns of these physicians and physician groups are important, they do not seem justified.

## II. COSTS

Cost savings to the patient seems to be the second largest benefit of RHCs, behind convenience. With little more than half of Americans covered by health insurance through their employer (down from nearly 70% in 1980),<sup>27</sup> RHCs can provide a cost efficient alternative to an expensive physician office appointment, urgent care center visit, or ED admission. A recent study conducted by Mehrotra et al. in the *Annals of Internal Medicine* focused on the cost of visits to these various providers and found that RHC visits, at an average of \$66, are significantly lower than those in physician offices (\$106), urgent care centers (\$103), or EDs (\$358).<sup>28</sup> It was further discovered that three conditions, otitis

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<sup>25</sup> Mehrotra et al., *supra* note 1, at 1275; Eileen Salinsky, *Medicine, Big Business, and Public Health: Wake Up and Smell the Starbucks*, PREVENTING CHRONIC DISEASE: PUB. HEALTH RES., PRAC., & POL'Y, Apr. 2009, at 1, 2.

<sup>26</sup> Mehrotra et al., *supra* note 1, at 1279.

<sup>27</sup> Kirkland, *supra* note 7 (the largest decline in coverage has been for workers earning around \$8.50 per hour, which fell from 46% to 26%).

<sup>28</sup> Mehrotra et al., *supra* note 14, at 324; *see also* Jennifer Gill, *The Nurse Will See You Now*, INC. MAG., June 2006, at 39, 40 (a recent review of claims for children treated for ear infections revealed a \$48 cost at MinuteClinic and \$102 for a trip to an urgent care center); Kirkland, *supra*

media (ear infection), pharyngitis (sore throat), and urinary tract infection, account for 48% of all RHC visits.<sup>29</sup> Of visits for these three conditions, the study found that costs at RHCs were 30 to 40% lower than at physician offices or urgent care centers, and 80% lower than EDs,<sup>30</sup> which proves that the cost savings can add up for both those with and without insurance.

Another great benefit of RHCs, unlike the physician's office, urgent care center, or ED, is that they provide pricing for services up front.<sup>31</sup> For example, MinuteClinics, which are run by CVS, allow patients to obtain pricing from their computer before ever visiting the provider.<sup>32</sup> With 95-98% of patients who visit an RHC presenting with a condition that RHC staff can treat,<sup>33</sup> money is not the only thing that patients are saving.

As they have continued to grow, RHCs have also begun accepting insurance - helping to keep costs even more affordable.<sup>34</sup> Another study conducted by Mehrotra et al. published in *Health Affairs* compared patient visits and discovered that 67% of patient visits to RHCs were covered by insurance and 90% of patients who visited a physician's office were covered.<sup>35</sup> Along with the

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note 13 (a \$45 visit at a clinic includes all tests necessary to diagnose and treat everyday ailments, which is much cheaper than the \$95 office visit or \$400 ED visit).

<sup>29</sup> Mehrotra et al., *supra* note 14, at 322.

<sup>30</sup> *Id.* at 326.

<sup>31</sup> Gill, *supra* note 20, at 40.

<sup>32</sup> *Id.*

<sup>33</sup> Laws & Scott, *supra* note 2, at 1295.

<sup>34</sup> *Id.* at 1294.

<sup>35</sup> Mehrotra et al., *supra* note 1, at 1280.

cost savings RHCs provide, insured patients with primary care physicians can also benefit by having RHC visit records sent to their primary physician.<sup>36</sup>

Health systems are also benefiting from forming partnerships with local RHCs.<sup>37</sup> These partnerships allow RHCs the prestige of using the name of a local, established hospital or physician practice and allow health systems a chance to “grab” new patients through referral processes that RHCs have set up.<sup>38</sup> Also, RHC staff understand when a patient’s condition is outside of their scope of practice and use the partnerships with local health systems to make referrals.<sup>39</sup> For example, one physician-run RHC in New York recently partnered with Continuum Health Partners, parent of the prestigious Beth Israel Medical Center, to give RHC providers admitting privileges and the ability to refer to its specialist providers.<sup>40</sup>

The RHC “host” store also benefits from the clinic relationship, but there are worries about just how close the RHC and store have become. Of the patients that visit RHCs, 35% leave with a prescription, 95% of which are filled at the host store’s pharmacy.<sup>41</sup> Between 55 and 80% of patients also tend to spend money on other merchandise in the host store, such as general merchandise or over-the-counter medicines.<sup>42</sup> Physicians worry that the close proximity of RHCs to pharmacies, and even ownership by host stores, will lead providers to

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<sup>36</sup> *Id.*; see also Hsu, *supra* note 4, at 21.

<sup>37</sup> Muroff, *supra* note 15, at 178.

<sup>38</sup> Hsu, *supra* note 4, at 18.

<sup>39</sup> *Id.* at 17. See also Laws & Scott, *supra* note 2, at 1296.

<sup>40</sup> Hsu, *supra* note 4, at 18 (explaining also that physician-run RHCs are a rarity as staffing a physician-run clinic can cost more than four times that of a traditional RHC)

<sup>41</sup> *Id.* at 15, 21 (70% of new pharmacy customers become continuing pharmacy customers).

<sup>42</sup> *Id.*

dramatically increase prescriptions, including over-prescription of antibiotics, in an effort to boost store sales.<sup>43</sup> However, researchers have looked closely at the prescribing habits of providers in RHCs, physician offices, and urgent care centers, and found that the rates of prescriptions, particularly for antibiotics, were no different among the three.<sup>44</sup>

With such low costs and high benefits to both the patient and host store, RHCs are already looking at how they can expand to provide more services, including the addition of simple testing capabilities, such as glucose (blood sugar) and cholesterol testing.<sup>45</sup> However, if the number of services an RHC provides becomes too extensive, then patient care may become too complex leading them to raise prices and abandon the cost effective model that is now in place.<sup>46</sup>

### III. QUALITY & REGULATION

The need to keep costs down seems to be the key RHC success. However, quality is also important to RHCs, and they strive to maintain top marks in quality ratings by employing various types of oversight. MinuteClinic, for example, has established a national advisory council of healthcare experts to monitor its policies and practices.<sup>47</sup> The Convenient Care Association (CCA), a national

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<sup>43</sup> Gill, *supra* note 20, at 41. See also Mehrotra et al., *supra* note 14, at 326.

<sup>44</sup> Mehrotra et al., *supra* note 14, at 326. See also Daniel Costello, *Report From the Field: A Checkup for Retail Medicine*, HEALTH AFF., Sept./Oct. 2008, at 1299, 1302 (“[A] one-year study published . . . in the *American Journal of Medical Quality* showed that retail clinic practitioners adhered to clinical guidelines in 99.15 percent of patient visits by not prescribing unneeded antibiotics for patients who’d received a negative rapid strep test.”).

<sup>45</sup> Hsu, *supra* note 4, at 15.

<sup>46</sup> Muroff, *supra* note 15, at 164.

<sup>47</sup> *Id.* at 155.



trade organization made up of healthcare professionals who measure patient quality and safety through peer review and data measures, has emerged as the driving force in quality among RHCs.<sup>48</sup> The CCA has disseminated ten mandatory standards for its members that reflect many of the state regulations in place for such things as proper handling of biohazard materials and other safety issues.<sup>49</sup> In rebuttal to arguments that RHCs are unregulated, unlicensed, and lack standards, MinuteClinic has earned accreditation from the Joint Commission, reflecting its compliance with national standards and performance measures in both patient safety and quality.<sup>50</sup>

Dumpel, in her 2008 article published in *Registered Nurse*, notes that RHCs lack controls for infectious disease, reporting of communicable diseases, and other patient safety and quality standards that other healthcare providers are subject to.<sup>51</sup> States such as Massachusetts, however, have taken steps to correct these problems through the implementation of new state regulations that specifically target RHCs.<sup>52</sup> If providers and the healthcare field feel strongly that RHCs pose a great threat to the patients they treat, then they should advocate for stronger state regulation of these RHCs, including holding them to the standards of traditional healthcare settings, creating alternative forms of regulation, or creating exceptions to the way they are regulated.<sup>53</sup>

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<sup>48</sup> *Id.* at 156.

<sup>49</sup> *Id.* See also Hsu, *supra* note 4, at 19.

<sup>50</sup> Muroff, *supra* note 15, at 160.

<sup>51</sup> Dumpel, *supra* note 3, at 26.

<sup>52</sup> Muroff, *supra* note 15, at 157.

<sup>53</sup> *Id.*

While national physician organizations are not necessarily endorsing RHCs, some are providing their own standards for clinics to adopt.<sup>54</sup> For instance, the American Academy of Pediatrics and AAFP have both issued standards, that they hope RHCs will adopt, to provide care for a narrow scope of services that uses evidence and team-based medicine and that uses referrals and electronic records appropriately to provide for continuity of care.<sup>55</sup> Yet, without these standards, the quality measures of RHCs meet or exceed the quality ratings of traditional care settings.<sup>56</sup> A national survey indicated that 90% of patients were satisfied with the quality of care, convenience, and cost of the services at RHCs.<sup>57</sup>

#### IV. CONCLUSION

“Approximately 50[%] of visits to family physicians are prompted by acute, episodic afflictions, many of which now can be treated by nurse practitioners in RHCs,”<sup>58</sup> which makes RHCs more efficient and a better alternative to an urgent care clinic or ED visit.<sup>59</sup> Many RHC patients report that without a RHC they would have chosen the ED or an urgent care center for treatment.<sup>60</sup> RHCs, therefore, appear to be serving a valuable purpose and expanding access and decreasing the number of patients that use the ED as a form

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<sup>54</sup> Hsu, *supra* note 4, at 17.

<sup>55</sup> Muroff, *supra* note 15, at 154. *See also* Hsu, *supra* note 4, at 17.

<sup>56</sup> Mehrotra et al., *supra* note 14, at 325-26.

<sup>57</sup> Laws & Scott, *supra* note 2, at 1295.

<sup>58</sup> Muroff, *supra* note 15, at 163.

<sup>59</sup> *Id.* at 172.

<sup>60</sup> *Id.* *See also* Hsu, *supra* note 4, at 14.

of primary care. Some RHCs have begun to target those patients that would normally use EDs as their primary care, and are attempting to eliminate healthcare disparities in low-income neighborhoods by reducing costs to serve a broad, more diverse patient population.<sup>61</sup> Even where patients have insurance, RHCs, in cooperation with insurance companies, are attempting to make care more affordable by encouraging patients to use inexpensive RHCs and offering rewards, such as waiving co-payments.<sup>62</sup> While RHCs tackle only minor health problems and do little to reduce overall health costs, they help save a patient's money and time<sup>63</sup> and provide access to care for those who might have otherwise gone without,<sup>64</sup> which are benefits that far outweigh any current concerns.

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<sup>61</sup> Muroff, *supra* note 15, at 171-72.

<sup>62</sup> *Id.* at 173.

<sup>63</sup> Hsu, *supra* note 4, at 15. *See also* Gill, *supra* note 20, at 41 (noting that 20% of the population accounts for 80% of healthcare spending.).

<sup>64</sup> Mehrotra et al., *supra* note 14, at 327.