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Sutter hides health costs

Legislation seeks to remove gag clauses

San Francisco Business Times - by [Chris Rauber](#)

Blasted in 2004 for operating some of the region's highest-cost hospitals, the **Sutter Health** system jumped into action: Not to cut prices, but to put gag clauses in its contracts with Northern California health plans that precluded them from releasing cost information without Sutter's permission.

As a result, the California Public Employees' Retirement System says it and **Blue Shield of California** have been unable to replicate a 2004 cost study that resulted in the expulsion of 24 hospitals, including 13 operated by Sutter, from the Blue Shield HMO used by CalPERS members (two were reinstated in 2006), CalPERS says. Excluding those higher-cost facilities from its Blue Shield HMO network has resulted in an estimated \$122 million in savings over the last three years, according to CalPERS' officials, including \$49.6 million last year.

Sutter's action has inspired pending state legislation that would prevent such gag clauses. It has also raised concerns that health-care price information is getting less rather than more transparent, even as health-care consumers and employers are increasingly encouraged to compare quality and cost among hospitals, physicians and other providers. Similar gag clauses are now common in other California hospital systems' contracts as well, said one informed industry source. "It's not just Sutter."

Sutter, meanwhile, contends that its contracts have always included confidentiality terms. "That's been the industry standard for years," said Sutter spokeswoman Karen Garner, adding that such clauses restrict both parties from disclosing confidential information, such as patient-specific data, contract rates and other competitive information.

She said Sutter provides the Office of Statewide Health Planning and Development or OSHPD with substantial data, "and it's publicly reported."

CalPERS says it used the OSHPD data, which is not specific to particular health plans or health-care services, to compile a cost and quality report earlier this year. But it has not been able to reproduce its 2004 study because of confidentiality clauses CalPERS attributes specifically to Sutter Health.



Spencer Brown

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Concern about limitations

Some of the state's best-known quality experts are concerned about the implications of such limitations on the dissemination of hospital cost and quality data.

"From a patient and purchaser perspective, understanding relative costs is the necessary first step to rewarding hospitals that deliver high-quality care more cost effectively," said Peter Lee, former CEO and current executive director of national health policy at the Pacific Business Group on Health, which represents many of the West Coast's largest employers and biggest purchasers of health care, including CalPERS. Lee described a PBGH and CalPERS-sponsored report on hospital cost and quantity released in January as "an imperfect analysis of hospitals' costs based on public data. We'd far rather be more accurate, using the actual data that hospitals submit to health plans across the state."

Sacramento-based Sutter Health operates 26 hospitals in Northern California, including large Bay Area facilities like San Francisco's **California Pacific Medical Center**, **Alta Bates Summit Medical Center** in Berkeley and Oakland, the Peninsula's **Mills-Peninsula Health Services**, Greenbrae's **Marin General Hospital** and Castro Valley's **Eden Medical Center**.

Sutter insists it's been a leader on transparency, despite the debate over the Blue Shield/CalPERS data. Examples, Garner said, include online publication of clinical quality metrics, Sutter's annual audited financial statements and IRS documents, "which are all available on our own web site, and have been for years." The organization has also been among the first to post patient-satisfaction and quality information on various state-sponsored web sites, she said.

Higher cost, not higher quality

Even so, the 2004 Blue Shield study found that Sutter was 60 percent more expensive than comparable Northern California hospitals and 80 percent higher than Blue Shield's statewide HMO average, "with no indication of higher quality," said Karen Perkins, a CalPERS spokeswoman. In response, "Sutter included a clause in their contracts that prohibited Blue Shield from publicly disclosing cost information. That is the reason we have not done a follow-up study of this nature," Perkins said.

"Secrecy about the cost and quality of health care is indefensible," said Tom Moore Jr., a senior policy and program consultant at the California Health Care Coalition, which represents 43 public and private sector employers, unions and trust funds with a combined membership of 3 million, and has close ties to Blue Shield. "The only interests that secrecy serves are those of providers of care with questionable performance and highly questionable price structures."

Blue Shield officials said they couldn't comment, but in a January interview Paul Markovich, senior vice president of its large group business unit, said, "I can't say there's been any long-term change, other than the cost savings that were realized (for CalPERS as a result of shrinking its Blue Shield HMO hospital network in 2004, but) only time will tell. It may have helped some of the industrywide initiatives" to improve sharing of cost and quality information.

Inspired by this situation, State Sen. Ellen Corbett, D-San Leandro, has introduced Senate Bill 1300, which would prohibit a contract between a hospital or health-care provider and a health insurer from restricting the release of cost or quality information to health-plan enrollees.

Proposed bill to prohibit secrecy

If passed, the bill would take effect with contracts issued, amended or renewed after Jan. 1, 2009. The intent of her legislation is to let consumers "have as much information as possible and make cost comparisons just like they do when they buy a car," Corbett said.

Perkins said CalPERS is aware of the Corbett bill and is analyzing it, but "the board has not yet taken a position on it."

Rachelle Cunningham, a spokeswoman for **Aetna's** Western regional unit in Walnut Creek, said she couldn't comment directly on the CalPERS' situation, but noted that when Aetna rolled out cost-transparency information online last November so enrollees could compare costs at various facilities, "Sutter declined to participate, and it was unusual for them to opt out," since many other hospital companies complied.

Local hospitals participating in Aetna's transparency program include **Alameda Hospital**, Doctor's Medical Center in San Pablo, **John Muir Medical Center** campuses in Concord and Walnut Creek, the Tri-Valley's Valley Memorial Hospital, Children's Hospital Oakland, St. Mary's Medical Center, **St. Francis Memorial Hospital** and **UCSF Medical Center** in San Francisco, **Stanford Medical Center**, Lucile Packard Children's Hospital at Stanford, Daly City's **Seton Medical Center**, as well as many others, according to Aetna.

crauber@bizjournals.com / (415) 288-4946

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