# Being Heard

*Reflections on physician supervision under the HOPPS*

**by Luana R. Lamkin, RN, MPH**

In December 2008 the Centers for Medicare & Medicaid Services (CMS) published the 2009 HOPPS that included new rules on "physician supervision" for chemotherapy and radiation therapy. The news rocked the Mountain States Tumor Institute. For many years we had built and managed remote full-service cancer centers in rural Idaho. These facilities were located in areas where the need was extreme—areas, for example, in which the nearest radiation therapy was 120 miles or more away. These centers fulfilled the mission of our organization—to serve the people of our region—but they did not always make the best financial or operational sense.

Over the early months of 2009, we worked feverishly with ACCC and the Oncology Nursing Society (ONS) to lobby CMS to reverse its physician supervision decision. We pointed out the dichotomy between the shortage of oncology physicians and this ruling. We pleaded that rural areas were in a unique position. We spoke to the extraordinary skill of the nurse practitioners (NPs) who had years of oncology experience and physician backup by phone. We demonstrated that CMS's rule was in conflict with the state's scope of practice for NPs. We explained the hardships created by the rule and sent long letters of comments to CMS regarding the upcoming 2010 rules.

And CMS heard us! In November 2009, the final 2010 HOPPS rule was released, and the physician supervision rules now allowed for supervision of services by nurse practitioners (NPs) who are trained and whose state scope of practice allows them to oversee chemotherapy. But deep

within the regulations we found a differing opinion regarding overseeing radiation therapy. Our hearts sunk.

Again, we turned to ACCC for help. We asked that a conference call be set up between the Mountain States Tumor Institute, ACCC, and CMS representatives. Ten people from our cancer center listened in on the call including physicians, administration, and our corporate counsel. Two CMS representatives and ACCC's public policy director, Matt Farber, were also on the call. We asked every way we could think of if our NPs could oversee radiation therapy treatments. The answer kept coming back: *if* your state scope of practice for NPs allows this *and if* your hospital believes the NPs are qualified *and if* your job descriptions reflect that qualification *and if* your physicians are comfortable with telephone backup, *then* your hospital can deem that NPs can oversee radiation therapy.

We went into action. All NPs had eight hours of advanced education on radiation therapy, and the NP job description was carefully crafted to allow oversight of symptom management, of curtailing therapy, and of initiating therapy that had been planned and approved by a radiation oncologist. We wrote a confirming letter to CMS. And we had the blessing of our corporate counsel.

On February 1, 2010, our NPs took their rightful role as oncology professionals overseeing chemotherapy and radiation therapy in our rural clinics on about 20 percent of our total clinic days.

It was an interesting 14 months full of learning opportunities. The process has been a great way to solidify our relationship between physicians, attorneys, NPs, and administration. We revised job descriptions that probably needed work anyway, we became more knowledgeable about the state scope of practice, and we better defined when NPs would seek input from physicians. We learned that our corporate counsel can be very helpful when brought in early in a questionable situation. We learned that we can be heard by CMS and that we can rely on ACCC to help us navigate through the process.

Most important, we kept our clinics open so our patients do not have to travel many, many miles for great quality care.

*Luana R. Lamkin, RN, MPH, is immediate Past-President of the Association of Community Cancer Centers and administrator of the St. Luke's Mountain States Tumor Institute, Boise, Idaho.*