From:	Bunyard, Ray
To:	*TE/GE-EO-F990-Revision;
CC:	
Subject:	Form 990 Comments
Date:	Friday, September 14, 2007 9:30:00 AM
Attachments:	Final Form 990 Comments.pdf

Please find attached Baylor Health Care System's comments on the proposed revisions to the Form 990.

Thank you.

Ray Bunyard, CPA

Vice President
Office of Tax Management
Baylor Health Care System
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September 14, 2007

Internal Revenue Service
Form 990 Redesign
Attn: SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Comments on Draft Form 990 and Schedules

Baylor Health Care System appreciates the opportunity to provide comments on the Draft Form 990 and related schedules on behalf of Baylor Health Care System and its 14 controlled exempt organizations which include 11 hospitals, two foundations and one research organization (collectively, "BHCS"). BHCS commends the efforts to update the requirements for tax-exempt organizations. We are supportive of the parts of the revised Form 990 and schedules that promote compliance and transparency; however, some of the proposed reporting is not relevant to nonprofit organizations' charitable purpose and will unnecessarily increase the administrative burden associated with completion of the forms.

BHCS hospitals are members of the Texas Hospital Association ("THA") and the American Hospital Association ("AHA"). BHCS agrees with the comments that were submitted previously by THA (attached in its entirety) and AHA. THA's comments focused mainly on Schedule H, officer's compensation and the inconsistencies that may arise in completing the new Form 990 for hospitals that are part of a hospital system compared to stand alone hospitals that are not part of a hospital system. BHCS has not made specific comments on these issues since they were satisfactorily addressed in the THA letter. The main issue that we want to repeat is that there needs to be the ability for organization's to communicate their "hospital system's story" fairly and accurately so that the information reported can be used effectively by the IRS and the community.

In addition to the THA comments, BHCS is submitting additional comments on the core Form 990 and the other supplementary schedules which are outlined below.

General Comment

BHCS recommends that the effective date of the proposed Form 990 be delayed until 2010 in order to have sufficient time to reconfigure financial and data reporting systems to appropriately capture all of the new information that is required to be reported on the proposed forms. Specifically, as stated in THA's and AHA's comment letters, there have

been a number of concerns and questions regarding Schedule H. Many of the requirements in Schedule H may require substantial modifications to accounting systems which will require some lead time to implement before the effective date.

Core Form, Part I –Summary

Line 7 Highest Compensation Amount Reported on Part II, Section A and Line 8 Officer, Director, Trustee and Other Key Employee Compensation

- The information reported for lines 7 and lines 8a and 8b may be misleading to community members reviewing the Form 990 for the following reasons:
  - The amount to be reported on line 7 for the highest compensated individual includes compensation from both the filing organization as well as compensation from any related organizations. Line 8a then asks for total officer, director, trustee and other key employee compensation (which does not include compensation from related organizations). By including related compensation amounts for the highest paid individual may be confusing to community members reviewing the Form 990 who may be trying to compare line 7 to line 8a.

    These two amounts are not comparable since the former includes related compensation and the latter does not. Additionally, lines 7 and 8a may not be comparable since line 7 is based on calendar year reported compensation whereas the information for line 8a is based on the filing organization's fiscal year end and may also include salary accruals according to GAAP. It is also possible that line 7 may be higher than line 8a since line 8a specifically requests compensation that is classified as "Program Service."

  - On line 8b, the percentage of total officer, director, trustee and other key employee compensation classified as "Program Service" is compared to the total "Program Service" expenses reported on line 17. According to the IRS instructions, the compensation for the Chief Executive Officer is to be reported as Management and General unless their time is spent specifically on Program Service or Fundraising activities; therefore, there may be little, if any, officers compensation reported as Program Service which will result in a low percentage (or even zero percentage) being reported on line 8b. This could be misleading to the community and may lead to inconsistent reporting since the interpretation of "Program Service" may be different from organization to organization.

Core Form, Part III – Statements Regarding Governance, Management, and Financial Reporting

Question 11 Information Available to the Public

- This question requires organizations to state how the governing documents, conflict of interest policy, Forms 990 and 990-T, financial statements and the audit report are made publicly available. Does this question imply that this information is required to be made available to the public or is this just an informational tool for the public to know what information is available for each organization?

Core Form, Part IV – Statement of Revenue

Line 1 Contributions, Gifts, Grants and other Similar Amounts

- In reading the instructions for line 1, it is unclear as to which specific sub-line (a-f) should include voluntary contributions made by individuals directly to the organization. BHCS is assuming they are to be included on sub-line (f) "other contributions, gifts, grants, and similar amounts not included above", but recommend updating the instructions to state specifically where those types of contributions should be included.

Line 2a, Medicare/Medicaid Payments

- The instructions for this line have been updated to include "all revenues received for medical services, including Medicare and Medicaid payments". Since this line item will now include more than just the Medicare and Medicaid revenue amounts, BHCS recommends changing the actual title of line 2a to something more representative of what will be included. Examples include Net Patient Revenue or Medical Services Revenue.

Core Form, Part VII, Statements Regarding General Activities

Line 8b, If "Yes" Identify the of name and primary activity of such partnership, LLC, or corporation in which the filing organization's ownership or control was 50% or less.

- This question is only requesting information for organizations where the ownership or control is 50% or less. Question 8a asks whether or not the filing organization conducted all or a substantial part of its exempt activities through or using a partnership, LLC, or corporation. It seems that if the taxpayer answered "yes", that the IRS would be interested in obtaining information on that particular partnership regardless of whether or not the partnership was controlled. For example, this question could be answered

"yes", but if that partnership, LLC, or corporation is more than 50% controlled, there would be no entry made on line 8b.

Additionally, an organization may have conducted it's activities through numerous partnerships, LLC's, or corporations. Assuming that the organization controlled all of the entities with the exception of one small partnership, the one partnership that is not controlled would be the only entry made on line 8b. That entity listed may have little or no reportable income flowing through to the exempt organization, yet this is the only entity that the IRS is requesting information for.

Line 8c, Is the organization a partner in a partnership, member of an LLC, or shareholder of a corporation that was managed by a company that was controlled by taxable partners, members or shareholders?

- In reading the instructions for line 8c, it is unclear as to whether or not this question is answered only if 8a is marked "yes" or if question 8c is to be answered by all organizations. For example, if question 8a is answered "no", is 8c not applicable? If it is intended to be answered by all organizations, BHCS recommends that the IRS make this an independent question rather than being a sub-part of Question 8.

Schedule D, Supplemental Financial Statements

Part XIII, Reconciliation of Net Assets

- BHCS recommends that the actual form and/or the instructions for this section state which specific lines (1-8) need to be added together to total the "net asset or fund balances" amount requested on line 9. There are 2 different calculations that can be done using the amounts reported on lines 1-8 to reach the total amount requested on line 9. The total net asset amount can be reached by summing lines 4, 5, 6 and 7 or by summing lines 3, 4 and 8.

Schedule K, Supplemental Information on Tax Exempt Bonds

Part III, Private Use

- BHCS is unsure how to complete line 4 based on the current instructions. Is it the intent of the IRS that line 4 only include the percentage of use subject to a management contract that does not meet the safe harbors of Rev. Proc. 97-13 which by definition may be considered private use? For example, if line 2a is answered "yes" where the organization did enter into a management contract and 2b is answered "yes" where the management contract did meet the safe harbors of Rev. Proc. 97-13, then why would the highest percentage of use

during the year be required on line 4? Since the use would not be considered "private use" if all of the safe harbors are met, why is the total use requested? Therefore, it seems that question 4 should ask, "If questions 2b or 3b are answered no, what was the highest percentage of the project that was subject to either a management contract or research agreement that did not meet the safe harbor?"

Similarly, for lines 5a and 5b, any use by a non 501(c)(3) entity or a state or local government that is not related to a management agreement or a research agreement is requested. Does the IRS intend for this to only include use that is defined as private use? In general, members of the hospital medical staff may "round" or perform procedures on registered patients of the hospital. This scenario is generally not considered private use for bond purposes, but would skew the percentage listed on line 5b since they are an individual who is not a 501(c)(3) organization that is technically "using" the property.

Schedule R, Related Organizations

Part I, Identification of Disregarded Entities

- The General Instructions on Schedule R state that completion of Schedule R is to be completed by organizations that answered "Yes" to Form 990, Part VII, lines 7a or 7b. Line 7a of Part VII is asking specifically about disregarded entities owned 100% by the filing organization and line 7b asks if the organization is related to any tax-exempt or taxable entity. It is unclear in the specific instructions to Schedule R whether or not Part I, Identification of Disregarded Entities, is to be completed regardless of whether 7a or 7b is answered "yes" or if Part I is only to be completed when 7a is answered "yes". BHCS believes it is the IRS's intent that Part I be completed regardless if the organization directly owns 100% of the disregarded entity or if the organization is related to another organization that directly owns a disregarded entity, but the current instructions do not state either way.

  For example, assume A is the parent company of companies B and C. B is the filing organization and C owns 100% of company D, a disregarded entity. B as the filing organization would answer line 7a "no" since B does not directly own 100% of company D. Would B still complete section Part I of Schedule R and list Company D as a disregarded entity? If so, BHCS recommends that the title line for Part I be changed to "Identification of Related Disregarded Entities" similar to how the word "related" is included in the title line of Parts II-V of Schedule R.

In closing, BHCS respectfully requests that these comments and others submitted by hospitals and hospital associations be carefully considered and that appropriate changes

be made to the Form 990. BHCS hopes that these comments and recommended changes will help improve the quality and usefulness of the form. Should you have any questions concerning these comments, please feel free to contact me at (214) 820-8979.

Sincerely,

Ray Bunyard, CPA
Vice President of Tax Management
Baylor Health Care System

Attachment

TEXAS HOSPITAL ASSOCIATION

September 12, 2007

Via Electronic Filing

Mr. Ron Schultz
Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Comments on Draft Form 990 and Schedules

On behalf of the Texas Hospital Association and its more than 400 member hospitals, we appreciate the opportunity to provide comments on the draft Internal Revenue Service Form 990 and related schedules. Our comments will focus on Schedule H for Hospitals; however, we are also submitting a number of general comments on the core Form 990 and other schedules.

Texas hospitals support the guiding principles upon which the revised Form 990 is based and commend the IRS for its efforts to update the reporting requirements for tax-exempt organizations. In 1993, THA and our nonprofit hospital members worked with the Texas Legislature on the enactment of a comprehensive state law that established new requirements for tax-exempt hospitals to plan for, provide and report charity care and other community benefits. In many respects, the proposed Scheduled H incorporates elements of the Texas reporting process. While we are supportive of those parts of the revised Form 990 and schedules that promote transparency and compliance, some of the proposed reporting is not relevant to nonprofit hospitals' charitable purpose and will unnecessarily increase the administrative burden associated with completion of the forms.

Comments and Recommended Changes to Core Form 990

1. Part II will require the submission of compensation information on "officers, directors, trustees, and key employees." While this is the same group of individuals for whom information has been collected in the past, the definition of "officer" and "key employee" is not clear and has led to confusion and inconsistency in reporting. Historically, some tax-exempt organizations have taken the position that the term officers include only individuals appointed by the organization's board of trustees as "officers" under state law. Other organizations have reported all individuals who have an officer title (e.g. vice president, senior vice president etc.) regardless of whether they have been designated as officers under state law. The two glossary definitions provided with the revised form do not clearly specify which of these historical practices is correct. The instructions should be clarified so that all organizations consistently report officer related information. In addition,

consideration might be given to the establishment of a requirement that a key employee or officer must be authorized to approve a certain level of expenditure on behalf of the organization prior to be included in the Part II disclosure.

2. In Part II, Section B, an organization is required to indicate on line 8 whether any individual listed in Section A received more than $250,000 of reportable or other compensation, including deferred compensation, non-taxable fringe benefits and expense reimbursements. If so, Schedule J must be completed. We believe that both here, in establishing the $250,000 threshold, and on Schedule J, only taxable expense reimbursements should be included. As these terms are defined in the proposed instructions, every meal served at a lunch meeting attended by an officer would need to be quantified and reported as an element of compensation. The inclusion of non-taxable expense reimbursements and non-taxable fringe benefits will significantly increase the compliance burden on tax-exempt hospitals without providing commensurate benefit to the public.

3. In Part III, an organization is asked on line 3b how many transactions were reviewed under its conflicts policy. We believe this question should be deleted because answers to this question could be easily misconstrued. If the organization responds that a large number of transactions were reviewed, it will be unclear to the public whether the organization is hyper-diligent and reviews every transaction that remotely raises a conflict issue or that there are a significant number of true conflicts that should be reviewed. In contrast, if the answer is zero there may be the perception that the board is failing to review potential conflicts. Without the opportunity to explain the context of the answer, we believe that reporting only the number of transactions reviewed provides no useful information and, worse, provides information that could be misconstrued. Rather than using this particular metric as a proxy for the effectiveness of an organization's conflict of interest policy, organizations could be asked to disclose the number of individuals that are required to complete conflict of interest questionnaires/disclosures under the organization's conflict of interest policy.

4. One of the deficiencies of Form 990 is that it fails to appropriately acknowledge that many tax exempt entities are a part of a larger corporate structure and that each of the corporations within this corporate structure is required to file a separate Form 990 and applicable schedules. This piece meal reporting by the corporate parent and each of the subsidiary corporations may provide an incomplete picture of the business activities of these corporations and how they are jointly fulfilling their tax exempt purpose. In addition, a number of the questions relating to governance, management and financial reporting are structured in such a manner that a correct answer by a subsidiary corporation will provide an inaccurate assessment of the governance and oversight of the organization's activities. For example, within a multi-hospital system much of the financial reporting and oversight of financial statements is done at the corporate parent level and each of the subsidiary corporations may not have an audit committee. To address this issue, we recommend that questions be added to Part III, which will allow organizations to better describe their governance and management structure. Specifically, we recommend that the following new questions #8 and #9 be added to Part III and the subsequent questions are appropriately re-numbered. In addition, we recommend that existing question #9, which would be renumbered as question #11 if the prior recommendation is accepted, be modified to allow the organization to explain that the audit of financial records is conducted at the corporate parent level.

8 **a** Is the organization the parent corporation within a multi-corporate structure?

b If yes, does the organization have written policies and procedures governing the activities of the subsidiary corporations to ensure that their operations are consistent with the organization?

9 **a** Is the organization a subsidiary corporation within a multi-corporate structure?

b If yes, does the parent corporation have written policies and procedures governing the activities of the subsidiary corporation to ensure that their operations are consistent with the parent corporation?

11 **a** Does the organization have an audit committee?

b If no, is there an audit committee of a parent corporation that reviews the financial statements of the organization and other subsidiary corporations?

General Comments on Schedule H - Hospitals

It is our understanding that the American Hospital Association has submitted detailed comments on Schedule H relating to hospital organizations and the Texas Hospital Association generally supports those comments. As emphasized in the AHA letter, completion of Schedule H will impose a new and significant administrative burden on hospitals. In addition, the information requested fails to provide reviewers with a complete view of the activities of nonprofit hospital systems as each individual corporate entity within the system must generally file separately. The lack of a system filing option may lead the IRS to suspect noncompliance when none was present. Further, some of the information will be presented in a misleading and overly abbreviated manner that tends to confuse instead of inform reviewers.

Consistent with the comments received from the AHA, we believe that required use of Schedule H for the 2008 tax year is unrealistic and that the timeframe for implementation of this schedule should be extended to tax year 2010. Given the number of concerns and questions that will be raised concerning Schedule H, it is likely that modifications will need to be made to the instructions, definitions and worksheets. Even if the IRS finalizes the schedule and related documents in early 2008, hospitals must be given a reasonable period of time to reconfigure their financial and data reporting systems and to train staff on completion of the schedules. Second, Schedule H should be appropriately modified to allow hospitals the opportunity to provide information on the full range and value of community benefits provided. While it is recognized that the IRS will receive differing positions from the hospital community concerning whether Medicare underpayments and bad debt should be considered a community benefit, we believe that this data should be reported to provide a more complete picture of nonprofit hospitals' financial condition and give the public and policy makers the opportunity to review and consider this information. Finally, those parts of the schedule that are unrelated to community benefit or compliance should be deleted or moved to other more appropriate schedules.

Specific Comments and Recommended Changes to Schedule H

As currently drafted, Schedule H must be completed by any entity that "operates or maintains a facility to provide hospital or medical care." This question is much too broad and will require facilities that are not hospitals to complete Schedule H. We believe that the question on Form 990,

Part VII, Line 9, should be reworded as follows: "Does the organization directly operate a hospital? If yes, complete Schedule H."

In addition, the term "medical or hospital care" and its definition should be deleted from the glossary. The glossary term "hospital facility" should be changed to "hospital" and the definition reworded as follows:

A hospital is a health care organization that has a governing body, an organized medical staff and professional staff, and inpatient facilities that provides medical, nursing, and related services for ill and injured patients twenty-four hours per day, seven days per week. A hospital does <u>not</u> include:

- A nursing facility (including a skilled nursing facility, convalescent home, or home for the aged)
- Free-standing outpatient clinic
- Community mental health or drug treatment center
- Physician group practices/faculty practice plans
- Physician offices
- Facility for mentally retarded/developmentally disabled
- Facility for treating alcohol and drug abuse
- Hospital wing of a school, prison, or convent

In addition, by re-phrasing the question to inquire whether the organization directly operates a hospital rather than "is the organization a hospital", the question will include organizations that operate a hospital and also perform other exempt functions. For example, a private university that operates a teaching hospital would answer this revised question in the affirmative. If the question is left as "is the organization a hospital," a university might not prepare Schedule H for its teaching hospital as it might deem itself a school rather than a hospital. Finally, adding the word "directly" makes clear that "parent" organizations of one or more hospitals would not themselves have to complete Schedule H.

Part I – Community Benefit Report

1. The collection of data under column headers – (a) Number of activities or programs, and (b) Persons served – will have limited value in the assessment of a hospital's provision of community benefits and based on how the instructions are interpreted there could be considerable variance in how these data fields are completed by hospitals. Further, it is uncertain how a hospital would determine the number of persons who were served by or benefited from a hospital's education or research activities. However, the required collection and reporting of this data will increase the costs associated with completion of the schedule. Therefore, we would recommend that these columns be deleted for this section of Part I.

Additionally, the methodology used to count persons served is often inconsistent from hospital to hospital and is very difficult to track. For example, if a single charity patient visits the hospital five times in a year, is that one person served or five? Does it matter if the five visits are for the same diagnosis or different diagnoses? Some hospitals track "encounters" or "discharges" but even these are not universally defined from hospital to hospital. Further, neither "persons served" nor the more commonly tracked "encounters" or "discharges" make sense for some of the community benefit categories.

2. On line 1, hospitals are required to report the amount of charity care at cost based on the calculation of this amount in worksheets 1 and 2. Worksheet 2 establishes a complex and potentially confusing formula for the calculation of a cost-to-charge ratio. While the formula for the calculation of the ratio was taken from the Catholic Health Association *Guide for Planning and Reporting Community Benefit*, there is no guidance in the CHA Guide or in the IRS instructions for Schedule H on how this worksheet should be completed. Many of the terms that are to be used in the calculation of adjusted total operating expenses are undefined and it is questionable whether the various adjustments should be made in the calculation of this amount. In addition, it is important to note that the application of a cost-to-charge ratio to the charges applied for charity care services is intended to provide a proxy for the costs incurred by a hospital in providing these services and an overly complicated formula is unnecessary and may result inconsistent or inaccurate reporting of charity care costs. We recommend that the formula for calculation of the ratio be simplified as follows: ratio = total operating expenses/total gross charges.

3. On line 3, hospitals are required to report the amount of unreimbursed costs from other governmental programs based on worksheet 3. This worksheet provides that the unreimbursed amount should be calculated based on information from the hospital's cost accounting system or the program cost report. Unlike the Medicaid program, many of the state or local governmental programs do not utilize a cost report in the determination of hospital reimbursement rates, and not all hospitals currently have a cost accounting system. Therefore, we recommend that worksheet 3 be revised to allow the determination of unreimbursed costs for these other governmental programs to be calculated based on a cost-to-charge ratio utilized to calculate the unreimbursed cost of charity care. To simplify the determination of unreimbursed Medicaid costs the same cost-to-charge ratio could be used for this calculation also.

4. On line 5, hospitals are required to report the amount of community health improvement services and community benefit operations from worksheet 4. While the instructions state that community health improvement services extend beyond patient care activities, the instructions do not clearly indicate what types of services that might be included in this category of community benefits. Hospitals currently provide a broad range of services to the communities they serve, including: community health information; education of patients on specific medical conditions and treatment options; and preventive health services (i.e., immunizations, wellness programs, accident prevention, family violence prevention and counseling). In addition, hospitals expend resources to recruit physicians, nurses and other health care professionals into their community and the recruitment of these providers will result in improved access to services and improved community health. The definition of "community health improvement services" should be expanded to include reference to these types of services.

5. On line 9, hospitals are required to report the amount of cash and in-kind contributions made to other community groups from worksheet 8. Similar to our comment on the reporting of community health improvement services, we believe that the definition of "cash and in-kind contributions to community groups" should be expanded to include the full range of potential contributions that might be made by a hospital to other groups. For example, this definition should include: donation of the use of hospital facilities; donation of equipment, supplies or food; donation of personnel; and financial support of community health or educational programs conducted by other organizations.

6. At line 10, a new category of benefit should be added to reflect community building activities undertaken by nonprofit hospitals. A "community building" category would appropriately include activities that are designed to address some of the root causes of illness and disease and will promote health within the community. For example, community building services might include programs to address public health concerns (e.g., water quality, removal of lead paint in schools or housing) or financial support of low-income housing, job training programs and economic development.

7. At line 12, a question is posed concerning the preparation of a community benefit report and whether the report is available to the public. While this question is reasonable and appropriate, this section of the schedule should be expanded to allow hospitals to provide additional information regarding its assessment of community needs, the development of a community benefits plan and budget, and whether these plans or reports are reported publicly and, thus, available from a state regulatory agency. In addition, hospitals in a number of states, including Texas, are required by state law to provide a specified level of charity care and other community benefits. An inquiry concerning whether a hospital is in compliance with any state requirements would provide additional information to the public concerning its provision of charity care and community benefits Specifically, we recommend that the following new questions be added to this section of Part I of the schedule:

   Does the organization conduct a community needs assessment?
   If yes, describe how the organization conducts the assessment

   Does the organization file a community benefits report with a local or state regulatory agency?
   If yes, is the organization in compliance with the local or state reporting requirement?
   If yes, identify the agencies to which the report is filed.

   Is the organization required to provide a specified level of charity care and community benefits in order to maintain its tax exemption under state law?
   If yes, is the organization is compliance with the state law requirement?

8. On line 13, hospitals must indicate whether a charity care policy has been adopted by the hospital and then asked to describe the policy. This question is important, but it may not be possible for hospitals to adequately describe the details of its policy in the limited space allotted. In addition, the inquiry concerning any type of aggregate budget cap or limitation on charity care services will be difficult to answer. Due to the complexity of hospital charity care policies, the more appropriate question may be whether the organization makes the policy available to the public and how it is made available. If it is determined that hospitals should be required to describe their charity care policies, we would recommend that part (c) of the question at line 13b be modified to inquire whether the hospital budgets annually for charity care, and that additional lines be provided for hospitals to describe their policy.

9. Following the questions relating to charity care policies, we believe it is important for a question to be posed concerning any policy that has been established to provide discounted services to uninsured patients. In Texas and in many other parts of the country, there are many people who are not covered by a governmental or private health insurance program and hospitals provide a significant amount of free or discounted services to these individuals. While these discounted services will not technically qualify as charity care

since the discount is provided to those patients who exceed the eligibility guidelines set forth in the hospital's charity care policies, the willingness of nonprofit hospitals to provide services at a discount helps these individuals to gain access to needed services. Specifically, we recommend that the following question be added to this section of Part I of the schedule:

Does the organization have a policy to discount its charges for services to uninsured patients?
If yes, describe.

Part II – Billing and Collections

In Part II, Section A, hospitals are required to provide information concerning its charges, discounts and anticipated payments from various payor sources. While this information may provide the public with some understanding of a hospital's payor mix, it has no relation to the providing of community benefits by hospitals and will merely increase the costs incurred by hospitals to complete the schedule. In addition, the proposed classification of patients as "insured" or "uninsured" is not consistent with how hospital billing systems track patients and it will not be possible for hospitals to report data in this manner without changes to these billing systems, which will be expensive and burdensome to implement. Therefore, we recommend that this section be deleted.

Part III – Management Companies and Joint Ventures

Part III requires hospitals to provide information concerning management companies or joint ventures that are owned by officers, directors, trustees, key employees or physicians who have staff privileges and which provide specified services. Similar to the question concerning hospital billing and collections, this part is not relevant to the providing of community benefits by hospitals and should be deleted. In the alternative, this part should be moved to Schedule R and answered by all nonprofit organizations.

Part IV – General Information

For a number of questions in different parts of Schedule H, hospitals are not allotted sufficient space to fully describe its organizational structure, how policies and procedures are established, and the various community benefits provided. This part should be appropriately expanded to allow this type of elaboration by hospitals. Specifically, we recommend that the following new questions be added to Part IV:

Is the organization the parent corporation of a multi-hospital system?
If yes, does the organization have written policies and procedures governing the activities of the hospitals within the system to ensure that their operations are consistent with the parent organization?

Is the organization a part of multi-hospital system?
If yes, does the parent corporation have written policies and procedures governing the activities of the organization to ensure that its operations are consistent with the parent corporation?

Does the hospital have a governing board that establishes written policies and procedures governing the operations and activities of the hospital, including policies relating to charity care and community benefits?

Does the hospital have an open medical staff with privileges available to all qualified physicians in the area?
If no, explain

In addition, question #3 on hospital emergency room policies should be modified. As currently written it is overly broad and would require hospitals to describe every policy and procedure in a very limited amount of space. We recommend that the question be revised as follows:

Does the organization operate an emergency room?
If yes, is it operated 24 hours a day?

Other than being at capacity, did your emergency room deny services to anyone who needed services?
If yes, explain

Finally, we would recommend that a check list of potential community benefits be included at the end of Part IV to allow hospitals the opportunity to provide information on the full range of community benefits being provided. The use of a checklist may be a more effective way to portray this information rather than a general question that asks the hospital to provide any other information that describes how the organization furthers its exempt purpose.

Comments and Recommended Changes to Schedule J

As discussed above, we recommend that Column E that requires information relating to nontaxable expense reimbursements be deleted from this schedule. Based upon the proposed definition of non-taxable expense reimbursements, the compilation of this information will be extremely burdensome. In addition, the inclusion of this data may lead the public to incorrect assumptions about amounts paid to certain officials or staff of an organization. In addition, this type of inquiry is addressed in questions #2 and #3 of the schedule that ask about reimbursement policies of the organization.

Comments and Recommended Changes to Schedule R

Part V of Schedule R requires the disclosure of information among related organizations. For hospitals within a multi-hospital system there are a very significant number of transactions that occur on a regular basis between the various hospitals in the system and the corporate parent. To require information on each of these transactions would be extremely burdensome and would provide the IRS and the public with little useful information. We recommend that the instructions for Schedule R be modified to clarify that Part V does not apply to transactions among related organizations that are wholly owned by a single corporate parent.

In closing, we would respectfully request that these comments and others submitted by hospitals and hospital associations be carefully considered and that appropriate changes be made to Schedule H and other parts of the Form 990. We hope that our comments and our recommended changes will help improve the quality and usefulness of the form. Should you have any questions concerning our comments, please feel free to contact me at (512) 465-1038.

Sincerely,

Charles W. Bailey

Charles W. Bailey
Senior Vice President/General Counsel