

From: [Mayhew, Carol Ann](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject:
Date: Friday, September 14, 2007 3:48:07 PM
Attachments: [232x01!.DOC](#)

The information transmitted in this electronic communication is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the Compliance HelpLine at 800-856-1983 and properly dispose of this information.



September 14, 2007

By Electronic Filing

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

RE: COMMENTS ON DRAFT REDESIGNED FORM 990 AND SCHEDULES

On behalf of Partners HealthCare System, Inc., I thank you for the opportunity to comment on the draft redesigned Form 990 (**Core Form**) and new draft **Schedules**.

We very much appreciate the work that the IRS has put into the new Form 990 and Schedules, and its willingness to listen to, and consider comments from, the community of tax-exempt organizations, and hospitals and integrated health care systems in particular. We also support the IRS efforts to improve the accuracy and consistency of these forms, and thereby increase transparency. However, we have numerous concerns about the redesigned Form 990 and many of the new Schedules. We believe the IRS should address these concerns before asking hospitals and other tax-exempt organizations to file the Form or Schedules.

Partners HealthCare System, Inc. is a Massachusetts not-for-profit health care system that offers patients a continuum of coordinated care. The System includes a number of charitable tax-exempt organizations, including the following hospitals:

- Brigham and Women's Hospital
- Faulkner Hospital
- Massachusetts General Hospital
- McLean Hospital
- Newton-Wellesley Hospital
- North Shore Medical Center
- Rehabilitation Hospital of the Cape and Islands
- Shaughnessy-Kaplan Rehabilitation Hospital
- Spaulding Rehabilitation Hospital
- Martha's Vineyard Hospital
- Nantucket Cottage Hospital

All of these hospitals will need to fill out as many as 14 Schedules, and most of the other, non-hospital organizations in the Partners system will have to fill out at least 8-10 Schedules. This will

be an enormous, expensive and time-consuming undertaking. We are also very concerned about the burden of having to reconfigure financial and data recordkeeping systems, and whether we will be able to complete the process in time to begin capturing the data required by January 1, 2008.

Our primary general concern is that the comment period and filing deadline are far too short, in light of scope and nature of the changes and additions to the Form 990 and all Schedules. The changes are so significant that it has been impossible for Partners to identify all the associated problems and ramifications. We fully recognize the need to make many of the proposed changes, but it is critical that there be sufficient time for review and dialogue to ensure that the form actually achieves the intended goals, and that it is a workable document for all the varied exempt organizations that will be required to complete it.

Partners has tried to identify as many issues as possible that we believe the IRS needs to address. Based on that effort, we have the following more specific comments on the **Core Form** and **Schedules**.

THE CORE FORM AND SCHEDULES NEED SUBSTANTIAL REVISION

1. Core Form

- Part I (Summary), Line 6 requires an organization to enter the number of individuals receiving compensation in excess of \$100,000. This question provides information of limited use to the IRS. In addition, it is likely to mislead the general public, instead of creating transparency. Large organizations like Partners, with a correspondingly large number of physicians and executives, have a larger number of individuals receiving this level of compensation than smaller organizations with fewer executives. However, the mere reporting of a larger number might lead the public to erroneously conclude that exempt organizations like ours are paying disproportionately higher levels of compensation.
- Part I (Summary), Line 7 requires an organization to enter the highest compensation amount reported on Part II, Section A (relating to reportable compensation paid to officers, directors, trustees, key employees, highly compensated employees, and independent contractors). Requiring disclosure of the highest compensation amount paid on the summary page of the **Core Form** could mislead viewers when read outside of the context of the fuller disclosure required in Part II and Schedule J.
- Part I, Lines 8a and 8b require an organization to calculate total officer, director, trustee, and other key employee compensation and then to calculate a percentage by comparing total executive compensation to total program expenses. This comparison metric provides a misleading picture of an organization's operations and should be eliminated from the Form.
- Part I, Lines 19a and 19b require an organization to calculate fundraising expenses as a percentage of total contributions and grants. This percentage does not provide helpful

information about an organization's operations. Notwithstanding its limited use, organizations should be given an opportunity to explain this percentage.

- Part I, Line 24b requires an organization to calculate total expenses as a percentage of net assets. This percentage is not helpful to understanding an organization's overall operations and may be misleading. The public may assume that if the percentage is high, the organization is inefficient or even wasteful, when there are a variety of factors that will influence this percentage, including geographic location, size and type of organization, and so on.
- Part II, Section A requires an organization to include reportable compensation from "related organizations" for purposes of reporting the compensation of former (within the last five years) directors, trustees, officers, and key employees or highest compensated employees. It will be very burdensome for a large healthcare system like Partners to track all former directors, trustees, officers, key employees or highest compensated employees over a five-year period and then survey all related organizations to determine whether any individual in this group is being paid compensation by such related organization. Information on former directors, trustees, officers, key employees or highest compensated employees should look to current year only.
- Part II, Section A requires an organization to use the compensation figures as reported on Forms W-2 or 1099. For hospitals whose tax year is not the calendar year, Forms W-2 and 1099 reporting will result in compensation data that is much more dated than the compensation data currently required.
- Part II, Section B, Lines 5a-f require an organization to report the family and business relationships of officers, directors, trustees, or key employees during a five-year look back period. Partners, like many other complex health care systems, is comprised of a large number of hospitals and other health care organizations, each with its own board of directors, and hundreds of contracts. The collection of information covering the 5 year period by questionnaire, and maintenance of internal documentation also required to respond to these questions, will create an excessive burden for Partners.
- Part II, Section B, Line 9 requires an organization to report whether any persons listed in Part A receive compensation from any source other than the filing organization or a related organization for services rendered to the organization. In its current form, this question requires organizations to have, or acquire access to, information that they may not otherwise have. This question should be clarified to address the extent to which an organization is required to seek information regarding such compensation arrangements, in particular whether this question applies to outside organizations or only to the reporting organization and its affiliates.
- Part III, Line 3b requires an organization to report the number of "transactions" the organization reviewed under its conflict of interest policy. The instructions or glossary should be revised to include a definition for "transactions." Responding with a zero or a very high number would create a negative connotation, and any numerical response will

have a different meaning depending on the organization and its policy. Therefore, the question should be deleted.

- Part III, Line 10 asks whether an organization’s governing body reviewed the Form 990 before it was filed. The draft form does not provide a definition of “review.” The instructions should make it clear that this is an oversight function, including a review of the process followed in completing the form, and not a detailed review of the numerous disclosures. In clarifying what is meant by “review,” the IRS also should consider that boards of directors of public companies are not required to review or certify tax filings under the Sarbanes-Oxley Act. The instructions should also clarify that review by the finance or an equivalent board committee, or by the governing body of its parent organization, should be sufficient.
- Part IV (Statements Regarding General Activities), Line 1d requires an organization to report the total amount of contributions received from related organizations. The instructions include as examples of related organizations, “a parent organization or affiliates at the local, state, or regional level.” The example is confusing and the instructions should instead use the definition of related organizations from the glossary. Moreover, it is unclear whether all payments to related organizations (except for payments that clearly belong under membership dues, rentals, or sales) should be treated as contributions since there is no corresponding line item under “program service revenue” or “other revenue.”
- Part IV, Lines 2a – 2g require an organization to enter a corresponding business code from the *Codes for Unrelated Business Activity* from the 2006 Instructions for Form 990-T for the various line items of “program service revenue”. The business codes on 990-T are not broad enough to reflect accurately program service revenue.
- Part V (Statement of Functional Expense), Line 3 requires an organization to report expenses associated with grants and other assistance to governments, organizations, and individuals outside of the U.S. This question does not provide a reference to Schedule F or the threshold for filing Schedule F. These references should be added.
- Part VII, Lines 8a (and the applicable instructions) requires an organization to report whether it conducted all or a *substantial* part of its exempt activities through or using a partnership, LLC, or corporation and the aggregate exempt activities conducted through or by such entities involved a *substantial* portion of the organization’s capital expenditures or operating budget, or a discrete segment or activities of the organization that represent a *substantial* portion of the organization’s assets, income, or expenses as compared to the organization as a whole. Neither the instructions nor the glossary provide a definition, percentage or amount for the term “substantial.” It is also unclear whether Lines 8a-8c would apply to passive investments of endowment or reserve funds in partnerships or publicly-traded corporations.
- Part VII, Lines 11 and 12 require an organization to report whether it has a written policy or procedure for reviewing the organization’s investments and safeguarding its exempt status with respect to transactions and arrangements with related organizations. To the

extent the IRS intends to develop sample written policies, IRS should solicit input from members of the tax-exempt sector with respect to the content and form of such written policies.

- Part IX (Statement of Program Service Accomplishments), Lines 3a – 3c require an organization to describe its exempt purpose achievements for each of its three largest program services. This question should be moved to Part I of the form, as it is a key question. Organizations should be allowed as much additional space as necessary to describe more than three key activities. As drafted, 3d also directs organizations to attach a schedule listing other program services.

2. Schedule A (Supplementary Information for Organizations Exempt Under Section 501(c)(3))

- Part 1, Line 11f requires an organization to respond whether it has a “written determination from the IRS that it is a Type I, II, or III supporting organization.” The answer to this question is meaningless. As the IRS knows, most supporting organizations do not have written determinations from the IRS as such. In addition, without further explanation, a “no” answer may well mislead the public into thinking that the organization is out of compliance for not having a ruling. The question should be deleted, since it adds nothing to the other questions about supporting organizations.
- Part 1, Line 11h, column (vii) requires an organization to report the amount of monetary support provided by the supporting organization to the supported organization(s). This question disadvantages supporting organizations such as parent holding companies within a health care system that do not pay out monetary grants or other support payments because they are functionally integrated or otherwise undertake activities in support of their supported organizations. The question should be revised to include the value of non-monetary support.

3. Schedule C (Political Campaign and Lobbying Activities)

- Part II-B requires reporting by an exempt organization, including reporting on (b) paid staff or management and for (h) seminars, conventions, speeches, lectures, or any other means. It is not clear precisely what the IRS is attempting to capture under (h) and why the category needs to be so broad. Also, instead of asking for precise amounts, the IRS should ask for a range of hours, number of employees or other proxies for amounts that would provide the IRS with useful information while making the category less burdensome.

4. Schedule D (Supplemental Financial Statements)

- Parts I and III: Passive investments should be excluded from this schedule, and the listing of securities individually is extremely burdensome.
- Part VII (Other Liabilities) requires organizations to describe and list the book value of any other liabilities, including federal income tax liabilities, not reportable in the defined

categories on Part VI (Balance Sheet) of the core form. Part VII also requires organizations to provide the text of the footnote to the organization's financial statements that report the organization's liability for uncertain tax positions under FIN 48. Disclosing the text of footnotes relating to uncertain tax positions in isolation could be misleading. Organizations should be given the opportunity to explain such footnotes or to attach their entire financial statement.

- Part XII (Endowment Funds) requires an organization that holds assets in term or permanent endowment funds to provide information for the past five years on fund balances, contributions, investment earnings or losses, program expenditures, and administrative expenditures. The reporting burden associated with this question seems to outweigh the usefulness of this information. The five-year look-back period should be reduced.

5. Schedule F (Statement of Activities Outside the U.S.)

- It is unclear whether Schedule F requires that "captive insurance" activities be reported. Since any organization with captive insurance activity is required to complete IRS Form 5471, such reporting should be referenced here, or the organization should be specifically exempt from reporting
- Schedule F requires the separate reporting of grants outside the U.S. from grants to domestic organizations and individuals. Many hospitals and health care organizations do not maintain records and reports in a format that would permit them to gather all of the information required to be reported on Schedule F. The required amount of recordkeeping and reporting could discourage organizations from making grants, particularly small ones, to foreign organizations or individuals. Moreover, the data required to be reported on the Schedule could potentially threaten the safety and security of organizations and individual grant recipients, therefore Schedule F should not be open to public disclosure.
- It is unclear whether the activities of foreign affiliates of U.S. organizations are covered by Schedule F.
- Part I (General Information on Accounts and Activities Outside the United States), Line 2 requires an organization to describe its procedures for selecting grant recipients located outside the U.S. and monitoring the use of grant funds. The disclosure of an organization's grantmaking procedures seems intrusive for a public document. This question should be similar to Schedule I which simply asks whether the organization maintains records to substantiate its grant making process.
- Part II (Grants and Other Assistance to Organizations or Entities Outside the United States), Lines 2-3 require an organization to report the number of foreign 501(c)(3) organization grant recipients and the total number of other organizations or entities. This information seems misleading given that most foreign organizations are not formally recognized as 501(c)(3) organizations by the U.S. and the regulatory structure for

charitable organizations in many countries is not easily comparable to U.S. requirements.

- Part II, line 1, column (g) requires that non-cash gifts be reported, and that the fair market value be the basis for the reporting. Hospitals should be exempt from reporting gifts of equipment and supplies, since there are many such transfers of fully depreciated items.
- Part III (Grants and Other Assistance to Individuals Outside the United States) requires an organization to report grants of more than \$5,000 to individuals outside the U.S. Part II (Grants and Other Assistance to Organizations or Entities Outside the United States) requires organizations to check a box if no one recipient received more than \$5,000. Part III should include a similar check-the-box statement to clarify the guidance set forth in the instructions, i.e., that organizations are not required to complete Part III if no one recipient received more than \$5,000.

6. Schedule G (Supplemental Information Regarding Fundraising Activities)

- Schedule G requires an organization to report supplemental information regarding its fundraising activities. The IRS should clarify how organizations should report fundraising activities by related entities, which is a common occurrence within a health system.

7. Schedule H (Hospitals)

Partners has two primary concerns with Schedule H that we are asking the IRS to address:

- The full value of hospital community benefit is not included in Schedule H and should be.
- The IRS is requesting information that is unrelated to community benefit, that will not be meaningful to the public, and that should be removed from the form.

Partners is proud of the commitment to the community that is at the very core of each of its hospitals, and we welcome the opportunity to describe the enormous scope and great diversity of the community benefits we provide. For example, these include:

- Health care for 37,000 patients without health insurance coverage, nearly double the 21,000 patients served five years ago. This situation underscores the importance of the commitment we share with you to implement recently enacted health care reform that will significantly reduce the number of people without health insurance.
- Continued partnerships with and investments in community health centers to provide cost-effective preventive health care in urban neighborhoods.
- Continued Assistance for nearly 9,000 women and children affected by domestic violence over the last nine years.

- Creating economic opportunity through training and employment in health care – including helping more than 600 Boston residents get entry level jobs or advance up the career ladder at our hospitals over the last three years.
- Improving the health of women and addressing infant mortality in low income Boston neighborhoods.
- In partnership with the state and with private funders, providing free breast and cervical cancer screening at 11 health centers to more than 2,000 women.
- Providing services in many local schools and neighborhood centers to counteract substance abuse and the impacts of family and community violence.

The full value of the benefits hospitals provide should be included in Schedule H. However, we have serious concerns about Schedule H, which defines community benefit too narrowly. The Schedule fails to recognize that hospitals respond to the unique needs of their community with uniquely tailored programs and services, not all of which can be quantified into a measurable financial cost like free care.

- Hospitals qualify for the charitable purpose of promoting health by meeting the community benefit standard. The community benefit standard permits us to tailor our programs and services to the needs of our individual community. Among those needs is providing care for low-income patients who may not be able to afford the costs of their care. Yet we provide their care proudly, and the costs we absorb in doing so should be reflected as a community benefit on Schedule H.
- **The cost of patient bad debt is community benefit**
As currently drafted, Schedule H does not count patient care bad debt expenses as community benefit. We know that a large majority of bad debt is attributable to low-income patients who, for many reasons, decline to complete the forms required to establish eligibility for our hospital’s free care programs.

A 2006 Congressional Budget Office report cited two studies indicating that “the great majority of bad debt was attributable to patients with incomes below 200 percent of the federal poverty level.” The fact is that, despite our best efforts, many of our patients still do not identify themselves as in need of financial assistance. It is important to us and to our community that the full cost of serving our community – including the cost of serving patients who need help paying their bill but fail to ask for it – be recognized and counted as the community benefit that it is.

- **Some items do not constitute community benefit**
Schedule H not only fails to include certain community benefits; it also confuses other costs with community benefit. For example, Indirect Medical Education (IME) costs are not costs of “Health Professions Education.” The IME costs and payments are components of patient care. Hospitals already account for these costs under the rubric of patient care costs. Reporting them as a cost of education will create confusion and could result in double reporting.

Schedule H needs to be streamlined to eliminate questions that are burdensome and confusing, and that fail to provide meaningful information to the community.

- In the first instance, the definition of “hospital” is confusing, and possibly over-inclusive.
- In addition, the proposed chart on Schedule H, Part II relating to billing should be eliminated. It has no bearing on determining whether a hospital is meeting the community benefit standard, and it should not be used to create new reporting standards.
- Relevant information is already provided in other parts of the Form 990. For example, detailed information on charity care will be provided in Part I of Schedule H. Information related to a hospital’s revenues and Medicare and Medicaid payments will be included in Form 990.
- Beyond that, the chart’s added layers of requests for information are burdensome and will require a major amount of extra staff time and work to provide. Some of the information requested is proprietary with competitive aspects. The chart displays information in a form that will confuse, not inform, our community.

8. Schedule J (Supplemental Compensation Information)

- Line 1, column (C) requires an organization to report nonqualified deferred compensation. The Schedule should eliminate double-reporting of nonqualified compensation. This occurs when the amounts of unpaid, unvested deferred compensation are reported when awarded and again when they are vested. Eliminating the double reporting will give a more accurate picture of yearly compensation. The double reporting of deferred compensation is a problem under the current Form 990 and the IRS should take this opportunity to correct the confusion, especially confusion to the public who are not familiar with deferred compensation and do not understand that the benefit is reported twice. This question also must address how compensation should be reported if the organization is reporting on an accrual basis.
- Line 1, column (D) requires an organization to report the amount of “Nontaxable [Fringe] Benefits” provided to the listed persons in column (A), and column (E) requires the amount of “Nontaxable Expense Reimbursements” provided to these same persons. The Instructions and the Worksheet relating to Columns D and E are very confusing and need to be clarified. The Instructions for Column D clearly state that the value of nontaxable fringe benefits - other than expense reimbursements – belong in Column D. But then the Instructions go on to describe not only nontaxable benefits, such as health insurance, long-term care insurance and other benefits that are excluded from taxation under a specific section of the Internal Revenue Code, but also refer to expense reimbursements such as reimbursement of expenses for travel or meals that have a business purpose. Therefore, it is not clear whether these expense reimbursements should be listed in Column D or E. The Worksheet adds to the confusion. There is a final list on the 2nd page of the Worksheet, the introduction to which states that the benefits in that final list are to be reported in Column D, unless they constitute reportable (taxable) compensation. However, that final list

includes travel, meals and entertainment, which are generally taxable unless they are business expenses that are reimbursed pursuant to an accountable plan, and therefore seem to belong in Column E.

- Our much greater concern about Columns (D) and (E) is reflected in the Instructions and Worksheet. These describe what must be disclosed in these columns by listing what appears to be an attempt to cover almost every conceivable fringe benefit. A value must also be assigned to each specific benefit. The Instructions include among the benefits that may need to be reported any “De minimis (minimal) fringe” benefit that, by definition in the Internal Revenue Code, are benefits the value of which is “so small as to make accounting for it unreasonable or administratively impracticable.” We believe that the Instructions should establish a dollar threshold, below which any specific need not be disclosed.
- Lines 4 and 5 require an organization to report whether it paid compensation determined in whole or in part by the revenues or net earnings of the organization or a related organization. The instructions should clarify the types of compensation arrangements that would and would not be deemed to be determined in whole or in part by the revenues or net earnings of hospitals or health care organizations.

9. Schedule K (Supplemental Information on Tax Exempt Bonds)

Partners supports the IRS’ goals of fostering tax-exempt bond compliance through the annual 990 reporting process. However, Partners has an interest in keeping the reporting process as simple and cost effective as possible so as not to inappropriately drain resources away from charitable activities. In this spirit, Partners’ comments focus on elimination of duplicative information previously supplied on IRS Form 8038 and more precisely tailoring the Schedule to request critical information. Partners also believes that a transition period of about two to three years would be helpful to establish the ongoing monitoring systems that may be necessary to respond to Part III of the Schedule. We believe that such a transition period is necessary not because organizations are non-compliant, but because additional time may be needed to assemble and review the necessary documentation. Specific comments on proposed Schedule K follow.

Part I - Bond Issues

- Most of the required information in this part may be obtained from the Form 8038 filed in connection with each tax-exempt bond issue as to which the organization is a beneficiary. On the other hand, columns (f) and (g) require information beyond what has been reported on the Form 8038. To simplify reporting on column (f), the instructions should set forth the broadest possible categories of purposes and limit those purposes to generic types of new money uses. For example, healthcare, education, and cultural type categories should sufficiently describe new money uses of bond proceeds for such purposes. Since the Form 8038 already reports information concerning whether an issue has proceeds dedicated to refunding purposes, it may be redundant to require reporting of such information.
- Regarding column (g), the instructions should clarify whether the date placed in service is intended to be the placed in service date as defined in Reg. §1.150-2(c) or the date utilized

for general federal tax purposes. In the case of a multi-project financing, we recommend that the instructions clarify that this date is the placed in service date of the last project to be completed.

Part II – Proceeds

- Reporting in this part could be simplified by eliminating those lines which also appear on the Form 8038 such as line 1 (Issue Price), Line 2 (Amount in Reserve Fund) and line 7 (Costs of Issuance). Line 6 (Principal Amount Retired) should be eliminated, since line 4 will report the amount of bonds outstanding. Accordingly, the principal amount retired should already be reflected through the reporting of a reduced principal amount of outstanding bonds on line 4. Further significant simplification and reduction in burden can be achieved by limiting reporting on line 8 to working capital expenditures in excess of a 5% de minimis amount. Finally, line 11 appears to call for very technical information, which might be better reported at the time of issuance. Alternatively, the instructions to line 11 should clarify which temporary period exception is applicable (e.g., for the project fund).

Part III - Private Use

- This part appears to require the organization to keep detailed records and monitor private use on an ongoing basis in order to respond to each line on an annual basis. In this connection, we believe the instructions to this part should set forth the Service's expectations that each borrower will maintain sufficient records and monitor private use at reasonably regular intervals. In most cases monitoring and documenting private use at five year intervals should be deemed sufficient unless there is an intervening change-in-use or asset sale in excess of the five percent limitation for non-exempt use. A statement by the Service in the instructions for this part would help reduce borrower cost burdens if the Service recognized that too frequent monitoring by borrowers may not always be warranted and cost justified.
- After a two or three year transition period to permit borrowers to put in place the necessary systems and documentation practices, we recommend that this part be revised to require only reporting circumstances of non-compliance. For example, significant simplification and relief of the data reporting burden could be achieved by requiring borrowers to report only whether or not its percentage of non-exempt use is within the five percent allowance, whether annually or as we would suggest every fifth year when rebate calculations are done. A box can be provided where the borrower can check whether or not it relied upon its reasonable expectations of future exempt use to offset non-exempt use in its conclusion. This type of compliance based reporting should consolidate lines 2a through 5b into one line which reports whether or not the organization is compliant with respect to the private use limit. This type of reporting takes into consideration the fact that most organizations prepare the Forms 990 in good faith and are largely compliant. Finally, with respect to line 1, we recommend that this question be simplified and targeted solely to address non-compliant ownership structures.

Part IV - Compensation of Third Parties

- To reduce the reporting burden of borrowers while recognizing the need for the Service to monitor potentially excessive costs of issuance, we recommend that this part be limited to reporting compensation to third parties in excess of the two percent costs of issuance limit. The Tax Reform Act of 1986 imposed the two percent limitation on costs of issuance for private activity bonds paid out of bond proceeds. We believe this limitation, in most situations, reflects a reasonable threshold. Accordingly, Part IV should not indirectly reopen and examine on a detailed basis those costs that are ordinarily reasonably necessary to accomplish a qualified 501(c)(3) bond financing which already has many complicated and costly financing restrictions.

10. Schedule I (Supplemental Information on Grants and Other Assistance to Organizations, Governments, and Individuals in the U.S.)

Part III requires an organization to report grants and other assistance to individuals in the U.S. This is similar to the question in Schedule F, Part III, relating to grants outside the U.S. However, in Schedule F, organizations need not complete Part III if no individual received more than \$5,000. Schedule I should include the same threshold of \$5,000.

11. Schedule L (Supplemental Information on Loans)

Schedule L requires an organization to report details on loans to and from officers, directors, trustees, key employees, *highly* compensated employees, and disqualified persons. The schedule and instructions should reference “*highest* compensated employees” from Part II of the core form, which is also the defined term in the glossary, as the use of “*highly* compensated employee” is confusing.

12. Schedule M (Non-Cash Contributions)

The threshold for completing this schedule should be increased to \$20,000.

13. Schedule N (Liquidation, Termination, dissolution or Significant Disposition of Assets)

- Clarification is needed as to whether transfers to a wholly owned limited liability company that is disregarded as separate from the tax-exempt filing organization need to be reported.
- Clarification is needed as to whether transfers for “full and adequate consideration” that are excluded from the definition of “substantial contraction” still need to be reported as a disposition of net assets.

14. Schedule R (Related Organizations)

- For a multi-hospital system like Partners, Schedule R is extremely burdensome. At a minimum the definition of “related” needs further review and consideration.
- Part V requires an organization to report whether it engaged in certain transactions or transfers with related organizations, including related 501(c)(3) organizations. The instructions carve out transactions between 501(c)(3) organizations where the only transactions between the organizations were gifts or grants. This instruction should be revised to allow transfers that are gifts and grants to be excluded even where the organizations have other transactions such as leasing or services arrangements.
- The definition of “transfer” in the instructions should be revised as follows: A transfer includes any conveyance of funds or property, whether or not for consideration, *except for gifts or grants between related 501(c)(3) organizations.*
- The compliance burden from this section is of great concern. Tax-exempt organizations within a health system typically have numerous arrangements involving the performance of services, leasing or sharing of facilities, equipment or employees, cost reimbursement, etc. Many organizations like Partners could have hundreds of transactions to report under Part V. Certain questions on this schedule may be in response to Section 1205 of the Pension Protection Act, but in that case the information on transactions between related 501(c)(3) organizations should be limited to transfers that could result in UBIT under the controlled entity rule of Section 512(b)(13). Other transactions between related 501(c)(3) organizations do not raise compliance, exemption, tax or other concerns and should not need to be reported.
- The instructions for column (C) require the amount involved in each transaction to be reported, which is defined as the fair market value of the services, cash and other assets provided by the organization or the fair market value received, whichever is higher. This instruction seems to require even related 501(c)(3) organizations that have cost reimbursement arrangements to determine the fair market value for these arrangements, which creates a significant valuation burden for arrangements that should not even need to be reported.

We appreciate the opportunity to submit comments; we especially appreciate the IRS’ effort to reach out to the hospital community and better understand its concerns. We welcome the opportunity to work with the IRS to improve the core form and schedules.

Sincerely,

Brent L. Henry, Esq.
Vice President and General Counsel

97305

From: [Kevin Coleman](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments Concerning Proposed Form 990
Date: Friday, September 14, 2007 3:22:44 PM
Attachments: [Form 990 Comment to IRS.doc](#)

To Whom It May Concern:

On behalf of Shands HealthCare, I am submitting the attached letter that addresses concerns pertaining to the proposed Form 990.

Sincerely,

Kevin E. Coleman
Associate General Counsel

Legal Services

720 SW 2nd Avenue, Suite 360A Gainesville, FL 32601
352.733.0030 352.733.0052 fax

September 14, 2007

Via Electronic Message

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

RE: Comments on Draft Redesigned Form 990 and Schedules

To Whom It May Concern:

On behalf of Shands HealthCare, I am submitting comments concerning the draft redesigned Form 990 (“Core Form”) and related new draft schedules (“Schedules”).

The Shands HealthCare system (“Shands”) includes two of Florida’s six statutory teaching hospitals, a children’s hospital, two specialty hospitals (psychiatric care and comprehensive rehabilitation), and four community hospitals. These hospitals serve patients from every county in Florida. Annually, Shands has more than 211,000 emergency room visits, 84,000 inpatient admissions, and more than 900,000 outpatient hospital visits. Shands cares for nearly one out of every two of the Medicaid-eligible and uninsured patients in north Florida, assuming responsibility for more needy patients than any other health system in our area.

Shands’ concerns can largely be summarized as follows:

- The Core Form and Schedules contain ambiguities that require clarification to ensure accurate reporting by individual filers, as well as uniformity within the healthcare industry.
- The filing deadline currently intended for the Core Form and Schedules is far too soon and should be extended to tax year 2010.

Shands’ specific concerns are:

1. Core Form

Part I, Summary of Activities and Governance

Shands' mission is very important. However, this section only allows a few lines to describe our mission. This should be expanded.

To ensure uniformity within the healthcare industry, clarification is needed on what basis the entity should use in determining its top three services.

Part I, Revenues and Expenses

Fundraising revenues and expense percentage may be misleading as some fund raising activities cover a two or three year span. The majority of the expenses may be in the first year and the revenues flow into the second and third year. There is no room for explanation if this ratio is very high or very low.

Part I, Net Assets or Fund Balance

The ratio on line 24b will not be comparable across all tax-exempt entities. A hospital could be very different from a human service organization, which in turn is functionally different from an endowed institution. A line to explain these differences is needed.

Part II, Compensation & Other Financial Arrangements for Officers, Directors, Trustees, Key Employees, Highly Compensated Employees, and Independent Contractors

The term "key employee" is not currently defined in a way that ensures uniformity amongst filers. The term should be defined to achieve that.

For current reporting, the address of the employee/officer is listed as their work address. On the Core Form, their residential address is required. This information, coupled with their income, will be available to the public. As a result, telemarketers and criminals may target these individuals. The Core Form should only require the work address.

Part III, Statement Regarding Governance, Management and Financial Reporting

The IRS is asking if the governing body reviews Form 990 before it is filed. Not only would a presentation of the form and schedules be difficult, the timing would be a significant problem. A governing body could review substantially all of the Form 990 prior to filing. However, it is not uncommon for information contained in the Form 990 to be finalized shortly before the deadline, which would not allow for review of the document that is actually filed. Under such circumstances the IRS may be misled, regardless of how the entity answers the question.

Part IV, Statement of Revenue

For contributions, gifts, grants and other similar amounts, it is not clear whether this should be reported as gross or net. The instructions should address this.

The Core Form asks whether any individual or organization that receives a grant or assistance (e.g. scholarship) is related to any person with an interest in the tax-exempt entity. Such persons include donors. In light of the fact that donated money may be fungible and money donated one year may benefit the recipient in subsequent years, cross checking relationships between donors and recipients for multiple years will become problematic and may result in inaccurate reporting. In light of that administrative difficulty, the subject inquiry should be limited to one year, i.e. was a recipient who received assistance in the reported tax year related to a donor who made a contribution in that same tax year.

Part V, Statement of Functional Expenses

Line 23 must have a separate line and description for any expense that is more than 5% of total expenses. Entities may need to use broader terms to describe expenses that do not fall within the lines provided. This may result in entities using a different assignment of expenses year-to-year. Guidance and clarification concerning expenses in this regard is needed.

Part IX, Statement of Program Service Accomplishments

This section requires that program service expense be summarized by activity code. The codes have not yet been published. The codes should be published well in advance of the filing deadline to allow for further comment.

2. Schedules

Schedule D, Part II, Investment-Land, Building and Equipment

This section requires that the entity report whether individual pieces of property are intended as an investment or for programmatic use. This equates to tax-exempt entities revealing strategic plans to its competitors and gives for-profits, who are not required to make such information public, a competitive advantage. This question should be eliminated.

Schedule G, Part I, Supplemental Information of Fund-Raising Activities

This schedule looks at the profitability of each fund-raising event by fiscal year. Often, charitable events take several years to generate income or they are used to cement long lasting relationships with major donors, paying for themselves with future contributions. Therefore, information provided on an annual basis could give the IRS and the public a false impression. Such detailed reporting is not beneficial and should not be required.

Additionally, there are fund-raising events that may cover more than one fiscal year. An example for a calendar year reporter would be a Christmas event. The expenses could be generated and paid anytime from fall through winter and the revenue posted when the reservations are received. Further, sponsorship money may be received months after the event. Due to revenue and expense posting, portions of the expense and revenue would be

reported on separate returns, which could be misleading to the IRS and public. Such detailed reporting is not beneficial and should not be required.

Schedule G, Part II, Events

Separate revenue lines for advertising fees (in program books) and sponsorship payments (excluding the purchase of tables or tickets) would result in greater clarification and information that is more transparent and useful to the IRS. For the same reason, advertising expense should be a separate line from other direct expense.

Schedule H

A single schedule will be filed by a single reporting entity to cover all of the hospital facilities operated by the reporting entity. The information would be more useful and less misleading if filers with multiple hospitals under a single EIN had the option to complete this schedule on either an aggregate basis or by completing it for each hospital included in the EIN.

Schedule H, Part I, Community Benefit Report

This part begins with the calculation of charity care cost, and the hospital may choose either its own cost accounting system or the ratio of costs to charges calculated using Worksheet 2. The instructions do not state if the election carries from year to year. Can an entity choose either method in subsequent years?

In general, each year the cost of providing care to Medicare patients exceeds Medicare reimbursement. However, shortfalls in Medicare reimbursement are not considered when reporting community benefit reimbursement. This Section should allow Medicare shortfalls to be reported.

Schedule H, Part II, Billing and Collections

Historically, the IRS has not asked for information concerning billing and collections by patient type. This information could be highly inflammatory when viewed by a public that may not have all the information of what the numbers represent. Such information should not be required.

Also, the section to describe collection practices has a limited description field and should be expanded.

Most importantly, our billing data is proprietary and competitively sensitive. The disclosure of discounts for specific payers gives for-profit competitors proprietary information that undoubtedly will result in a competitive disadvantage and a loss of revenue for not-for-profit hospitals.

Schedule H, Part IV, General Information

This section asks for information important to describing how the organization's hospital facilities further its exempt purpose. The service does not ask for a dialog of what the hospital is doing for community benefit. Additional space should be allocated to allow for a narrative of how the organization benefits the community.

Schedule H, Part V, Facility Information

The service asks for a list of entities included in the return and the activities and programs conducted at each facility. The area provided for this information is very small and does not allow for even a brief description of all the community benefit our facilities are providing. Additional space should be allocated.

Schedule J, Supplemental Compensation Information

Schedule J and its accompanying eleven-page set of instructions contain a complex set of definitions, concepts and examples. It is difficult to interpret and may result in multiple interpretations. This section should be simplified.

The non-taxable elements are difficult to identify and subject to different interpretations. This could result in not being able to accurately compare compensation between and amongst non-profit entities. To avoid this problem, either remove the request for nontaxable compensation or require the information in more detail to reflect the type of expenditures the IRS is trying to accumulate in another area of the form. If the IRS is concerned with country club dues and spousal travel, request this information only. Reporting large dollar amounts under one column will not give the IRS or the public accurate and useful information.

Schedule K, Supplemental Information on Tax Exempt Bonds

Reporting numerous placed-in-service dates will be unduly burdensome on large projects such as hospital construction involving multiple floors and services when those floors and services will not be placed in service at the same time. This requirement should be removed.

The IRS has not provided a formal legal analysis of recordkeeping requirements. This guidance should be provided well in advance of use of the new Form 990.

Schedule M, Non Cash Contributions

Several items that fall under the "non-cash" category, including mileage of volunteers donated and not reimbursed, would be burdensome for the organization to track. Furthermore, no instructions are provided as to how to value donated time and labor. We have several hospital auxiliaries whose members would have a difficult time reporting this information to the hospital and who do not report such items on their personal returns. Thus, the burden of collecting the information significantly outweighs the benefit. Finally, the instructions are not clear if the IRS means a total of \$5000 for that specific category or \$5000 by one individual. Clarification is needed.

Lastly, it appears that if a “type of donation” code was added to the existing Schedule B, Schedule M could be eliminated altogether.

Schedule R, Related Organizations

Certain lines of business (e.g. pharmacies) produce both tax-exempt income as well as unrelated business income. Adding a column to the table in this section that allowed the entity to report the amount of the entity’s taxable income and whether that taxable income would be considered UBI would be an improvement.

I appreciate the opportunity to comment on the Core Form and Schedules and respect the amount of time and effort that the IRS has expended in drafting the proposed form and schedules.

Respectfully Submitted,

//S//

Kevin E. Coleman
Associate General Counsel

From: [Foarde, Mary P](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Draft Redesigned Form 990 and Schedules
Date: Friday, September 14, 2007 3:21:41 PM
Attachments: [Comments on Draft Redesigned Form 990.pdf](#)

This message contains information that is confidential and may be privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.

Law Department
2925 Chicago Avenue S.
MR 10905
Minneapolis, MN 55407-1321

Mailing Address:
P.O. Box 1469
MR 10905
Minneapolis, MN 55440-1469



September 14, 2007

Internal Revenue Service
Form 990 Redesign
Attention: SE:T:EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

Re: Comments on Draft Redesigned Form 990 and Schedules

Dear IRS Form 990 Redesign Staff:

On behalf of Allina Health System and Allina Medical Clinic d/b/a Allina Hospitals & Clinics (Allina), I appreciate the opportunity to comment on the proposed changes to the draft Form 990 (core form) and new draft Schedules.

Allina is a family of urban and rural hospitals, clinics, and care services that believes the most valuable asset people can have is their good health. We provide a continuum of care, from disease prevention programs, to technically advanced inpatient and outpatient care, to medical transportation, pharmacy, durable medical equipment, home care and hospice services. Allina serves communities around Minnesota and in western Wisconsin.

I have outlined below our general comments to the proposed Form 990. In addition, I have attached a more detailed memo from Allina's Director of Tax, Guy Bergevin. His remarks are very specific to the proposed changes to the core form and schedules.

Based on our initial review, I respectfully ask you to consider the following comments.

- The filing deadline is too short and should be extended;
- The full value of hospital community benefits should be reportable;
- The portion of the form that requests billing information needs to be clarified; and
- Other state and voluntary reporting requirements should be considered

Filing Deadline is Too Short

Based on our initial review, Allina will need to complete the Core Form and 14 of the 15 schedules. This is an enormous, expensive and time-consuming undertaking. The effort required

to reconfigure Allina's financial and data record-keeping systems in time to capture the amount of data required is substantial and, in light of this, we believe the January 1, 2008 deadline is unrealistic. We urge the IRS to provide a second draft of the core form and schedules with another review period in 2008, and then finalize the schedule, instructions and worksheets by December 31, 2008. That would give health care systems sufficient time to revise our financial and data record-keeping systems in order to track and capture the new information that we will need to report. A rushed implementation schedule will inevitably require revisions and modifications that will be costly both to Allina and the IRS, and will not result in the desired transparency.

Community Benefit Reporting Should Be Comparable

As a non-profit health care system, we believe we have a duty to demonstrate our full community value in return for our tax-exempt status. To that end, we support meaningful efforts to streamline public reporting of community benefit activities.

Each community is unique, which affects how health care systems develop community benefit programs. Allina serves our communities proudly through planned, coordinated and measured investments and the costs we absorb in doing so should be reflected as community benefit. Health systems should be able to report community benefits efforts that focus on prevention and community health, as well as treatment.

For example, Allina is an active participant in the Phillips Partnership, a non-profit organization established to leverage public and private investments in safety, jobs, housing and infrastructure in a Minneapolis neighborhood plague by crime and disinvestments. Our largest hospital, Abbott Northwestern and our corporate headquarters sit in the middle of the neighborhood. We are committed to improving the neighborhood for the benefit of our patients and employees; to that end we believe investments in groups such as the Phillips Partnership should be allowed to be reported as community benefit.

Whatever reporting mechanism is adopted, we believe it should be designed to allow hospitals to be compared on the same basis across the country. Consistent and well-defined reporting will be useful as the government examines the data to determine the level of community benefit and its relationship to an entity's tax-exempt status.

Schedule H Billing Section Needs to be Clarified

The proposed chart on Schedule H related to billing should be clarified.

Internal Revenue Service
September 14, 2007
Page 3

Specifically, Minnesota hospitals have demonstrated national leadership by voluntarily and uniformly adopting billing and collection standards. Each hospital has agreed to provide uninsured patients with the same price it negotiates with its largest commercial payer. The proposed Schedule H billing standard does not provide a vehicle for Minnesota hospitals to report this important information.

Other Requirements Should be Taken into Consideration

As you finalize requirements for mandated community benefit reporting, we encourage you to consider other private and public reporting efforts also underway. In early 2007 Allina's Board of Directors endorsed the Catholic Health Association (CHA) /VHA Inc. guidelines for planning and reporting community benefit and during the 2007 legislative session, the Minnesota Legislature passed a law that set guidelines for community benefit reporting. Each time a new reporting requirement is endorsed or required, the costs of complying with multiple reporting standards increases. We encourage the IRS to consider mirroring current efforts underway so that duplicative or differing reporting requirements are avoided.

Thank you for the opportunity to comment on draft changes to the Form 990.

Very truly yours,



Mary P. Foarde
Executive Vice President, Law & Public Policy
General Counsel

Attachment



To: Mary Foarde, EVP Law & Public Policy, General Counsel
From: Guy Bergevin, Director of Tax
Date: September 13, 2007
Re: **COMMENTS ON DRAFT REDESIGNED FROM 990 AND SCHEDULES**

Below is our list of comments and concerns on the draft Form 990 core form and other schedules based on our preliminary review. It is not possible to identify all the issues that we may encounter attempting to implement and be compliant with the new draft Form 990 and schedules as currently proposed. Based on our initial review, Allina Health System will need to complete the Core Form and 14 of the 15 schedules. Form 990 compliance was already very burdensome and an enormous, expensive and time-consuming undertaking for Allina. The proposed changes included in the draft expand that burden significantly.

FILING DEADLINE IS FAR TOO SHORT

The burden of reconfiguring Allina's financial and data record-keeping systems in time to capture the substantial amount of data required by January 1, 2008 are unreasonable. We urge the IRS to provide a second draft of Schedule H with another review period in 2008, and then finalize the schedule, instructions and worksheets by December 31, 2008. That would give Allina sufficient time to revise our financial and data record-keeping systems in order to track and capture the new information that we will need to report.

THE CORE FORM AND SCHEDULES NEED SUBSTANTIAL REVISION

We believe significant revisions and refinements must be made to the core form, schedules and instructions from the current proposed draft. We think it is critical that Allina be given an opportunity to review the revised set of forms, schedules and instructions in their entirety, with another 90-day review period following the re-draft. The IRS should release the second draft with instructions in 2008, and provide another 90-day review period, with a final form release by December 31, 2008.

It would be a disservice to the entire tax-exempt sector – hospitals in particular – to undertake the first major overhaul of the Form 990 in 25 years without adequate time for review and input. A rushed implementation schedule will inevitably require revisions and modifications that will be costly both to Allina and the IRS, and will not result in the desired transparency.

1. Core Form

- A “consolidated” Form 990 filing election should be made available for affiliated tax-exempt organizations under common control similar to that allowed in the for-profit taxable realm. This would ease the filing burden for health systems with multiple tax-exempt entities and similarly be more practical for the IRS. This would also provide a better picture of the overall activities of the “system”.
- Part I (Summary), Line 6 requires an organization to enter the number of individuals receiving compensation in excess of \$100,000. This question provides information of limited use to the IRS since large organizations like Allina will likely have a larger number of individuals receiving such compensation and small organizations will likely have a smaller number. Without a consolidated Form 990 filing election, the number of such individuals will be misleading as the remainder of the filing does not include any of the affiliated organizations data. These individuals often have responsibility for the affiliate but are not paid by the affiliate.
- Part I (Summary), Line 7 requires an organization to enter the highest compensation amount reported on Part II, Section A (relating to reportable compensation paid to officers, directors, trustees, key employees, highly compensated employees and independent contractors). Requiring disclosure of the highest compensation amount paid on the summary page of the core form could mislead viewers when read outside of the context of the fuller disclosure required in Part II and Schedule J. Again, without a consolidated filing election, the amounts on disclosed on the schedule will be misleading since due to instances of multiple affiliated entities with only one paying the compensation.
- Part I, Lines 8a and 8b require an organization to calculate total officer, director, trustee and other key employee compensation and then to calculate a percentage by comparing total executive compensation to total program expenses. This comparison metric provides a misleading picture of an organization’s operations and should be eliminated from the form. Again, this is especially true without a consolidated filing election option.
- Part I, Lines 19a and 19b require an organization to calculate fundraising expenses as a percentage of total contributions and grants. This percentage does not provide helpful information about an organization’s operations. Notwithstanding its limited use, organizations should be given an opportunity to explain this percentage.
- Part I, Line 24b requires an organization to calculate total expenses as a percentage of net assets. This percentage is not helpful to understanding an organization’s overall operations.
- Part II (Compensation and Other Financial Arrangements with Officers, Directors, Trustees, Key Employees, Highly Compensated Employees, and Independent Contractors), Section A requires information on key employees, which term is defined in part based on the disqualified person concept from the Section 4958 intermediate

sanction regulations to include a “person who manages a discrete segment or activity of the organization that represents a substantial part of the activities, assets, income or expenses of the organization, as compared to the organization as a whole.” Consideration should be given to defining “substantial part” or including examples in the instructions or glossary to help large organizations determine employees who would fall under the definition.

- Part II, Section A requires an organization to list the city and state of residence of each listed individual or organization. This information could be tantamount to providing an individual’s home address.
- Part II, Section A requires an organization to include reportable compensation from “related organizations” for purposes of reporting the compensation of former (within the last five years) directors, trustees, officers and key employees or highest compensated employees. It seems overly burdensome for a large filing organization to be required to track all former directors, trustees, officers, key employees or highest compensated employees over a five-year period when they have had no need to do so in the past. Combining this requirement with a need to survey all related organizations to determine whether any individual in this group is being paid compensation by such related organization requires efforts beyond the value the information would provide. Information on former directors, trustees, officers, key employees or highest compensated employees should look to current year only.
- Part II, Section B, Lines 5a-f require an organization to report the family and business relationships of officers, directors, trustees or key employees during a five-year lookback period. Allina has a Board of Directors with 20 members, and hundreds of contracts. The collection and maintenance of documentation required to respond to these questions will create excessive new burdens for Allina. Moreover, the instructions should clarify the duties of organizations to collect such information going forward.
- Part II, Section B, Line 9 requires an organization to report whether any persons listed in Part A receive compensation from any source other than the filing organization or a related organization for services rendered to the organization. In its current form, this question requires organizations to have or acquire access to information that they may not otherwise have. This question should be clarified to address the extent to which an organization is required to seek information regarding such compensation arrangements. Also, if a listed person owns a company that is paid reasonable compensation to perform services, but the person does not receive any payment other than in his capacity as owner of the organization, what amount, if any, gets reported?
- Part III (Statements Regarding Governance, Management, and Financial Reporting), Line 2 requires an organization to report any significant changes to its organizing or governing documents. The IRS should clarify that this question would only cover changes to articles of incorporation and bylaws and not other policies of the organization.

- Part III, Line 3b requires an organization to report the number of “transactions” the organization reviewed under its conflict of interest policy. The instructions or glossary should be revised to include a definition for “transactions.” Because responding with a zero or a very high number would create a misleadingly negative connotation, and because any numerical response will have a different meaning depending on the organization and its policy, the question should be revised to ask whether the organization engaged in any transactions that were subject to the policy but were not reviewed under the policy.
- Part III, Line 11 asks an organization to indicate where documents are made available to the public. There is no explanation for why this is being asked and is especially troubling given that certain documents listed are not currently subject to the public disclosure requirements.
- Part IV (Statements Regarding General Activities), Line 1d requires an organization to report the total amount of contributions received from related organizations. The instructions include as examples of related organizations, “a parent organization or affiliates at the local, state, or regional level.” The example is confusing and the instructions should instead use the definition of related organizations from the glossary. Moreover, it is unclear whether all payments to related organizations (except for payments that clearly belong under membership dues, rentals, or sales) should be treated as contributions since there is no corresponding line item under “program service revenue” or “other revenue.”
- Part IV, Lines 2a – 2g require an organization to enter a corresponding business code from the *Codes for Unrelated Business Activity* from the 2006 Instructions for Form 990-T for the various line items of “program service revenue.” The business codes on 990-T are not broad enough to reflect accurately program service revenue.
- Part IV, Line 1c requires an organization to report contributions from fundraising events. Although the instructions use an example to show that gross income from other than contributions is to be reported on Line 11a, a reference at Line 1c to such amounts reported on Line 11a would be helpful.
- Part VII (Statements Regarding General Activities), Line 6a requires an organization to report whether it had any tax-exempt bonds outstanding at any time during the year. The instructions should clarify whether this question is intended to encompass bond financing where the 501(c)(3) organization is not the issuer of the bonds but rather the borrower of proceeds of government-issued bonds.
- Part VII, Lines 8a (and the applicable instructions) requires an organization to report whether it conducted all or a *substantial* part of its exempt activities through or using a partnership, LLC or corporation and the aggregate exempt activities conducted through or by such entities involved a *substantial* portion of the organization’s capital expenditures or operating budget, or a discrete segment or activities of the organization that represent a *substantial* portion of the organization’s assets, income, or expenses as compared to the

organization as a whole. Neither the instructions nor the glossary provide a definition, percentage or amount for the term “substantial.” It is also unclear whether Lines 8a-8c would apply to passive investments of endowment or reserve funds in partnerships or publicly traded corporations.

- Part IX (Statement of Program Service Accomplishments), Lines 3a – 3c require an organization to describe its exempt purpose achievements for each of its three largest program services. This question should be moved to Part I of the form, as it is a key question. Organizations should be allowed as much additional space as necessary to describe more than three key activities. As drafted, 3d also directs organizations to attach a schedule listing other program services.

2. Schedule A (Supplementary Information for Organizations Exempt Under Section 501(c)(3))

- Part 1, Line 11f requires an organization to respond whether it has a “written determination from the IRS that it is a Type I, II or III supporting organization.” Since most supporting organizations do not have written determinations from the IRS, the question as written is misleading and unfair because the IRS did not actually issue such determinations until this year. The question should allow an IRS determination or “a written opinion of counsel.”
- Part 1, Line 11h, column (vii) requires an organization to report the amount of monetary support provided by the supporting organization to the supported organization(s). This question disadvantages supporting organizations such as parent holding companies within a health care system that do not pay out monetary grants or other support payments because they are functionally integrated or otherwise undertake activities in support of their supported organizations. The question should be revised to include the value of non-monetary support.

3. Schedule D (Supplemental Financial Statements)

- Parts I and III: Passive investments should be excluded from this schedule, and the listing of securities individually is extremely burdensome.
- Part VII (Other Liabilities) requires organizations to describe and list the book value of any other liabilities, including federal income tax liabilities, not reportable in the defined categories on Part VI (Balance Sheet) of the core form. Part VII also requires organizations to provide the text of the footnote to the organization’s financial statements that report the organization’s liability for uncertain tax positions under FIN 48. Disclosing the text of footnotes relating to uncertain tax positions in isolation could be misleading. Organizations should be given the opportunity to explain such footnotes or to attach their entire financial statement.

- Part XII (Endowment Funds) requires an organization that holds assets in term or permanent endowment funds to provide information for the past five years on fund balances, contributions, investment earnings or losses, program expenditures and administrative expenditures. The reporting burden associated with this question seems to outweigh the usefulness of this information. The five-year look-back period should be reduced or eliminated pending adoption by the IRS of reasonable standards.

4. Schedule F (Statement of Activities Outside the U.S.)

- Part II, line 1, column (g) requires that non-cash gifts be reported, and that the fair market value be the basis for the reporting. Hospitals should be exempted from reporting gifts of equipment and supplies since there are many such transfers of fully depreciated items.

5. Statement G (Supplemental Information Regarding Fundraising Activities)

- Schedule G requires an organization to report supplemental information regarding its fundraising activities. The IRS should clarify how organizations should report fundraising activities by related entities, which is a common occurrence within a health system.

6. Schedule J (Supplemental Compensation Information)

- Line 1, column (C) requires an organization to report non-qualified deferred compensation. The instructions should clarify, or the schedule itself should eliminate, double-reporting of nonqualified compensation. This occurs when the amounts of unpaid, unvested deferred compensation are reported when awarded and again when they are vested. Eliminating the double reporting will give a more accurate picture of yearly compensation. The double reporting of deferred compensation is a problem under the current Form 990 and the IRS should take this opportunity to correct the confusion. This question also must address how compensation should be reported if the organization is reporting on an accrual basis.
- Line 1, column (D) requires an organization to report the amount of non-taxable fringe benefits provided to the listed persons in column (A). The instructions seem to even require reporting of de minimis fringe benefits, which by definition under the Internal Revenue Code are “so small as to make accounting for it unreasonable or administratively impracticable.” The instructions should follow the current Form 990, which allows de minimis fringe benefits to be excluded. The instructions or the compensation matrix also should include examples of nontaxable fringe benefits that would typically be issued as part of providing services at a hospital, e.g., pagers, cell phones and other similar items, or this requirement should be eliminated.

- Line 1, Column (E) requires an organization to report the amount of all expense reimbursements, and allowances provided for expenses, that are not included on a recipient's W-2. It is completely misleading to report such amounts on Schedule J, which is intended to disclose compensation amounts. Expense reimbursements under accountable plans that do not result in income to the recipient should not have to be reported on Schedule J.

7. Schedule K (Supplemental Information on Tax Exempt Bonds)

We are particularly concerned about the efforts required to comply with Schedule K

- Schedule K requires an organization to report supplemental information for each outstanding bond issue with an aggregate principal amount in excess of \$100,000 on the last day of the taxable year. Due to the scope of information required for reportable tax exempt bonds, the IRS should delay implementation of Schedule K so that organizations will have sufficient time to complete the analyses required for reporting the new information on the schedule. Also, since the schedule asks for information regarding all bonds outstanding on the last day of the taxable year, no matter how long ago the bonds were issued, a great deal of effort would be necessary to gather this information as there was no notice at the time the bonds were issued that the organization would be required to report such information to the IRS. Accordingly, the IRS should provide a "grandfather" provision under which information is required to be reported only for bonds issued after the date that the redesigned Form 990 was made public. Also, in light of the IRS' recently announced post-issuance compliance check program, the IRS should consider delaying finalization of this Schedule until the IRS has analyzed the responses to the questionnaires being sent out as part of the program.
- Part I requires extensive information for each outstanding tax-exempt bond issue with a principal amount greater than \$100,000 on the last day of the tax year. This section is enormously burdensome and needs to be streamlined. First, the IRS should recognize that much of the information requested here is already available through Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, which is filed when the bonds are issued. The new schedule should be reconciled with the reporting already required to eliminate redundancy and burden. Part I, columns F and G, in particular, represent a particular burden for hospitals. For example, for bonds with large principal amounts that funded multiple projects, including buildings and equipment, requiring information on the date that a particular project was placed into service is very difficult and burdensome to provide.
- Part II requires the provision of information on bond proceeds. The instructions for this section should make it clear that when an organization is dealing with a refunding issue it is not necessary to report how the proceeds of the prior issue were spent. Alternatively, the instructions should reduce the burden associated with reporting this information by, for example, limiting how far an organization must go back when a bond is used to refund a prior issue. In addition, the current IRS regulations permit an organization that

funds projects with a mixture of equity and bond proceeds to wait 18 months after facilities are placed into service to allocate the sources of those funds to particular costs. That means, at the time an organization may be required to file this schedule, there may not be a final allocation. The instructions for the form should reconcile this inconsistency in favor of delayed reporting.

- Part III requires an organization to report information about private use of tax-exempt bonds. The instructions should clarify that aggregate reporting for private business use is contemplated and the IRS should consider permitting organizations to report private business use as not exceeding a stated de minimis percentage. And, Part III could be streamlined if it allowed organizations to limit the reporting of contracts to those that do not meet the "safe harbors" described in Revenue Procedures 97-13 or 97-14. Question 4 should be re-written, as it does not take into consideration that a hospital may be meeting such "safe harbor" requirements, which would make the percentage computation unnecessary. Also, question 5a, requesting information about all other "use" by other than a 501(c)(3) organization or state or local government is overly broad, as it would presumably include use that is not treated as private use, such as incidental use or use on the same basis as the general public. Additionally, questions 4 and 5 could result in misleading answers, as they fail to anticipate that these percentages may change from year to year and that the proper measure of usage would be the entire term of the bond.
- Part IV requires an organization to report information about the compensation of third parties who provide services related to bond issuances and whether such parties were selected using a "formal selection process." The instructions should clarify what is meant by a "formal selection process" and should permit organizations to rely on selections that involved advice of bond counsel and/or a qualified underwriter with a reasonable review of qualifications. In addition, a threshold amount for reportable transactions should be added.

8. Schedule I (Supplemental Information on Grants and Other Assistance to Organizations, Governments, and Individuals in the U.S.)

- Part III requires an organization to report grants and other assistance to individuals in the U.S., if the grant amount is \$5,000 or more. This threshold should be increased substantially for large organizations like hospitals. The instructions and the schedule should clarify whether, consistent with the instructions to Schedule F, Part III, organizations need not complete Part III if no individual received more than the new threshold.

9. Schedule M (Non-Cash Contributions)

- The threshold for completing this schedule should be increased.

10. Schedule N (Liquidation, Termination, Dissolution or Significant Disposition of Assets)

- Clarification is needed as to whether transfers to a wholly owned limited liability company that is disregarded as separate from the tax-exempt filing organization need to be reported.
- Clarification is needed as to whether transfers for “full and adequate consideration” that are excluded from the definition of “substantial contraction” still need to be reported as a disposition of net assets.

11. Schedule R (Related Organizations)

The following comments relate to Part V – Transactions with Related Organizations.

- For multi-hospital systems, Schedule R is extremely burdensome. At a minimum, the definition of “related” needs further review and consideration, as there are many definitions of the term that might have been used.
- Part V requires an organization to report whether it engaged in certain transactions or transfers with related organizations, including related 501(c)(3) organizations. The instructions carve out transactions between 501(c)(3) organizations where the only transactions between the organizations were gifts or grants. This instruction should be revised to allow transfers that are gifts and grants to be excluded, even where the organizations have other transactions such as leasing or services arrangements.
- The definition of “transfer” in the instructions should be revised as follows: A transfer includes any conveyance of funds or property, whether or not for consideration, *except for gifts or grants between related 501(c)(3) organizations.*
- The compliance burden from this section is of great concern. Tax-exempt organizations within a health system typically have numerous arrangements involving the performance of services, leasing or sharing of facilities, equipment or employees, cost reimbursement etc. By way of example, a typical 501(c)(3) health system could have hundreds of transactions to report under Part V. We understand that certain questions on this schedule are in response to Section 1205 of the Pension Protection Act (PPA), but the information on transactions between related 501(c)(3) organizations should be limited to transfers that could result in UBIT under the controlled entity rule of Section 512(b)(13). Other transactions between related 501(c)(3) organizations do not raise compliance, exemption, tax or other concerns and should not need to be reported.
- Schedule R goes beyond what is required under the PPA, which at least limits reporting of transfers among “controlling and controlled” organizations. By defining “related” as including brother/sister organizations controlled by the same person or persons, Schedule R requires any exempt entity within a health care system to include all transfers between it and any other entity within the system, which completely expands the already overly

broad disclosure required by the PPA. These requirements are completely unworkable and, again, result in the reporting of transactions that do not raise compliance, exemption, tax or other concerns.

- The instructions for column (C) require the amount involved in each transaction to be reported, which is defined as the fair market value of the services, cash and other assets provided by the organization or the fair market value received, whichever is higher. This instruction seems to require even related 501(c)(3) organizations that have cost reimbursement arrangements to determine the fair market value for these arrangements, which creates a significant valuation burden for arrangements that should not even need to be reported.

From: [Susan Simone](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Temple Sellers;](#)
Subject: Comments Form 990 Revisions
Date: Friday, September 14, 2007 3:09:37 PM
Attachments: [September14_GHA-Comments_Final.doc](#)

On behalf of

Temple Sellers
Vice President of Legal Services
Georgia Hospital Association
770-249-4529

Attached please find comments regarding the IRS Form 990 Revisions.

Thank you.

Susan Simone
Legal Services Assistant
Georgia Hospital Association
1675 Terrell Mill Road
Marietta, GA 30067
770-249-4529 (office)
770-955-5801 (fax)
ssimone@gha.org

September 14, 2007

By Electronic Filing



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

RE: Comments on Draft Redesigned Form 990 and Schedules

On behalf of our 172 member hospitals and healthcare systems, the Georgia Hospital Association (GHA) appreciates the opportunity to submit comments on the draft redesigned Form 990 and the accompanying draft schedules.

First, GHA would like to register our support for the two comments letters submitted by the American Hospital Association (AHA), the first submitted on August 21, 2007 regarding draft Schedule H, and the second submitted September 6, 2007 regarding the redesigned Form 990 and other schedules.

Like AHA, GHA and our member hospitals are very concerned regarding the IRS' stated goal to use redesigned Form 990 for the 2008 tax year (returns filed in 2009). Georgia hospitals simply do not currently collect much of the data and information requested under the current draft and cannot realistically be expected to reconfigure their financial and other data records keeping by January 2008. In addition, it is our understanding that the instructions, definitions and worksheet are not expected to be finalized until June, 2008. For these reasons, we add our voices to the many others urging the IRS to release a second draft of the core form and schedules in 2008 and provide an additional opportunity for public comment with a goal to release a final form by December 31, 2008.

GHA also shares AHA's assessment that the core form and schedules require substantial revisions in order to ensure the IRS meets its stated goals to enhance transparency, promote compliance and minimize the burden on filing organizations. We support the specific revisions recommended by AHA in its September 6, 2007 letter with respect to the core form as well as Schedule A, Schedule C, Schedule D, Schedule F, Schedule G, Schedule J, Schedule I, Schedule L, Schedule M, Schedule N and Schedule R. In addition, we share AHA's very significant concerns regarding Schedule K (Supplemental Information on Tax Exempt Bonds). While some of the information requested in Schedule K is already recorded in Form 8038, Information Return for Tax Exempt Private Activity Bond Issues, it should not be requested in duplicate through Schedule K; much of the information requested in this Schedule is simply not currently collected by Georgia hospitals. In addition, the burden associated with collecting the requested information would be enormous. GHA urges the IRS to substantially revise this Schedule and to

provide a grandfather clause to clarify that information must be reported only for bonds issued after the date that the redesigned Form 990 is finalized.

Finally, we are very concerned regarding the contents of draft Schedule H for hospitals. In its current form, Schedule H bears little relationship to the current Community Benefits Standard set forth in Revenue Ruling 69-545. The current Community Benefits Standard has served the public interest extremely well for almost 40 years by recognizing numerous factors that comprise true community benefits including the promotion of health; operating an emergency room open to all regardless of ability to pay; having an independent board of trustees with representatives from the community; having an open medical staff with privileges available to all qualified physicians; providing care to all individuals in the community; and advancing medical training, research and education. Schedule H appears designed for the purpose of changing the current Community Benefits Standard. GHA urges the IRS to reconsider this objective and to revise Schedule H to be consistent with the current Community Benefits Standard and to delete any question unrelated thereto.

We also believe that any effort to quantify community benefits should include Medicare underpayments and bad debt. With respect to Medicare, services provided to Medicare patients are a substantial part of the total services provided by Georgia hospitals. As you know, Medicare often does not pay the full cost of care provided to its enrollees. In 2005, 41.5% of Georgia hospitals had negative Medicare margins which translated into a loss of \$141,298,685.00. That percentage is projected to increase to 48.6% in 2007, a loss of \$229,375,632.00.¹ Surely the provision of the below cost healthcare services to the elderly is a community benefit under any reasonable standard. With respect to bad debt, most is charity care that cannot be documented because low income patients simply will not complete the forms necessary to establish eligibility for hospitals' charity care or other financial assistance programs. A failure to include either Medicare losses or bad debt would result in a substantial underestimation of the amount of community benefit provided by hospitals.

GHA appreciates the opportunity to submit these comments and looks forward to working with the IRS to improve the redesigned Form 990 and its schedules to meet the goals of enhancing transparency, promoting compliance and minimizing the burden on filing organizations. If you have any questions, please feel free to contact me at tsellers@gha.org.

Sincerely,



Temple Sellers
Vice President of Legal Services

¹ 2005 revenues and costs are based on data from the Medicare Cost Report public use files provided by the Centers for Medicare and Medicaid Services (CMS), for 142 PPS and Critical Access Hospitals. Reimbursement projections are based on the actual standardized amounts and wage indexes published in the Federal Registers and on all legislative and regulatory policies in effect.

From: [Keith Hearle](#)
To: ["Keith Hearle"; *TE/GE-EO-F990-Revision;](#)
CC: [Schultz Ronald J;](#)
Subject: RE: Comments from Verite Healthcare Consulting, LLC
Date: Friday, September 14, 2007 3:05:08 PM
Attachments: [VHC to IRS Comments Edited.doc](#)

My apologies. I found two very small edits that I wanted/needed to make. Please discard the previously submitted letter and replace with this one. Thanks.

Keith Hearle
Verité Healthcare Consulting
1120 G Street, NW
Suite 1050
Washington, DC 20005
Phone: 202/266-2635
Fax: 202/266-2629
Cell: 202/352-7159

www.VeriteConsulting.com

From: Keith Hearle [mailto:Keith.Hearle@veriteconsulting.com]
Sent: Friday, September 14, 2007 2:16 PM
To: 'Form990Revision@irs.gov'
Cc: 'Schultz Ronald J'
Subject: Comments from Verite Healthcare Consulting, LLC

Please find attached comments from Verite Healthcare Consulting, LLC regarding the draft form 990.

If you have any questions, please feel free to contact me.

Keith Hearle
Verité Healthcare Consulting
1120 G Street, NW
Suite 1050
Washington, DC 20005

September 12, 2007

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

Submitted by e-mail to: Form990Revision@irs.gov

Dear Mr. Schultz:

On behalf of Verité Healthcare Consulting, LLC, I am very pleased to provide the Internal Revenue Service with comments on the draft form 990. I've been working in the field of community benefit planning and reporting since the late 1980s. I was a co-author of the Catholic Health Association (CHA) *Social Accountability Budget* published in 1989, and as part of that effort I helped CHA develop the first accounting framework for community benefit. That accounting framework was organized into a series of worksheets which (subsequent to the publication of the *Social Accountability Budget*) were imbedded in the logic of software that many hospitals now use to account for and report the community benefits they provide.

I've continue to work with CHA in recent years. That work included updating the accounting framework and its associated worksheets, drafting Chapter 4 of the *Guide to Planning and Reporting Community Benefit* published by CHA in May 2006, and serving as a resource to help CHA and others respond to the sometimes challenging question of "what counts as community benefit?" With a few notable modifications, those updated worksheets were included by the IRS in the Instructions for the draft Schedule H.

In recent years, I also have worked with several leading tax-exempt health care systems to help them assemble and report community benefit information.

During the last three months, I have helped several national hospital associations develop their comments on the draft Form 990 and on the paper issued by Senate Finance Committee staff regarding possible legislative proposals that would

change the requirements that hospitals must meet to be exempt from federal income taxation.

In this letter I provide several comments that I hope will be helpful as the Internal Revenue Service processes the many comments you will receive on the draft form 990. In these comments, I also provide:

- **Attachment A:** two edits to the worksheets that were submitted with CHA's comments to the IRS,
- **Attachment B:** an alternative set of worksheets that could be used by the IRS if you decide to request information on Medicare losses and bad debt expense, and
- **Attachment C:** suggestions for questions regarding "non-quantitative" community benefits.

1. Community Building should be considered community benefit.

A generally accepted definition of *Community Building* is "activities carried out or supported to improve social factors found to be key determinants of health in communities: housing, education, environment, and economic prosperity."¹

In recent years, many hospitals and health systems have been developing very worthwhile community benefit programs. These programs focus on identifying health care needs, enhancing charity care policies and how they are administered, and developing programs targeted at improving community (public) health. In my view, the most effective hospital community benefit programs are those that adopt public health perspectives. Public health entities focus on improving community health status rather than solely on medical treatment.

Earlier in my career, I served as a Finance Officer in one of the nation's largest county public health departments. Community Building programs provided by hospitals clearly supplemented the supportive housing, environmental health, prevention, and public health education programs we offered as a health department. Community Building services provided by hospitals thus clearly leveraged the programs we provided – demonstrating that this category of

¹ Catholic Health Association.

hospital activity meets one criterion for inclusion as community benefit – the relief of government burden.

It is not uncommon for hospital-sponsored needs assessments to identify problems with housing, education, the environment, or economic conditions – and to highlight the morbidity (and mortality) caused by these problems. Any hospital discharge planner can describe the health care problems patients experience post-discharge if they lack housing, are poorly educated, or lack the means to continue receiving the care they need (e.g., pharmaceuticals or physician care that generally is out of the control of the hospital). When these problems come to light, hospitals respond by developing or supporting Community Building activities.

In my experience, if a hospital devotes resources to Community Building programs, this does not “crowd out” the hospital’s ability to provide charity care. Community Building programs help address some of the root causes of disease, which over time can free up resources to meet other priorities, such as additional charity care. In my community benefit work with hospital chief financial officers, I never have encountered a situation where one has said: “if we spend more on this Community Building program, we have to cut back on charity care.” Instead, Community Building programs are viewed in the context of a total commitment to charitable activities that taken as a whole are designed to improve community health and demonstrate charitable purpose.

2. Medicare losses and bad debt should not be considered community benefit.

In its comments, CHA has submitted several arguments as to why Medicare losses should not be counted as community benefit. Of these arguments, I would emphasize the following points:

- The CHA community benefit framework certainly allows community benefit programs that serve the Medicare population to be counted. If hospitals operate programs for patients with Medicare benefits that respond to identified community needs, generate losses for the hospital, and that meet other criteria, these programs can be included in the CHA framework as “subsidized health services.” I believe that a programmatic approach to documenting community benefits provided for Medicare beneficiaries is the most appropriate methodology, in large part because there are categories of Medicare patients that historically have been the

subject of intense competition by hospitals of all kinds. There are other Medicare patients with chronic health care needs and who generate substantive losses.

- Serving Medicare patients is not a differentiating feature of tax-exempt healthcare organizations. There are for-profit specialty hospitals that specifically have focused on attracting patients with Medicare coverage, e.g., specialty heart and orthopedics facilities.
- Significant effort and resources are devoted to assuring that hospitals are reimbursed appropriately by the Medicare program. The Medicare Payment Assessment Commission (MedPAC) carefully studies Medicare payment and the access to care that Medicare beneficiaries receive. MedPAC recommends payment adjustments to Congress accordingly. In contrast, hospital Medicaid reimbursements generally do not receive this level of attention, which is one of the reasons why Medicaid losses almost always exceed those generated by Medicare patients. Medicaid payment is largely driven by what states can afford to pay – and the varying emphases that states have between putting their Medicaid resources into expanding eligibility versus increasing provider reimbursement rates.

Regarding Bad Debt, I would emphasize the following points:

- If the IRS asks hospitals to report “uncompensated care” (which is the sum of bad debt and charity care) rather than just charity care, then hospitals with more generous charity care policies will not be differentiated from those with less generous policies. Consider two hospitals, both with \$5 million for the cost of “uncompensated care” and with \$100 million in total operating revenue. Hospital A could have \$4 million in bad debt and \$1 million in charity care. Hospital B could have \$2 million in bad debt and \$3 million in charity care. If the 990 requests only “uncompensated care”, the two hospitals would appear to have the same level of commitment to charity care.
- In recent years, many hospitals have been updating and revising their charity care policies. These hospitals frequently see a shift in their uncompensated care as a result: a decrease in bad debt and a commensurate increase in reported charity care. A continued shift of this nature should be anticipated (particularly if the final 990 requests charity

care cost statistics) – thus reducing the “need” to include bad debt as a reportable community benefit.

- One of the reasons why many hospitals and hospital associations are suggesting that bad debt should be included as community benefit is that there are a number of uninsured or underinsured patients who do not provide information needed to grant them charity care. The amount these patients owe thus is written off to bad debt, because the application for charity care is incomplete or not filled out. This category of patient accounts can be referred to as the “unknowns”.

I often respond to this concern by indicating first that HFMA Principles and Practices Board Statement 15 allows hospitals to classify patient accounts as charity care even if the information about certain patients is incomplete. On this basis, there are some hospitals that will “deem” some types of patients (e.g., homeless, ...) as qualifying for charity care even if they don’t complete charity care applications. One specific example of how a hospital has adjusted its charity care policy to recognize these types of patients is as follows:

The categories of patients who qualify for charity care are defined as:

- Financial indigents
- Medical indigents
- Governmental sponsored indigents/patient portion
- Presumed indigents

Presumed Indigents

1. Persons who do not provide the detailed documentation necessary to be classified as financially or medically indigent but who, to the best of [the hospital’s] knowledge, would be eligible for charity under the program guidelines had the person completed the documentation
2. This patient population would include, but is not limited to:
 - a. Illegal aliens
 - b. Deceased with no estate or known family
 - c. Transient, homeless persons
 - d. Persons estranged from family and who have no effective support group or are socially dysfunctional
 - e. Persons whose identity cannot be established

In addition, technology solutions are emerging that help hospitals qualify patients for financial assistance even if there is incomplete information. One example technology is offered by HTP, Inc. HTP offers a suite of software products that establish (1) whether a patient presenting for care is eligible for Medicaid or any other form of third-party coverage, (2) the uninsured or underinsured patient's ability to pay their out-of-pocket financial liability, (3) probable patient income, and (4) availability of other resources that are relevant to qualifying a patient for financial assistance. This technology thus can significantly reduce the number of "unknowns" that otherwise would be classified as bad debt. As this type of technology is implemented in U.S. hospitals, the amount of bad debt reported should decline, and bad debt will not include amounts for patients truly unable to pay their bills.

- Bad debt is higher at hospitals whose business office functions are inefficient. Hospitals that make mistakes in billing insurance companies (e.g., billing the wrong insurer) and that do not emphasize timely collections of patient out-of-pocket payments will have higher bad debt expense.

It would not make sense to reward those hospitals with less efficient business offices or with less generous charity care policies by allowing the full amount of hospital bad debt to be counted as community benefit.

3. The IRS should consult with MedPAC regarding Medicare, bad debt, and related issues.

According to the MedPAC website:

The Medicare Payment Advisory Commission (MedPAC) is an independent federal body established by the Balanced Budget Act of 1997 (P.L. 105-33) to advise the U.S. Congress on issues affecting the Medicare program. The Commission's statutory mandate is quite broad: In addition to advising the Congress on payments to private health plans participating in Medicare and providers in Medicare's traditional fee-for-

service program, MedPAC is also tasked with analyzing access to care, quality of care, and other issues affecting Medicare².

MedPAC staff are very knowledgeable about Medicare payment and can help the IRS determine whether Medicare losses should be considered a community benefit provided by tax exempt hospitals.

MedPAC also has been working with the Centers for Medicare and Medicaid Services (CMS) on one schedule included within the Medicare Cost Report. The intent of Schedule "S-10" has been to collect hospital charity care (and Medicaid) information. However, many have viewed the current schedule to be problematic. MedPAC is advising CMS on changes that should be incorporated into the S-10, and thus also is considering how charity care should be defined. It would be logical for federal agencies addressing charity care information (IRS and CMS with MedPAC input) to consult with one another so that reporting inconsistencies are not created.

4. If the IRS decides to allow hospitals to report Medicare losses and bad debt information, the worksheets for Schedule H should be re-developed.

If these data are requested by the IRS, they should be reported in separate, unique lines on Schedule H rather than aggregating bad debt together with charity care and calling that line "uncompensated care" or aggregating Medicare losses together with Medicaid and other means-tested government program losses into one line.

I have prepared revised worksheets, in Attachment B, for this purpose. If bad debts and Medicare losses are to be disclosed separately, then the IRS should consider the worksheets in Attachment B for 990 purposes. The Attachment B worksheets:

- Amend the "ratio of cost to charges" to remove bad debt costs from the numerator of the ratio because bad debts would be disclosed separately;
- Include new, separate worksheets for bad debt and for Medicare losses;

² <http://www.medpac.gov/about.cfm>

- Change the worksheet for Subsidized Health Services to avoid double-counting Medicare losses in that category of community benefit; and,
- Adjust the footnotes and guidance provided on the Worksheets accordingly.
- **Attachment A includes two edits to the revised Worksheets submitted with comments from the Catholic Health Association.**

The CHA submitted a series of revised Worksheets that should be considered as replacements for those associated with the draft Form 990. Those worksheets include a number of suggested changes to the proposed IRS forms – and also several changes to the CHA community benefit accounting and reporting framework. The American Association of Medical Colleges (AAMC) proposed several important adjustments to the Worksheets for Health Professions Education and for Research – and those changes were integrated into the Worksheets submitted by CHA.

Subsequent to CHA’s submitting its comments to the IRS on the draft Form 990, two additional edits were made: (1) to clarify that bad debts in the numerator of the “ratio of cost to charges” formula are to be included at cost (as always intended by the CHA framework), and (2) to clarify footnote 3 to Worksheet 3. In Attachment A, those edits are highlighted for your review.

5. Communications to the IRS from the North Carolina Hospital Association (NCHA) regarding the CHA Community Benefit accounting framework merit discussion.

Among other comments, in a June 22, 2007 letter to the IRS, NCHA indicates that:

- the ratio of cost to charges included in the CHA accounting framework creates various distortions because the numerator includes bad debt expense measured on the basis of charges, and

- the guidance to hospitals that they be allowed to use cost-accounting systems or Medicaid Cost Reports or a ratio of cost to charges yields inconsistencies and other problems.

NCHA's first observation is incorrect. The CHA's May 2006 *Guide to Planning and Reporting Community Benefit* discusses the logic behind the proposed ratio of cost to charges. It indicates that the numerator should include "bad debt expenses" and the denominator "bad debt charges". The intent has been that bad debt expenses be included at *cost* not at charges. The NCHA comments highlight that the *Guide* may not have been sufficiently clear regarding that aspect of the calculation. The edit to the ratio of cost to charges Worksheet included in Attachment A to this letter should provide further clarification.

NCHA's second observation is incomplete. The CHA *Guide* states that if hospitals have a cost accounting system and if that system is well maintained, then hospitals *should* rely on that cost accounting system (to determine Medicaid losses and the net cost of subsidized health services) rather than relying on an overall ratio of cost to charges or a Cost Report. **Cost accounting systems provide a much more accurate picture of the true cost of a subset of a hospital's activity than is provided by an overall ratio of cost to charges.** In my experience, the ratio of cost to charges can vary significantly for a given hospital from one payer (e.g., Medicaid which involves significant obstetrics and pediatrics services) to another (e.g., Medicare which involves cardiology, orthopedics, etc.). While this means that different hospitals would use different cost finding methods (since many hospitals do not have cost accounting system and must rely on a ratio of cost to charges approach), asking hospitals with these systems to use them would provide the IRS with the most accurate information possible. In my view, accuracy is preferred to consistency.

6. Attachment C includes a few proposed edits to already-submitted "non-quantifiable" community benefit questions.

I also added one "check box" to Part 1, allowing hospitals that qualify for Medicaid Disproportionate Share Hospital (DSH) funds to indicate that characteristic. In Texas, "DSH hospitals" are deemed in compliance with that state's quantitative community benefit requirements.

The edited questions are in *italics* on Attachment C.

7. Question regarding how the hospital assesses community need.

I would emphasize that the IRS should not require that each hospital develop its own community needs assessment. In many communities, hospitals are collaborating with other hospitals (including competitor facilities) and with community groups to perform needs assessments. In others, hospitals are relying on needs assessments that have been prepared by a local health department or United Way. There is great value in collaboration when it comes to identifying community health care needs. Each hospital should not be required to prepare its own needs assessment if it has access to assessments prepared through a collaborative process.

8. Within the proposed community benefit accounting framework, there will remain questions about “what counts” and “what does not count” as community benefit.

Questions frequently are asked about whether specific Community Health Improvement Services (e.g., health fairs), or Subsidized Health Services should be counted as community benefit. Examples of these types of questions and how a group of community benefit leaders answer them can be found on the Catholic Health Association’s web site. Additional guidance to the field regarding “what counts” will be provided on the CHA website shortly.

Regarding programs that should not be counted – the following points have been developed to guide decision making:

<p>Programs Should Not Count If:</p> <ul style="list-style-type: none">• An objective, “prudent layperson” would question whether the program should count• The program is counted as a community benefit by another organization or person, e.g.<ul style="list-style-type: none">○ activities by employees on their own time○ an un-related foundation that is supporting a hospital’s community benefit• The program primarily benefits the organization<ul style="list-style-type: none">○ Generates referrals principally to the hospital versus community-wide resources○ Marketing-focused

- The program is not broadly available to the public, e.g., Continuing Medical Education program only for your medical staff
- The activity represents a normal “cost of doing business” or is associated with the current standard of care
 - Employee benefits, e.g. in-service trainings

9. It makes sense for the IRS to put this initiative into a broad policy context.

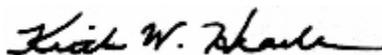
There are several developments that will affect the ability of tax-exempt hospitals to provide charity care and other community benefits. For example, most children in the U.S. have some form of health insurance coverage, thanks to SCHIP and Medicaid insurance expansions. As a result, children’s hospitals typically report comparatively low amounts of charity care. However, because many of them are major teaching and research institutions, they report large amounts for these other types of community benefit. It would not make much sense for one branch of the federal government to expand coverage for children (thereby reducing charity care a children’s hospitals), only to have children’s hospitals then penalized by another branch of government by having their tax exempt status placed at risk. This shows one reason why a broader definition of community benefit beyond just charity care is advised.

Health reforms and insurance expansions in various states (e.g., Massachusetts) will change the mix of community benefits provided by hospitals in that state. When analyzing data submitted in response to the new 990, it will be important to assess the information by hospital type and region so that the number can be placed into appropriate context.

* * * * *

Thank you for the opportunity to provide the Internal Revenue Service with comments on the draft form 990.

Sincerely,



Keith W. Hearle
President

Attachment A:

Revisions to Two Worksheets Submitted with CHA Comments

Worksheet 2
Ratio of Cost to Charges

Use the formula below to calculate a ratio of cost to charges.

Total Costs

1. Total operating expenses (including bad debt at cost)	\$ _____
Less: Adjustments	
2. Other operating revenue ¹	\$ _____
3. Total community benefits expenses ²	\$ _____
4. Total adjustments (add lines 2 and 3)	\$ _____
5. Adjusted total operating expenses (line 1 minus line 4)	\$ _____

Total Charges

6. Total Gross charges (including bad debt charges)	\$ _____
Less: Adjustments	
7. Gross charges for community benefit programs ³	\$ _____
8. Adjusted total gross charges (line 6 minus line 7)	\$ _____

Calculation of Ratio of Costs to Charges

9. Adjusted total operating expenses (line 5)	\$ _____
10. Adjusted total gross charges (line 8)	\$ _____
11. Calculated cost-to-charges ratio (line 9 ÷ line 10)	_____

¹ Reduce operating expenses for the amount of other operating revenue that has an associated operating expense. Some operating revenue or income (e.g., from joint ventures) should not be included in the adjustment.

² This line should include total expenses for community benefits to which the ratio of cost to charges is not applied. The purpose is to avoid double-counting these expenses in the ratio of cost to charges.

³ This line should include gross charges for community benefits to which the ratio of cost to charges is not applied.

Worksheet 3
Net Cost of Medicaid and Other Means Tested Public Programs

Use this worksheet to determine the unpaid costs of Medicaid and other means tested public programs.

Net Costs of Means Tested Public Programs	Medicaid	Other <u>means tested</u> public programs	Total
1. Total program expenses ¹	\$	\$	\$
2. Medicaid or provider taxes ²	\$	\$	\$
3. Total expenses (add lines 1 and 2)	\$	\$	\$
Reimbursement and other support			
4. Inpatient reimbursement ³	\$	\$	\$
5. Outpatient reimbursement	\$	\$	\$
6. Payments from uncompensated care pools or programs ⁴	\$	\$	\$
7. Total reimbursement and other support	\$	\$	\$
8. Net Cost of Medicaid and Other Means Tested Public Programs (line 3 minus line 7)	\$	\$	\$

¹ Total program expenses can be derived from (a) cost accounting system, (b) program cost report, or (c) the application of the ratio of costs to charges to program gross charges. Organizations should use cost accounting systems if they are available and well maintained.

² Include if you report Medicaid or provider taxes as operating expense rather than accounting for these amounts as an adjustment to net patient revenue.

³ Do not include Direct Medicaid GME reimbursement. That revenue should be reported on Worksheet 5, Net Cost of Health Professions Education. Any Indirect Medical Education reimbursement provided by Medicaid should be included above.

⁴ Organizations should follow the intent of their legislature/Medicaid program regarding the reporting of Medicaid DSH funds. Amounts can be reported as direct revenue for charity care or for Medicaid services.

Attachment B:

**Proposed Worksheets if the IRS Also Requests Information on Medicare
Losses and Bad Debt**

Form 990 Hospital Schedule--Community Benefit Worksheets

These worksheets can be used to account for and report community benefit programs and services in Part I of the form 990 Hospital Schedule.

Worksheets

- 1 Net Cost of Charity Care
- 2 Net Cost of Bad Debt
- 3 Ratio of Cost to Charges
- 4 Net Cost of Medicaid and Other Means Tested Public Programs
- 5 Net Cost of Medicare
- 6 Summary of Net Cost of Community Health Improvement and Other Services
- 7 Net Cost of Health Professions Education
- 8 Net Cost of Subsidized Health Services
- 9 Net Cost of Research
- 10 Cash and In-Kind Donations to Others

Worksheet 1
Net Cost of Charity Care

Use this worksheet to calculate the net cost of charity care using a ratio of cost to charge or cost accounting system.

Calculation of the Net Cost of Charity Care		
	Method 1: Ratio of cost to charges	Method 2: Cost accounting system
Charges forgiven for charity care¹		
1. Inpatient charity care charges	\$ _____	\$ _____
2. Outpatient charity care charges	\$ _____	\$ _____
3. Total charges (add lines 1 and 2)	\$ _____	\$ _____
Cost of charity care		
4. Ratio of costs to charges (from Worksheet 2)	_____	
5. Estimated costs (line 3 x line 4 for Method 1)	\$ _____	\$ _____
6. Other direct contributions made by the organization to charity care programs ²	\$ _____	\$ _____
7. Total charity care costs (add lines 5 and 6)	\$ _____	\$ _____
Revenue received to support charity		
8. Payments from uncompensated care pools or programs ³	\$ _____	\$ _____
9. Philanthropy received and/or used to support charity ⁴	\$ _____	\$ _____
10. All other sources of funding ⁴	\$ _____	\$ _____
11. Total direct offsetting revenue (add lines 8-10)	\$ _____	\$ _____
Net Cost of Charity Care (line 7 minus line 11)	\$ _____	\$ _____

¹ *Charity Care* represents the amount forgiven (discounted) by the hospital or provider of medical care services to patients deemed unable to pay all or a portion of their bill for medical care, pursuant to financial assistance policies.

² Amounts donated by the hospital or medical care provider to charity care provided by other entities.

³ Organizations should follow the intent of their legislature/Medicaid program regarding the reporting of Medicaid DSH funds. Amounts can be reported as direct revenue for charity care or for Medicaid services.

⁴ Include philanthropy, grants, or other resources that are restricted by the donor/grantor to be used for charity care.

Worksheet 2
Net Cost of Bad Debt

Use this worksheet to calculate the net cost of bad debt using a ratio of cost to charge or cost accounting system.

Calculation of the Net Cost of Bad Debt
--

	Method 1: Ratio of cost to charges	Method 2: Cost accounting system
Charges written off to Bad Debt¹		
1. Inpatient charges	\$ _____	\$ _____
2. Outpatient charges	\$ _____	\$ _____
3. Total charges (add lines 1 and 2)	\$ _____	\$ _____
Cost of Bad Debt		
4. Ratio of costs to charges (from Worksheet 2)	_____	
5. Estimated costs (line 3 x line 4 for Method 1)	\$ _____	\$ _____
Revenue received to support charity		
6. Bad debt recoveries, if any	\$ _____	\$ _____
7. All other sources of funding	\$ _____	\$ _____
8. Total direct offsetting revenue (add lines 6 and 7)	\$ _____	\$ _____
Net Cost of Bad Debt (line 5 minus line 8)	\$ _____	\$ _____

¹ *Bad debt* represents the amount of charges that are a patient responsibility, do not qualify for financial assistance, and are written off by the hospital.

Worksheet 3
Ratio of Cost to Charges

Use the formula below to calculate a ratio of cost to charges.

Total Costs

1. Total operating expenses (excluding bad debt)	\$ _____
Less: Adjustments	
2. Other operating revenue ¹	\$ _____
3. Total community benefits expenses ²	\$ _____
4. Total adjustments (add lines 2 and 3)	\$ _____
5. Adjusted total operating expenses (line 1 minus line 4)	\$ _____

Total Charges

6. Total Gross charges	\$ _____
Less: Adjustments	
7. Gross charges for community benefit programs ³	\$ _____
8. Adjusted total gross charges (line 6 minus line 7)	\$ _____

Calculation of Ratio of Costs to Charges

9. Adjusted total operating expenses (line 5)	\$ _____
10. Adjusted total gross charges (line 8)	\$ _____
11. Calculated cost-to-charges ratio (line 9 ÷ line 10)	_____

¹ Reduce operating expenses for the amount of other operating revenue that has an associated operating expense. Some operating revenue or income (e.g., from joint ventures) should not be included in the adjustment.

² This line should include total expenses for community benefits to which the ratio of cost to charges is not applied. The purpose is to avoid double-counting these expenses in the ratio of cost to charges.

³ This line should include gross charges for community benefits to which the ratio of cost to charges is not applied.

Worksheet 4
Net Cost of Medicaid and Other Means Tested Public Programs

Use this worksheet to determine the unpaid costs of Medicaid and other means tested public programs.

Net Costs of <u>Means Tested</u> Public Programs	Medicaid	Other <u>means tested</u> public programs	Total
1. Total program expenses ¹	\$	\$	\$
2. Medicaid or provider taxes ²	\$	\$	\$
3. Total expenses (add lines 1 and 2)	\$	\$	\$
Reimbursement and other support			
4. Inpatient reimbursement ³	\$	\$	\$
5. Outpatient reimbursement	\$	\$	\$
6. Payments from uncompensated care pools or programs ⁴	\$	\$	\$
7. Total reimbursement and other support	\$	\$	\$
8. Net Cost of Medicaid and Other <u>Means Tested</u> Public Programs (line 3 minus line 7)	\$	\$	\$

¹ Total program expenses can be derived from (a) cost accounting system, (b) program cost report, or (c) the application of the ratio of costs to charges to program gross charges. Organizations should use cost accounting systems if they are available and well maintained.

² Include if you report Medicaid or provider taxes as operating expense rather than accounting for these amounts as an adjustment to net patient revenue.

³ Do not include Direct Medicaid GME reimbursement. That revenue should be reported on Worksheet 5, Net Cost of Health Professions Education. Any Indirect Medical Education reimbursement provided by Medicaid should be included above.

⁴ Organizations should follow the intent of their legislature/Medicaid program regarding the reporting of Medicaid DSH funds. Amounts can be reported as direct revenue for charity care or for Medicaid services.

Worksheet 5
Net Cost of Medicare

Use this worksheet to determine the unpaid costs of Medicare.

Net Costs of Medicare¹	Total
1. Total program expenses²	\$
Program revenue	
2. Inpatient reimbursement ³	\$
3. Outpatient reimbursement	\$
4. Total reimbursement	\$
5. Net Cost of Medicare (line 1 minus line 4) ⁴	\$

¹ Include both Medicare Managed Care and Medicare Fee For Service.

² Total program expenses can be derived from (a) cost accounting system, (b) program cost report, or (c) the application of the ratio of costs to charges to program gross charges. Organizations should use cost accounting systems if they are available and well maintained.

³ Include all components of Medicare reimbursement (including Disproportionate Share Hospital and Indirect Medical Education revenue), except Direct Medicare GME reimbursement reported on Worksheet 7.

⁴ If reimbursement exceeds program expenses, then report \$0.

Worksheet 6
Net Cost of Community Health Improvement and Other Community Benefit Services

Activities or Programs	Direct Expense	Indirect Expense	Total Community Benefit Expense	Direct Offsetting Revenue	Net Cost
Community Health Improvement Services¹					
A. _____	\$	\$	\$	\$	\$
B. _____	\$	\$	\$	\$	\$
C. _____	\$	\$	\$	\$	\$
D. _____	\$	\$	\$	\$	\$
1. Total Community Health Improvement Services	\$	\$	\$	\$	\$
Community Building Services²					
A. _____	\$	\$	\$	\$	\$
B. _____	\$	\$	\$	\$	\$
C. _____	\$	\$	\$	\$	\$
D. _____	\$	\$	\$	\$	\$
2. Total Community Building Services	\$	\$	\$	\$	\$
Community Benefit Operations³					
A. _____	\$	\$	\$	\$	\$
B. _____	\$	\$	\$	\$	\$
C. _____	\$	\$	\$	\$	\$
D. _____	\$	\$	\$	\$	\$
3. Total Community Benefit Operations	\$	\$	\$	\$	\$
4. Total Community Health Improvement and Other Community Benefit Services (add lines 1, 2, 3)	\$	\$	\$	\$	\$

¹ *Community Health Improvement Services* means activities carried out or supported for the express purpose of improving community health. They extend beyond patient care activities and are usually subsidized by the health care organization. Community services do not generate patient bills, although there may be a nominal fee or sliding fee scale.

² *Community Building* means activities carried out or supported to improve social factors found to be key determinants of health in communities: housing, education, environment, and economic prosperity.

³ *Community Benefit Operations* means community health needs assessments and/or asset assessments, and other costs associated with community benefit strategy and planning.

Worksheet 7
Net Cost of Health Professions Education

Use this worksheet to calculate the net costs of health professions education.

Health Professions Education Costs¹

1. Medical students	\$ _____
2. Interns, Residents and Fellows	\$ _____
3. Nursing	\$ _____
4. Other allied health professions	\$ _____
5. Continuing health professions education if open to all in the community	\$ _____
6. Total education costs (add lines 1-5)	\$ _____

Funding sources²

7. Direct Medicare reimbursement for GME ³	\$ _____
8. Direct Medicaid GME reimbursement	\$ _____
9. Continuing health professions education reimbursement/tuition fees	\$ _____
10. Other explicit support of education programs ⁴	\$ _____
11. Total education revenue/reimbursement (add lines 7-10)	\$ _____
Net Cost of Health Professions Education (line 7 minus line 12)	\$ _____

¹ For all direct costs include related Administrative and General (overhead) costs. If the hospital supports the medical school library, those costs are included in Administrative and General. The following are considered Direct Costs (lines 1 - 5):

- a. Stipends, fringe benefits of interns and residents; salaries and fringe benefits of faculty directly related to intern and resident education
- b. Salaries and fringe benefits of faculty directly related to teaching of medical students
- c. Salaries and fringe benefits of research trainees (PhD students, post-doctoral students, MD-PhD students); salaries and fringe benefits of faculty directly related to education of research trainees
- d. Salaries and fringe benefits of faculty directly related to teaching of students enrolled in degree-granting nursing programs
- e. Salaries and fringe benefits of faculty directly related to teaching of students enrolled in degree-granting and/or certificate allied health professions education programs, including, but not limited to pharmacy, occupational therapy, laboratory.
- f. For continuing health professions education open to all in the community, count salaries and fringe benefits of faculty for teaching continuing health professions education, including payment for development of on-line or other computer-based training that is accepted as continuing health professions education by the relevant professional organization

² Funding sources do not include Indirect Medical Education reimbursement provided by Medicare or Medicaid. (Costs also exclude IME-related cost).

³ "GME" is "Graduate Medical Education." Include Federal Children's Hospital GME.

⁴ Grants from any source.

**Worksheet 8
Net Cost of Subsidized Health Services**

Use this worksheet to report financial information for each qualifying subsidized health service.

Calculation of Net Costs of Each Subsidized Health Service

Program Name: _____	Total program	Medicare	Medicaid and Other Means Tested Public Programs	Charity care	Bad Debt	Program net of Medicaid and charity care
	(A)	(B)	(C)	(D)	(E)	(A) – (B) – (C) – (D) – (E)
Charges						
1. Inpatient	\$	\$	\$	\$	\$	\$
2. Outpatient	\$	\$	\$	\$	\$	\$
3. Total charges (add lines 1 and 2)	\$	\$	\$	\$	\$	\$
4. Total expenses¹	\$	\$	\$	\$	\$	\$
Reimbursement and other support						
5. Inpatient	\$	\$	\$	\$	\$	\$
6. Outpatient	\$	\$	\$	\$	\$	\$
7. Other support ²	\$	\$	\$	\$	\$	\$
8. Total reimbursement and other support (add lines 5-7)	\$	\$	\$	\$	\$	\$
9. Net Cost of Subsidized Health Services (line 4 minus line 8)	\$	\$	\$	\$	\$	\$

Subsidized Health Services means clinical services provided despite a financial loss, when the financial loss is so significant that negative margins remain after removing the net costs of Medicare, Medicaid, Charity, and Bad Debt. Nevertheless, the organization provides the service because it meets an identified community need. If no longer offered, the service would either be unavailable in the community or become the responsibility of government or another not-for-profit organization.

¹ Total program expenses can be derived from (a) cost accounting system or (b) the application of the ratio of costs to charges to program gross charges. Organizations should use cost accounting systems if they are available and well maintained. The same cost accounting method used for Worksheets 4 and 5 should be used for Worksheet 8, if possible.

² Include philanthropy, grants, or other resources that are restricted by the donor/grantor to be used for subsidized health service.

Worksheet 9 Net Cost of Research

Use this worksheet to calculate the net cost of research¹

Costs of research funded by a governmental or non-profit entity²

1. Direct expense	\$ _____
2. Indirect expense	\$ _____
3. Total research costs (add lines 1 and 2)	\$ _____

Funding sources

4. Grant or contract dollars received from a governmental or a non-profit entity	\$ _____
--	----------

Net Cost of Research (line 3 minus line 4) \$ _____

¹ Neither expenses nor revenues from for-profit companies for clinical trials are included. *Research* includes any effort of which the goal is to generate generalizable knowledge, such as about underlying biological mechanisms of health and disease, natural processes or principles affecting health or illness; evaluation of safety and efficacy of interventions for disease such as clinical trials and studies of therapeutic protocols; laboratory based studies; epidemiology, health outcomes and effectiveness; behavioral or sociological studies related to health, delivery of care, or prevention; studies related to changes in the health care delivery system; and communication of findings and observations (including publication in a medical journal).

² Examples of costs of research include, but are not limited to: Salaries of researchers and staff (including stipends for research trainees—either Ph.D. candidates or fellows); Facilities (including research, data, and sample collection and storage; animal facilities); Equipment; Supplies; Tests conducted for research rather than patient care; Statistical and computer support; Compliance (e.g., accreditation for human subjects protection; biosafety; HIPAA); and Dissemination of research results.

Worksheet 10
Cash and In-Kind Donations to Others

Date	Donated To	Amount
------	------------	--------

Cash Donations

A.	__/__/____	\$
B.	__/__/____	\$
C.	__/__/____	\$
D.	__/__/____	\$

1.	Total Cash Donations	\$
----	----------------------	----

In-Kind Donations

A.	__/__/____	\$
B.	__/__/____	\$
C.	__/__/____	\$
D.	__/__/____	\$

2.	Total In-Kind Donations	\$
----	-------------------------	----

3.	Total Cash and In-Kind Donations (add lines 1 and 2)	\$
----	--	----

Cash and in-kind donations means contributions made by the organization to health care organizations and other community groups to improve the health of the community.

Attachment C:

Proposed Non Quantitative Community Benefit Questions

**SCHEDULE H
(Form 990)**

Department of the Treasury
Internal Revenue Service

Hospitals

▶ **To be completed by organizations that answer "yes" to Form 990, Part VII, Line 9.**

OMB No. 1545-XXXX

20XX

**Open to Public
Inspection**

Part I

1. Name of filing organization	Employer identification number
2. Type of facility: (check all that apply):	
<input type="checkbox"/> Children's hospital	<input type="checkbox"/> Sole Community hospital
<input type="checkbox"/> Critical access hospital	<input type="checkbox"/> Teaching hospital
<input type="checkbox"/> Research hospital	<input type="checkbox"/> Urban hospital
<input type="checkbox"/> Rural hospital	<input type="checkbox"/> Other service attributes (please describe)
<input type="checkbox"/> General Acute Care Hospital	_____
<input type="checkbox"/> Medicaid DSH Hospital	_____

Part II Community Benefit Report

1. Describe how the organization assesses the health care needs of the communities it serves. **[Include live link to web page.]**

2.a Does the organization or a related organization prepare an annual community benefit report? **[Include live link to web page.]** Yes No

b If yes, is it made available to the public? Yes No

3.a Does the organization have a written charity care/financial assistance policy? Yes No

b If yes, describe. Include in the description (a) which patients qualify for free care, which patients qualify for partial financial assistance (discounts), (b) whether the organization applies such policy to all of its facilities and allows its facilities to adapt its policy to particular community or individual needs, and (c) whether the organization budgets annually for charity care. **[Include live link to web page.]**

4. Describe how the organization informs and educates patients about their eligibility for assistance under federal, state, or local government programs or under the organization's charity care policy, if applicable.

5.a Does the organization operate an emergency room? Yes No

b If no, does your hospital admit patients who have been treated by an emergency room operated by a related organization? Yes No. If yes, EIN for the related organization: _____

c If yes, is it operated 24 hours a day? Yes No

d Other than for being at capacity, or as otherwise permitted by law, did your emergency room deny services to anyone who needed emergency services? Yes No. If yes, explain.

6. Is admission to the medical staff open to all qualified physicians in the area, consistent with the size and nature of the facilities? Yes No

If no, explain _____

7. Does the hospital have a governing body in which independent members represent the interests of the community?

Yes No

8. Does the hospital engage in scientific or medical research? Yes No

9. Does the hospital participate in education and training of health care professionals? Yes No

10. Does the hospital participate in Medicare, Medicaid, and/or other government-sponsored health programs? Yes No

11. Explain how the organization calculates bad debt expense (e.g., does the hospital follow HFMA Principles and Practices Board Statement 15?).

12 a Does the organization have a written debt collection policy? Yes No

b If yes, describe.

13.a Does the organization have a fundraising program to support community benefit activities? Yes No

b Does a related organization have a fundraising program to support community benefit activities? Yes No

c If yes, describe.

14. Provide any other information important to describing how the organization's hospital facilities or related organizations further the hospital's exempt purpose. **[Include live link to web page.]**

From: [Beth Cadle](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject:
Date: Friday, September 14, 2007 3:01:43 PM
Attachments: [IRS Comments 0907.doc](#)

Beth Cadle
Controller
Sturdy Memorial Hospital
211 Park St
Attleboro, MA 02703
(508)236-8153

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s). The information contained in this message is private and confidential, may contain legally protected health information and may be subject to one or more non-disclosure agreements, HIPAA privacy regulations and other laws. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete it from your computer, and destroy all copies of the original message.

Thank you.
Sturdy Memorial Hospital.



STURDY
MEMORIAL HOSPITAL

September 12, 2007

By Electronic Filing

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

RE: COMMENTS ON PROPOSED FORM 990 & RELATED SCHEDULES

Sturdy Memorial Hospital is a 124 bed community hospital. We take pride in delivering quality healthcare in a cost efficient manner to all members of our community. We appreciate the work the Internal Revenue Service (IRS) has put into the revisions to the Form 990 and related schedules. Overall, the proposed form is much better organized than the 2006 Form 990. We also thank-you for listening to our comments on the form.

- Overall, these changes and additions to the Form 990 and supporting schedules will
- **Form 990 – Core Form**
 - Part II, Section B, Lines 5a & 5b – the board of directors of a not-for-profit organization is typically made up of local business people. This is particularly true in small cities and towns, such as ours. These directors will do business with each other as a normal part of conducting business in the community. Requiring a not-for-profit to disclose all of these relationships, without regard to materiality (a \$5,000 transaction is considered immaterial to a larger organization) is burdensome, and does not provide useful information to the reader of the form.
 - Part III, Line 3b – while reporting the number of transactions reviewed under a conflict of interest policy would show that the policy is followed, the reader of the form might interpret any number of reviews as inappropriate, which is a wrong interpretation. This question should be removed.
 - Part III, Line 10 – this question is vague and does not define what “review” procedures the IRS considers appropriate to mark this question “yes”.
 - Part IV, Line 2a – the title of this line is “Medicare/Medicaid payments”. However, the instructions say “all revenues received for medical services, including Medicare and Medicaid payments” should be

reported. The title of this line should be changed to read “net patient service revenue” to correspond to the directions.

- Part V – the instructions for classifying expenses remain inappropriate to hospitals. To suggest that patient account expenses are not program service expenses is incorrect. All insurance companies, including Medicare and Medicaid, have very detailed billing requirements that a hospital must follow in order to get paid. These expenses would be more appropriately included in column B – Program service expense.
- Part V, Line 11f – GAAP accounting requires organizations to net investment management fees against investment income. Including these fees as expenses goes against GAAP. In addition, including investment management fees as an expense will negatively impact the percent of management and general expenses to the total expenses for organizations with large amounts of investments.
- Part VII, Line 11 & 12 – the concepts contemplated in the policies required in lines 11 and 12 can be covered in an organization’s “statement of purpose”. This level of detail should be left to the organization to determine the appropriate avenue for documenting their practices.
- Part VIII, Line 9a – in many large organizations, the largest entity, in our case the Hospital, is the payroll agent for the smaller related organizations. All W-3 information is filed under the payroll agent’s employee identification number. This question does not address this situation.
- **Schedule D**
 - Part V – the instructions suggest that the IRS wants a detailed list of all land building and equipment, unlike the general subcategories that were reported on the 2006 Form 990. A detailed list would be extremely lengthy (the asset list for our hospital is over 1,000 pages long) and would provide an inappropriate level of detail on our purchasing contracts. The instructions for this line should be clarified to require only general categories of fixed assets, as was previously required.
- **Schedule H**
 - Although the title of this form is “Hospitals”, the instructions do not define a hospital, and instead suggest that any provider of health care should complete this form. The instructions should be clarified to define “hospital”.
 - Part I – In addition to unreimbursed Medicaid, the IRS should include a line for unreimbursed Medicare as a community benefit. Like Medicaid, Medicare does not pay the full costs of care.
 - Part I – The IRS should also include a line for bad debt as a community benefit. Sturdy Memorial Hospital operates an emergency room twenty-four hours a day. Anyone presenting in the emergency room is cared for. Because of EMTALA regulations, patients must be treated prior to any collection activities. Frequently, these patients do not provide sufficient information to collect on their accounts and result in bad debt

to the hospital. We, therefore, think it is appropriate to include bad debt as a community benefit. In addition, Sturdy Memorial Hospital works hard to help patients qualify for assistance programs and to collect patient receivables. However, because we believe it is our mission to serve the healthcare needs of all members of the community, we do not attempt to collect outstanding balances through liens and other strong-arm collection methods.

- Part II, Section A – this section should be removed as it does not provide information related to a hospital's community benefit provided.
- This schedule will require hospitals to report information not currently captured. Due to time and potential expense necessary to capture the data requested, the implementation of this schedule should be delayed until 2010.
- **Schedule J**
 - Line 1 – column E, Nontaxable Expense Reimbursements should be removed from this chart. Reimbursement for items under an accountable plan are not considered compensation for IRS purposes, and therefore, should not be considered as part of compensation on this schedule.

Overall, these changes to the Form 990 and supporting schedules will significantly add to the Hospital's administrative burden. It is particularly troublesome that the drafters of these changes still do not recognize bad debt as charitable care. There is no other industry, like ours, where you cannot ask for payment or financial information until after the service is rendered. The emergency room patients are often noncompliant in their healthcare and with little financial means. It is unrealistic to think that a vast majority of these patients can pay their bills. We recommend that the implementation be postponed until a more thoughtful review can be completed.

We appreciate the opportunity to submit our comments. If you have any further questions, please contact me at (508) 236-8150 or at jcasey@sturdymemorial.org. Thank-you

Sincerely,

Joseph F.X. Casey
Treasurer & Chief Financial Officer

CC: Linda Shyavitz, President & Chief Executive Officer

From: [Hopkins, Jane](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Form 990 Comments from Tax Committee of Iowa/Minnesota Health Care Financial Management Association (HFMA)
Date: Friday, September 14, 2007 3:00:04 PM
Attachments: [HFMA AHA 990 Response.pdf](#)

Please find comments from the Tax Committee of Iowa/Minnesota Health Care Financial Management Association (HFMA) which is comprised of public accounting tax practitioners and tax professionals from various health care organizations in Minnesota and Iowa.

Jane Hopkins Gould CPA, MBA

Director, Health Care Practice

Grant Thornton LLP | www.grantthornton.com
200 South 6th Street, Suite 500 North
Minneapolis, MN 55402
612.677.5150 d | 612.332.8361 f
612-963-8553 cell

In accordance with applicable professional regulations, please understand that, unless expressly stated otherwise, any written advice contained in, forwarded with, or attached to this e-mail is not intended or written by Grant Thornton LLP to be used, and cannot be used, by any person for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code.



September 14, 2007

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

RE: COMMENTS ON PROPOSED 990

On behalf of the Tax Committee of the Iowa/Minnesota Healthcare Finance Management Association (MN HFMA), we appreciate the opportunity to comment on the proposed Form 990 (with an emphasis on the draft Schedule H Hospitals). We are writing to share with you our comments on the Form 990 and related schedules

We appreciate the work that the IRS has put into the new form and schedules and its openness to comments from the hospital community. However, we have some concerns about the Form 990 as well as the related schedules.

We are most concerned that the new Hospital Schedule H does not fully allow our hospitals to report the great diversity of community benefits they provide. We believe that Schedule H should not redefine community benefit in a manner that permits others to determine what programs and services are most appropriate for our communities but rather permit each hospital the opportunity to present its contributions to improving health and wellness in its community.

We are proud of our community benefit activities and programs that our member hospitals conduct but recognize that due to geographical, socioeconomic and other demographic considerations that each organization will contribute different levels of community benefit AND conduct different types of community benefit activities. We also believe that in multi-entity health care systems, an opportunity should be afforded to report community benefit at the "system" level as certain activities are synergistic yet conducted entirely within a single entity and/or are tracked and recorded at the consolidated financial reporting entity level.

Form 990 Comments:

Based on our review of the core Form 990, we have a general concern that the Part I Summary section does not provide any area to provide "context" to the raw data presented. From year to year or in comparing urban and rural health care organizations, we feel this data cannot be useful from a comparison basis without some limited narrative. We also believe that in the healthcare industry, there are often "super parent" entities that provide support to the overall system and such community benefit and overall financial presentation should be presented utilizing a "consolidating" schedule versus stand-alone Forms 990 for each entity.

Schedule H Comments:

Based on our initial reviews, our primary concerns with Schedule H that we are asking the IRS to address are:

- The initial filing deadline for Schedule H is far too short and should be extended;
- The full value of hospital community benefit is not included in Schedule H; and
 - √ Schedule H, as presented, does not seek to measure community benefit consistent with Revenue Ruling 69-545 and the *community benefit standard*
 - √ In a multi-entity system, community benefit is often conducted at the system level and thus may not be accurately represented on a hospital-by-hospital basis
- The IRS is requesting information that is unrelated to community benefit and that will not be meaningful to the public. We suggest that responses related to “best practices” should be removed from the form and the form should be streamlined.

WE BELIEVE THAT IMPLEMENTATION OF SCHEDULE H SHOULD BE DELAYED UNTIL AT LEAST 2010 TO ACCOMMODATE THE DELAY THE IRS ANTICIPATES IN ISSUING INSTRUCTIONS, AS WELL AS THE NEED TO ADJUST OR CREATE SYSTEMS TO CAPTURE THE REQUIRED FINANCIAL INFORMATION.

We are committed to transparency. However, the burden of having to reconfigure financial and data record-keeping systems in time to begin capturing the substantial amount of new data required just for the Part I Community Benefit Report by January 1, 2008, is itself a daunting task. It is made virtually impossible by the fact that the instructions, definitions and worksheets needed to collect that data are not expected to be finalized until mid-2008. To require hospitals to overhaul financial and data recordkeeping systems before the definitions, line item instructions and worksheets for making the calculations required for Schedule H are completed is unreasonably costly and disruptive.

Given the number of questions and concerns about Schedule H that have surfaced, we would urge the IRS to consider providing a second draft in 2008 and another review period toward the goal of finalizing the schedule in December 31, 2008. That would give hospitals sufficient time to revise their financial and data record-keeping systems in order to track and capture new information that will need to be reported.

THE FULL VALUE OF THE BENEFITS HOSPITALS PROVIDE SHOULD BE INCLUDED IN SCHEDULE H.

Hospitals qualify for the charitable purpose of promoting health by meeting the community benefit standard. The community benefit standard permits us to tailor our programs and services to the needs of our individual community. Among those needs is providing care for elderly Medicare patients and low-income patients who may not be able to afford the costs of their care. Yet we provide their care proudly, and the costs we absorb in doing so should be reflected as a community benefit on Schedule H.

- √ **Medicare underpayments are community benefit**

Part I “Community Benefit Report” in draft Schedule H allows hospitals to report and receive community benefit credit for Medicaid and other government program underpayments, but not for Medicare underpayments. We believe Medicare underpayments should be included.

Serving Medicare patients is part of the community benefit standard. Medicare, like Medicaid, does not pay the full cost of patient care. As a result, our hospital and community must absorb and compensate for these underpayments. Currently, Medicare reimburses hospitals 92 cents for every dollar spent on care. The Medicare Payment Advisory Commission (MedPAC) in its March 2007 report to Congress cautioned that the situation will get even worse, with margins reaching a 10-year low at *negative* 5.4 percent. Moreover, an increasing number of Medicare beneficiaries are also low-income. More than 46 percent of Medicare spending is for beneficiaries whose income is below 200 percent of the federal poverty level.

Medicare underpayments represent a real cost of serving members of our community and should be counted as community benefit.

√ **The cost of patient bad debt is community benefit**

As currently drafted, Schedule H does not count patient care bad debt expenses as community benefit. We know that a significant majority of bad debt is attributable to low-income patients, who for many reasons decline to complete the forms required to establish eligibility for a hospital’s charity care/ financial assistance program.

A 2006 Congressional Budget Office report cited two studies indicating that “the great majority of bad debt was attributable to patients with incomes below 200 percent of the federal poverty level.” The fact is that despite our best efforts, many of our patients still do not identify themselves as in need of financial assistance. It is important to us and to our community that the full cost of serving our community – including the cost of serving patients who need help paying their bill but fail to ask for it – be recognized and counted as community benefit.

√ **Community benefit in a multi-entity healthcare system might be better presented based on “system” community benefit rather than by looking solely to individual hospital entities**

Many healthcare organizations operate under the “system” concept with a parent entity and numerous second-tier IRC §501(c)(3) hospitals and other healthcare entities. At least in the Midwest, these hospital systems are comprised of rural and urban hospitals; specialty and acute care hospitals; and serve very diverse communities based on geographic location. Thus, each hospital has unique community benefit opportunities and, in some instances, one hospital’s operations effectively subsidize the operations of other healthcare operations and hospitals to maximize overall access to healthcare in a community or region.

Thus, we believe that Page 1, Form 990 and Part I, Schedule H should offer the opportunity to present “consolidated” data along with stand-alone data to more accurately reflect the overall community benefits made by a healthcare system that is comprised of numerous hospitals and other healthcare entities. If this additional presentation is not offered, certain organizations may choose to merge all of their healthcare operations into a single entity to accurately present an organization’s overall contributions to community health and wellness (i.e., community benefit). We believe this action would reduce rather than enhance overall transparency.

SCHEDULE H NEEDS TO BE STREAMLINED TO ELIMINATE QUESTIONS THAT ARE BURDENSOME AND CONFUSING, AND THAT FAIL TO PROVIDE MEANINGFUL INFORMATION TO THE COMMUNITY.

The proposed chart on Schedule H, Part II relating to billing should be eliminated. It has no bearing on determining whether a hospital is meeting the community benefit standard, and it should not be used to create new reporting standards.

Relevant information is already provided in other parts of the Form 990. For example, detailed information on charity care will be provided in Part I of Schedule H. Information related to a hospital’s revenues and Medicare and Medicaid payments will be included in Form 990.

Beyond that, the chart’s added layers of requests for information are burdensome and will require hours of extra staff work to provide useful and meaningful data. Some of the information requested is competitively sensitive. The chart displays information in a form that will confuse, not inform, our community and the chart asks for information that while a *best practice* is not required under statute or regulation.

If the IRS requires more information on our charity care policies and practices, or the way in which we support other community benefit activities and programs, it should ask those questions instead of creating new reporting obligations that would be burdensome and will confuse our communities instead of providing them with the information they need to determine whether we are serving their needs.

We recognize that there are other concerns about Schedule H, Form 990 and many other schedules. We urge you to work with the hospital community to identify and resolve those issues before asking us to file a new Form 990 or any of its schedules.

Thank you for the opportunity to comment on draft Form 990 and related schedules.

Sincerely,

Tax Committees of Iowa/Minnesota Healthcare Financial Management Association

From: [Walker.Vanessa](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Redesign of Form 990 Return
Date: Friday, September 14, 2007 2:58:57 PM
Attachments: [image001.jpg](#)

September 14, 2007

By Electronic Filing

Internal Revenue Service

Form 990 Redesign, SE:T:EO

1111 Constitution Avenue, NW

Washington, DC 20224

On behalf of The Medical Center of Central Georgia, we appreciate the opportunity to comment on the redesigned Form 990 including the new draft Schedule H.

- To support transparency of reporting community benefits, we feel this would be best accomplished by organizations reporting community benefits in compliance with the standards established in the CHA and VHA's *Guide of Planning and Reporting Community Benefits*.
- With the IRS taking into consideration all of the comments allowed at this time, we encourage a second draft be presented with a review period allowed before final forms and instructions are released.
- We feel the time period to comply with new reporting requirements is definitely too short. We recommend implementation be deferred at least until tax year 2010 to allow organizations time to put processes in place to capture data in the format needed once final instructions are received from the IRS.
- Part II relating to billing and collections should be eliminated as it does not determine if a hospital is meeting the standards for reporting community benefits.

As it relates to comments on the entire Form 990 redesign, VHA represents our position and we appreciate consideration when finalizing the redesigned Form 990 and related schedules.

Thank you.

Vanessa E. Walker

Controller

Central Georgia Health System

E-mail: walker.vanessa@mccg.org

mccg.org email firewall made the following annotation

CONFIDENTIALITY NOTICE:

The information transmitted in this e-mail message, including any attachments, is for the sole use of the intended recipient(s) or entity to which it is addressed and may contain confidential, privileged and/or proprietary information. Any unauthorized review, retransmission, use, disclosure, dissemination or other use of, or taking any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you are not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by reply e-mail, or by calling (478) 633-7272, and destroy the original message, attachments and all copies thereof on all computers and in any other form. Thank you. The Medical Center Of Central Georgia. <http://www.mccg.org/>

09/14/07, 14:58:48

From: [Singer, Kaye](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Form 990 Revision
Date: Friday, September 14, 2007 2:55:24 PM
Attachments: [Form 990 Redesign Comments.doc](#)

Attached please find our comments on this revision.

Thank you for the opportunity to see the product and make comments.

K. M. Singer, EA
Sr. Tax & Finance Analyst
Nebraska Methodist Health System Inc.

This message and any included attachments are from Nebraska Methodist Health System and its affiliates and are intended only for the addressee. The message may contain privileged, confidential and/or proprietary information intended only for the person(s) named. Unauthorized forwarding, printing, copying, distribution, or use of such information is strictly prohibited and may be unlawful. If you are not the addressee, please promptly delete this message and notify the sender of the delivery error by e-mail or you may call Nebraska Methodist Health System and its affiliates in Omaha, Nebraska, U.S.A at (402)354-2280.

Form 990 Redesign Comments

We applaud the work of the IRS in undertaking this redesign. On the whole it provides information that will enable readers to have comparative information on which to base decisions.

There are a few comments that we would like to add to those already submitted.

- 1) Core Form, Part I – We question whether the ratios should be required since these are not commonly used formulas and would appear to have limited use to the reader.
- 2) Core Form Part II, Section A – The requirement to include city and state of residence goes to the concerns of privacy. There are many tools available to individuals today to allow one with relative ease to obtain the street address once provided with the city and state information. This could pose a potential safety risk that should be considered.

We recommend discretion in allowing the reporting either the employer's address or home address in lieu of the residence address.

- 3) Section B – We question the 5 year timeframe. This would require continuing communications with a board member/director who may have gone off the board in a year and have no contact with the organization. Many organizations do not have the staffing required to do the necessary, continuing follow-up that will be required.
- 4) Section B – Line 9: It would be difficult, if not impossible to get the information about compensation from “any source other than the organization or a related organization for services rendered to the organization” with which to complete Schedule J. What would happen in the case of a director who worked for a company that offered pro bono services to the organization? Would this also need to be reported?
- 5) Core Form, Part IX – More room is needed to discuss the program accomplishments particularly for those organizations which are required to electronically file the Form 990 where there is limited character space. Significant accomplishments cannot be described in a sentence or two. We would hope the electronic space issue will be addressed throughout the new form.
- 6) Schedule A, Supplementary Information, Line 11g – will the August 17, 2006 date be adjusted or will there be a recordkeeping requirement for organizations to maintain contribution information for the duration of this form?
- 7) Schedule G, Supplemental Information Regarding Fundraising Activities – this form provides excellent guidance on gaming and fundraising reporting. On Part I, question 1b, we wonder what would be the method of proof on an oral agreement. We recommend using the wording “Did the organization have an agreement with any individual...” and using the information from Form 1099-MISC in column (iv) and possibly column (v) of the table.

From: Kim.Liska@medicorp.org
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Form 990 Revisions Comment Letter - MediCorp Health System
Date: Friday, September 14, 2007 2:17:42 PM
Attachments: [Comments on Proposed Form 990 - MediCorp Health System.pdf](#)

Please accept the following comment letter regarding the Form 990 revisions from MediCorp Health System. We thank-you for the opportunity to make comments.

Kim Liska
Regulatory Affairs
(540) 741 2277



MediCorp Health System

September 14, 2007

VIA EMAIL (Form990Revision@irs.gov) ONLY

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

RE: Comments on Proposed Form 990 and Schedules

On behalf of MediCorp Health System, a regional health system based in Fredericksburg, VA, we thank you for the opportunity to comment on the new draft Form 990 and its proposed schedules. We appreciate the work that the IRS has put into the new form and schedules and its openness to comments from the hospital community.

However, we do have serious concerns about the filing deadline proposed by the IRS for the implementation of the new Form 990 and its proposed schedules as well other detailed issues as described below.

- I. Implementation** - Implementation of the proposed “Core Form” and each of the schedules should be delayed until 2010 to accommodate the delay the IRS anticipates in issuing instructions, as well as the need to adjust or create systems to capture the required financial information.

The burden of having to reconfigure financial and data record-keeping systems in time to begin capturing the substantial amount of data required within the Core Form and Schedules H and K make it necessary for exempt organizations to delay the effective date for implementing these forms. It is made virtually impossible by the fact that the instructions, definitions and worksheets needed to collect that data are not expected to be finalized until mid-2008. To require hospitals to overhaul financial and data recordkeeping systems before the definitions, line item instructions and worksheets for making the calculations required for Schedule H and Schedule K are completed is unreasonably costly and disruptive. Also, if the Core Form is changed to disallow an organization to file a group return, a considerable amount of time and resources will be required for such organizations to gather and report data separately.

II. Core Form – The following comments and suggestions apply only to the Core Form.

- Why was the box for the group exemption number deleted? Is the IRS proposing changes to the process or manner in which group exemptions are granted?
- The IRS should not limit the ability of an organization to file a group return as this would eliminate the ability of a health system to report information as a cohesive group. This is how many health systems gather and report such information. If multiple returns are required, this would result in less transparency as it would force the public to search through numerous returns to better understand how a health system is structured and the types of services it provides.
- The Core Form limits the ability of an exempt organization to use separate attachments. What if the space provided on the Core Form is insufficient to describe changes within the governing documents or program service accomplishments? Exempt organizations often include a report of program service accomplishments within Form 990 filings in an effort to describe their services and the manner in which they benefit the community they serve. The proposed format would significantly limit this ability.
- Will exempt organizations still need to separately submit entire copies of amendments and restatements of Articles or Bylaws to the IRS or would disclosures within the proposed Form 990 satisfy this requirement?
- Part II requires the exempt organization to include compensation paid to any former officer, key employee or highly compensated employee who received more than \$100,000 from the exempt organization or any related organization during the tax year. The IRS should limit this reporting requirement by establishing a fixed look-back period of five years in order to limit the reporting burden placed on tax exempt organizations.
- The Core Form asks about changes to policies within questions about governing documents (Part III, Line 2). The instructions reference whistleblower policies, conflict of interest policies, record retention policies, procedures of audit committee and policies addressing the compensation of officers, directors and key employees. Are these policies now required or recommended by the IRS? Will the IRS provide further guidance on a suggested form (as with the conflict of interest policy)? Please clarify in the instructions if the exempt organization is required to report changes in any of these specific policies within the Form 990 and separately to the IRS.
- On Part V, Line 18, please clarify that an exempt organization must report expenditures incurred for travel by a public official employed by the exempt organization only for public business, not business related to their work at the exempt organization.

III. Schedule H – Hospitals – The following comment and suggestion applies only to Schedule H.

- Physician recruitment expenses should be included within community benefit calculations to the extent that they are a part of the overall community benefit strategy.

IV. Schedule J – Compensation – The following comments and suggestions apply only to Schedule J.

- Question 1 requests information regarding accrued but not vested deferred compensation and also requests information about amounts paid.
 - We suggest removing the column for nonqualified deferred compensation that is not vested. It would be misleading to report this information if it is never paid by the exempt organization due to forfeiture.
 - Alternatively, we suggest restructuring this question to avoid double-reporting so the public clearly understands the difference between paid and accrued but not vested compensation.

V. Schedule K – Bonds – The following comments and suggestions apply only to Schedule K.

- This form imposes new annual reporting requirements on tax exempt organizations concerning specific information that would be burdensome to track and report with specificity. We suggest limiting the structure of the form to mirror the substance and timeline of prior filings made under the IRS Form 8038 series in an effort to minimize the extensive burden that will be placed on exempt organizations to gather, compile, monitor and report this data on a continuing basis. Further, we also suggest limiting the use of the schedule to situations in which an IRS Form 8038 series filing is made or when there is a material change in use or bond proceeds or aggregate private business use.
- Should private business use under management contracts and sponsored research agreements be aggregated or separately reported? Please clarify in the instructions.

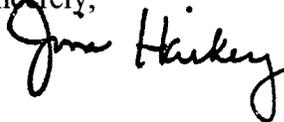
VI. Schedule R – Related Entities – The following comments and suggestions apply only to Schedule R.

- Part V exempts gift and grant transactions between 501(c)(3) organizations. Does this include “transfers”? If not, what is the difference between a gift and a transfer?
- If all transfers between an exempt organization and each of its exempt related entities need to be reported, should this information be aggregated? With many exempt

organizations, transfers are made on a daily basis and would be burdensome to report on an itemized basis. We suggest permitting the use of a summary report. Please clarify in the instructions.

Thank you for your consideration of these comments and concerns and for the opportunity to provide feedback on the Proposed Form 990 and its schedules.

Sincerely,

A handwritten signature in black ink that reads "Jina Haikey". The signature is written in a cursive style with a large initial "J" and a long, sweeping tail on the "y".

Jina Haikey
Vice President, Regulatory Affairs

From: [Clifton Iler](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Draft Redesigned Form 990
Date: Friday, September 14, 2007 2:07:43 PM
Attachments: [KMBT20020070914135130.pdf](#)

Attached please find MCG Health, Inc.'s comments on the new draft Schedule H

Clifton M. Iler
Associate General Counsel
Office of General Counsel
MCG Health, Inc.
1120-15th Street, BA-8255
Augusta, Georgia 30912
T: 706.721.5709 F: 706.721.9631

Confidentiality Notice

This message is being sent by or on behalf of a lawyer. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message.



Don Snell
President and Chief Executive Officer

September 14, 2007

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

Re: Comments on Schedule H

I am writing on behalf of MCG Health, Inc. ("MCGHI"). MCGHI is a 632 bed children's hospital/ teaching hospital / safety net hospital (Level I Trauma Center, Level III NICU, only private psychiatric service in the region), that serves the patients and families of Georgia, South Carolina, and much of the Southeast. I am writing to comment on the new draft Schedule H (Hospitals) to Form 990.

MCGHI appreciates the work that the IRS has put into the new form and schedules and its openness to comments from the hospital community. However, MCGHI believes that there are serious issues that need to be addressed related to the new Schedule H. The new Hospital Schedule H should allow all hospitals to report the great diversity of community benefits they provide, and it should not redefine community benefit in a manner that permits others to determine what programs and services are most appropriate for each hospital's community.

MCGHI has three primary concerns with Schedule H that it would like the IRS to address: (1) The filing deadline for Schedule H is far too short and should be extended; (2) The full value of hospital community benefit is not included in Schedule H and should be included; and (3) The IRS is requesting information that is unrelated to community benefit and that will not be meaningful to the public and, thus, should be removed from the form.

IMPLEMENTATION SHOULD BE DELAYED UNTIL 2010

MCGHI is committed to transparency. However, the burden on hospitals to reconfigure financial and data record-keeping systems in time to begin capturing the substantial amount of data required just for the Part I Community Benefit Report by January 1, 2008, is itself a daunting task. It is made virtually impossible by the fact that the instructions, definitions and worksheets needed to

collect that data are not expected to be finalized until mid-2008. To require hospitals to overhaul financial and data record-keeping systems before the definitions, line item instructions and worksheets for making calculations required for Schedule H are completed is unreasonable.

Given the number of questions and concerns about Schedule H that have surfaced, MCGHI urges the IRS to consider providing a second draft in 2008 and another review period toward a goal of finalizing the schedule by December 31, 2008. That would give hospitals sufficient time to revise their financial and data record-keeping systems in order to track and capture new information that will need to be reported.

THE FULL VALUE OF ALL COMMUNITY BENEFITS SHOULD BE INCLUDED IN SCHEDULE H

Hospitals qualify for the charitable purpose of promoting health by meeting the community benefit standard. The community benefit standard permits hospitals to tailor their programs and services to the needs of our individual communities. Among those needs is providing care for elderly Medicare patients and low-income patients who may not be able to afford the costs of their care. Yet hospitals provide such care proudly, and the costs hospitals absorb in doing so should be reflected as a community benefit on Schedule H. Consequently, hospitals should be able to report both Medicare underpayments and bad debt as community benefit. It makes no sense to receive community benefit credit for Medicaid underpayments and not allow a similar benefit for Medicare underpayments. It also makes no sense not to count bad debt expenses as community benefit when we know that a significant majority of bad debt is attributable to low-income patients.

SCHEDULE H NEEDS TO BE STREAMLINED

The proposed chart on Schedule H, Part II relating to billing should be eliminated. It has no bearing on determining whether a hospital is meeting the community benefit standard, and it should not be used to create new reporting standards.

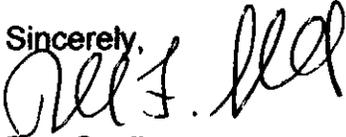
Relevant information is already provided in other parts of the Form 990. For example, detailed information on charity care will be provided in Part I of Schedule H. Information related to a hospital's revenues and Medicare and Medicaid payments will be included in Form 990. Therefore, this additional and irrelevant information is not needed.

Letter to IRS
September 14, 2007
Page 3

We recognize that there are other concerns about Schedule H, Form 990 and many other schedules. We urge you to work with the hospital community to identify and resolve those issues before implementing a new Form 990.

Thank you for the opportunity to comment on draft Schedule H.

Sincerely,



Don Snell
President and CEO
MCG Health, Inc.

From: [Tonya Nottmeier](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Tonya Nottmeier;](#)
Subject: Submission of the Trinity Health Comment letter on the revisions to the Form 990
Date: Friday, September 14, 2007 2:04:07 PM
Attachments: [Trinity Health Comments on the Form 990 final 9-14-07.pdf](#)

Tonya W. Nottmeier
Director, Federal Advocacy
Trinity Health
27870 Cabot Drive
Novi, MI 48377-2920

Phone: 248-489-6068

September 14, 2007

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

27870 Cabot Drive
Novi, MI 48377-2920
ph 248.489.5004
34605 Twelve Mile Road
Farmington Hills, MI 48331-3221
ph 248.489.6000

www.trinity-health.org

Dear Mr. Schultz:

On behalf of our 31 acute care hospitals operating in Maryland, Ohio, Michigan, Iowa, Indiana, Idaho, Nebraska, and California, Trinity Health appreciates the opportunity to submit comments on the revisions to the Form 990 and its revised and new Schedules. Our hospitals, along with other nonprofit hospitals, have been promoting the health of our communities for well over 100 years, in part by providing charity care and community benefit.

We appreciate the work that the IRS has put into the new form and schedules and its openness to comments from the hospital community. Several of us at Trinity Health advanced our understanding of the revised forms by participating in association-led calls, which included IRS representatives. We wish to express our gratitude to the IRS for making the effort to engage in those direct discussions with tax-exempt organizations.

General Remarks

Trinity Health applauds the utilization of the CHA/VHA community benefit framework which will increase transparency and consistency in charity care and community benefit reporting, and which a growing number of hospitals have adopted on a voluntary basis. We were part of the group that worked to refine this methodology and have been actively advocating along with CHA for expanded use of the approach for several years.

As we developed our comments for the IRS, we kept the guiding principles of the Form 990 redesign project in mind. We understand those guiding principles to be:

- Enhancing transparency to provide the IRS and its stakeholders with a realistic picture of the filing organization;
- Promoting compliance by accurately reflecting the filing organization's operations, so the IRS may efficiently assess the risk of noncompliance; and
- Minimizing the burden on filing organizations.

Our comments are offered in the spirit of creating the appropriate balance of these competing guidelines, so that tax-exempt hospitals can continue to focus on their essential purpose of caring for their communities.

Transitional Relief Requested

Comment:

Trinity Health recommends that the IRS extend the implementation period for the redesigned Form 990 (in particular Schedules H and K) to the tax year following the year the 990 Form and related instructions are finalized.

In addition, specific to Schedule K, we request that the IRS consider the following:

- Require Schedule K for prospective bond issues only
- Exclude legally defeased bonds that are not outstanding on the financial statements from Schedule K

Rationale:

If the Redesigned 990 Form and related instructions are finalized in 2008, the new Form 990 should apply to tax years beginning in 2009 (returns filed in 2010). It would take time to change accounting systems and procedures to comply with the new Form 990. To require a change mid-year to restructure existing accounting systems would place an undue burden on organizations. A more efficient and effective approach would be to provide a longer transition period so that the systems could be in place on the first day of the tax year in which the new 990 applies.

Pertaining to the reporting on tax-exempt bonds, we understand how the expansion in the reporting in this area certainly helps the IRS meet its goals to “enhance transparency” and “promote compliance.” However, it does so by sacrificing the IRS goal to “minimize the burden on filing organizations.” In the tax-exempt bond reporting sections there are redundancies in the way questions are asked and disclosures are required. The necessary recordkeeping is far beyond what has been required historically. For example, in completing Part III of Schedule K the level of due diligence each year that would be necessary to fully and accurately answer these questions would nearly require a self-audit of private use for each individual bond issue.

As a mission driven organization concerned with being good stewards of our resources, it pains us to estimate the amount of additional resources that will be necessary to complete Schedule K. We would ask to you please reconsider the balance that you strike between enhancing transparency, promoting compliance and minimizing burden as you finalize the portions of the form related to tax-exempt bonds.

COMMENTS RELATED TO CORE FORM 990

Form 990: Part I Summary

Form 990: Part I Line 1 – This line, “Briefly describe the organization’s mission,” gives the hospital an opportunity to talk about the great work that it is doing in the community or communities that it serves. Similar to the suggested changes in Schedule H, we would like to see the opportunity to create a link to our web page on this line.

We appreciate that the IRS recognizes the importance of describing the mission on the page that is also going to contain the “snapshot” or “scorecard” of questions about governance, compensation, revenues, expenses, and the balance sheet. The summary will become a focal point of reference for external

audiences and we would appreciate it if the IRS would consider adding some of the community benefit measurements to this summary as well.

Form 990: Part I Line 8b – The ratio of program service officer/director/key employee compensation to **total program service expenses** would be too arbitrary. A more meaningful ratio would be total officer/director/key employee compensation divided by **total expenses**. In comparing organizations to each other, there could be large variations in how much officer compensation is allocated to the program service column vs. the management and general column in Part V.

Form 990: Part III Statements Regarding Governance, Management and Financial Reporting

Form 990: Part III Line 8 – For a multi-entity health care system that issues consolidated financial statements, should the “audit” box be checked for a subsidiary that is included in the consolidated financial statements? Or should the “audit” box be checked only if separate audited financial statements are issued for that particular subsidiary?

Form 990: Part III Line 9

Comment:

Line 9 asks whether the organization has an audit committee. We believe this question should be revised as follows: “Does the organization have an audit committee (or other committee such as finance, investment, executive or the entire board acting as a committee of the whole) that oversees the audit function?”

Can you please clarify how this question be answered for a subsidiary in a multi-entity health care system that issues consolidated financial statements? Should we answer “yes” only if the reporting organization itself has an audit committee?

Rationale:

With smaller hospitals especially, many functions (finance, investment and audit) are combined into one committee, sometimes the executive committee. The name of the committee is not important, but what people reading the 990 presumably want to know is whether the board, or a committee thereof, rather than employed officers, oversees the audit function and the work of the auditor.

Form 990: Part III Line 10

Comment:

Line 10 asks whether the governing body reviewed the form 990 before it was filed. Trinity Health would ask you to consider removing this question. Also, the governing body description is not adequately defined.

Rationale:

There is no tax code requirement for board review for 501(c)(3) organizations or taxable organizations. Since the filing is already subject to a penalty of perjury, isn't that enough? If the IRS keeps the question, it would be very helpful if the question could be more flexible and ask if the form is reviewed (not necessarily before filing). Also, if the question would consider committees of the board an acceptable reviewing body, that would be helpful, too.

Form 990: Part IV Statement of Revenue

Form 990: Part IV Column D – It would be helpful if the instructions gave examples of revenue excluded from tax under IRC Sections 512, 513, or 514. Smaller taxpayers with little or no tax background or resources are not going to know what should be included in this column.

Form 990: Part IV Line 2a – On the form, this line is entitled “Medicare/Medicaid payments.” But in the instructions, it says that all revenues received for medical services, including Medicare and Medicaid payments should be reported on this line. Either the form or the instructions should be changed to be consistent with each other.

Form 990: Part IV Line 6 -- Income from Investment of Tax-Exempt Bond Proceeds
Instructions: “Report on line 6 all investment income from unspent bond proceeds, reserves, escrows, and similar amounts.”

Can you please clarify whether debt service funds and all other “gross proceeds” under the Regulations constitute “similar amounts” under the instructions.

Form 990: Part IV Line 12 – The old 990 instructions stated that sales of inventory items by Hospitals could be reported as program service revenue, instead of reporting them as gross sales of inventory. It would be helpful if the IRS could clarify whether it wants Hospital sales of inventory to be reported in the program service revenue section as before, or whether such sales should now be reported on line 12a.

Form 990: Part V Statement of Functional Expense

Form 990: Part V Lines 5 and 6– Compensation for these 2 lines is to be reported based on the accounting method used by the organization, while Part II and Schedule J is to be reported based on a calendar year. A fiscal year taxpayer would thus be required to gather compensation information twice: once for Part V based on its fiscal year, and once for Part II and Schedule J based on the calendar year. This double reporting would be very burdensome for a fiscal year taxpayer. Our suggestion would be to eliminate Lines 5 and 6 from Part V, since the detailed compensation information in Part II and Schedule J will be of more interest to the general public. If a primary goal of the IRS is to increase transparency, then it would be better to require the reporting of disqualified person compensation and benefits information in Part II and Schedule J, and eliminate line 6.

Form 990: Part VI Balance Sheet

Form 990: Part VI Lines 7 and 14 – Assuming a nonemployed physician does not meet the definition of a “disqualified person,” should a receivable related to a physician income guarantee be reported on line 7 or on line 14? Clarification of this reporting issue would be helpful.

Form 990: Part VI Line 21 – Tax-Exempt Bond Liabilities - Complete Schedule K
Instructions: “Enter the amount of tax-exempt bonds (or other obligations) issued by the organization on behalf of a state or local governmental unit, or by a state or local governmental unit on behalf of the organization, and for which the organization has a direct or indirect liability. Tax-exempt bonds include state or local bonds and any obligations, including direct borrowing from a lender, or certificates of participation, the interest on which is excluded from the income of the recipient for federal income tax

purposes under section 103. The organization must also complete Schedule K, Supplemental Information on Tax-Exempt Bonds.”

It would be helpful to have clarity around the treatment of legally defeased bonds which are no longer reported on the balance sheet of the organization. It is not clear whether the response to Line 21 here in Part VI should exclude legally defeased bonds, or whether the answer to Line 21 in Part VI should be consistent with the answer to Line 6a in Part VII. Each of these separate lines currently requires completion of Schedule K, which, for the sake of consistent responses, appears to require reporting of defeased bonds on Line 21 if they are also to be reported on 6a.

Form 990: Part VI Lines 25 and 26 – Should all notes payable to related parties be reported on line 26, regardless of whether the debt is secured or unsecured? Clarification of this reporting issue would be helpful.

Form 990: Part VII – Statements Regarding General Activities

Form 990: Part VII Line 6a

Please clarify this area. Reporting information on legally defeased bond issues will involve significant legal and accounting work to provide the necessary information, which we expect in most cases would be redundant. The same information should be available for the outstanding bond issues, which refunded and defeased such bonds and which information would also be reported on Schedule K.

Form 990: Part VII Line 6b

Can the IRS please provide more clarity around this Line and its instructions. As written this question is very broad in scope. The Code and related Regulations permit unspent proceeds to be invested following a temporary period in many circumstances, so long as yield restriction of investments is employed in compliance with the Regulations, or so long as yield reductions payments are made when permitted. Yet, the question requires a “yes” or “no” response with no opportunity to state that amounts invested following the expiration of the temporary period have been made in compliance with the provisions of the Code and Regulations. The Code and Regulations recognize that there can be many legitimate reasons why a bond issue may have unspent proceeds beyond the end of a temporary period due to circumstances which arise following closing that were not foreseeable at the time the bond issue was delivered.

Form 990: Part VII Line 6c

We believe it was an oversight that “current (fully paid not more than 90 days from closing) refunding escrows” were not specifically excluded in this question. Can you please clarify?

Form 990: Part VII Line 6d

Given the infrequent and almost unheard of issuance in recent years of healthcare debt under Revenue Ruling 63-20, can the IRS explain why you are asking this question?

Form 990: Part VII Line 8a – Per the instructions, line 8a should be answered “yes” if the organization conducted all or a substantial part of its exempt activities through or using a partnership, LLC, or corporation. The instructions do not clearly define the term “substantial part.” A more objective standard is needed to be able to answer the question.

Form 990: Part VII Line 8b

Comment:

We recommend that the IRS consider some thresholds before a nonprofit is required to disclose joint ventures: a minimum percentage of ownership by the nonprofit, a minimum value of the interest held by the nonprofit, a minimum amount of revenue generated by the joint venture, etc.

Rationale:

Our recommendation for a threshold stems from recognizing that the list from some corporations that operate many different hospitals could be so long as to be difficult to analyze meaningfully. It is also worth noting that there are three places in three different forms that hospitals are required to provide information on joint ventures in the discussion drafts. This redundancy goes against the goal of minimizing burden and increases the risk of error in form completion.

Form 990: Part VII Line 8c – This question must be answered “yes” if the organization holds an ownership interest in an entity if that entity is managed by a separate company that is controlled by taxable owners of such entity. This question could be very difficult to answer. A tax-exempt organization would not necessarily have access to information on the ownership of a joint venture’s management company. We suggest this question be removed.

Form 990 Part IX Statement of Program Service Accomplishments

Form 990: Part IX Line 3 – This section requires an activity code to be entered for the top three program service activities. Currently, no list of activity codes has been provided in the instructions.

Form 990: Part IX Line 3(e) – Is the total direct revenue reported in column (A) supposed to tie to another section of the form, such as Part IV, Line 2g (total program service revenue)?

COMMENTS RELATED TO SCHEDULE A

Schedule A: Part I Line 11f – Our experience has been that only recently issued determination letters specify a supporting organization’s type. Therefore many supporting organizations will be checking “No.” Will this raise any kind of red flag?

Schedule A: Part I Line 11i, column (iv) – According to the instructions, this question is answered “yes” if the supported organization is specifically named as a supported organization in the organization’s governing documents. Many large health care systems have been organized with a Section 509(a)(3) parent organization. Typically the governing documents of such an organization would not list each supported organization by name because it would require amending the articles every time the health system had an acquisition or divestiture. Instead, the governing documents state that the parent organization supports its “controlled affiliates” or some other generic term. In this situation, should the parent organization answer this question no? Please clarify.

Schedule A: Part I Line 11i, columns (v) and (vii) – It seems that these questions are more applicable to Type III, and not to Type I or Type II organizations. For example, it is not clear how a Section 509(a)(3) parent organization of a large health care system would answer column (vii).

COMMENTS RELATED TO SCHEDULE B

Schedule B: Part I – Should government grants be included in Schedule B? Please clarify in the instructions.

COMMENTS RELATED TO SCHEDULE D

Schedule D: Part IX – What is the difference between column (a), Donor Advised Funds, and column (b), Funds and Other accounts? Please provide additional clarification.

Schedule D: Part XIII – It is not clear which lines must be added together to get from line 4, BOY net assets down to line 9, EOY net assets. It would seem more logical to start with BOY net assets, add net income (revenue minus expenses), plus other changes in net assets to arrive at EOY net assets. We are confused how lines 5 through 7 would enter into this calculation.

COMMENTS RELATED TO SCHEDULE F

Comment:

Many health systems that have captive or subsidiary insurance companies that are incorporated in a foreign country should not be required to prepare Schedule F because of this foreign domicile and absent any activities or programs of a charitable nature in a foreign jurisdiction or country.

Rationale:

Many hospitals have subsidiary or captive insurance companies that are incorporated in foreign jurisdictions. We believe that the intent of Schedule F is to report charitable activities, operations and grants in foreign countries. It should not apply to an entity domiciled in a foreign country that conducts its activities in the United States. A hospital's subsidiary insurance company should not be reported on Schedule F.

COMMENTS RELATED TO SCHEDULE G

Schedule G: Part I Line 1b – The instructions suggest that this table is required to be completed for agreements with fundraisers who were hired to conduct a particular fundraising project or event. Please clarify under what situations this table is required.

The description on the face of Schedule G suggests that this table is required for any payments made for activities checked on Line 1a, which includes special events. If this table had to be completed for all agreements relating to all special events, there would be payments to caterers, entertainers, printers, etc. which would be excessively burdensome. If special events details are desired for Line 1b, then the scope should be narrowed, perhaps to the largest special event.

Part III, Line 10a – Please define “nominal value” as it relates to non-cash items which may be given to workers.

COMMENTS RELATED TO SCHEDULE H

General

Relative to Schedule H of the revised form, Trinity Health is in agreement with all of the suggestions and attachments submitted by the CHA in their comment letter. We have not repeated the CHA remarks in our comments at your request to refrain from simply repeating others comments.

Schedule H: Additional Community Benefit Questions to Capture the “Non-Quantifiable” Elements

Trinity Health strongly believes that community benefit is much more than simply "numbers." Hospitals currently qualify as charitable organizations eligible for tax exemption if they engage in the “promotion of health” and provide community benefits, including the use of surplus funds to improve healthcare. By collecting and measuring the “community benefit” of a hospital with only numerical formulas (as the form is currently written) the much broader and infinitely more important mission of hospitals to promote the health of their communities is disregarded.

In addition to countable activities, not-for-profit hospitals play a critical leadership and facilitating role in improving the health of their communities by:

- Reinvesting surplus funds into the health of the community rather than distributing profits to shareholders
- Leading community-wide efforts to identify needs and develop collaborative programs that may or may not incur direct hospital expense
- Providing services that generate low or negative financial margins in response to community needs
- Often serving as a sole provider in what would otherwise be underserved communities
- Acting as a vehicle for attracting and effectively using donated funds on behalf of the community – and for attracting volunteers
- Advocating for responsible public policies
- Leading efforts to improve the quality, safety, and efficiency of healthcare for their patients and their communities

As the form is currently drafted there is little room to describe or demonstrate the value of these other critical health promotion activities. Because of that, we support two new Parts at the beginning of Schedule H (drafted by the CHA), which contain questions designed for hospitals to provide more complete information about themselves and the full scope of their community benefit activities. The information that these new Parts request not only furthers the IRS goal of enhancing transparency, but also directly addresses the community benefit elements described in Rev. Rul. 69-545.

Schedule H: Provide Guidance to Discern Between Charity Care and Bad Debt (To Be Included in the Instructions)

Comment:

We urge the IRS to adopt the standards and use the language set forth in the Healthcare Financial Management Association’s (HFMA) Statement 15, which provides a thoughtful and useful way of addressing the issue of differentiating between charity care and bad debt. HFMA Statement 15 requires that the organization make every practical effort to make charity care eligibility determinations

before or at the time of service but recognizing that determinations can be made at any time during the revenue cycle and that there should be no rigid time limit for when determinations are made.

Rationale:

It is our belief that there have been issues surrounding the differentiation between charity care and bad debt for several years. It is extremely difficult in many instances to determine whether a particular patient is eligible for charity care at the point of delivering care, and it is often the case our hospitals, despite their best efforts, cannot make that determination until some considerable period of time after the care has been provided. This includes, in some cases, waiting until after collection efforts have commenced and the information then becomes available.

Clarity from the IRS on this issue would certainly address the stated objective of “enhancing transparency to provide the IRS and the public with a realistic picture of the filing organization.” If the IRS adopted HFMA Statement 15, it would specifically allow hospitals to report writeoffs for accounts for those patients that cannot afford to pay as charity care (even if the determination of their inability to pay was made later in the billing process). This would provide a more realistic picture of the financial resources dedicated to serving the uninsured and underinsured by the filing organization.

Schedule H: Medicare Shortfalls and Bad Debt

Trinity Health (in agreement with the CHA) supports the IRS's position that Medicare shortfalls and Bad Debt should not be included in the Community Benefit Report.

Schedule H: Part I Line 3

Comment:

In agreement with the CHA, Trinity Health recommends that the IRS add the following underlined words to Part 1, Line 3: “unreimbursed costs of other means-tested government programs.”

Schedule H: Part 1 Line 4

Comment:

In agreement with the CHA, Trinity Health recommends that the term in Part 1, Line 4, “Total Charity Care,” be changed to “Benefits for Means-Tested Government and Charity Patients.”

Schedule H: Part I Lines 9 and 10

Comment:

We strongly recommend that the IRS add a line titled, “Community Building Activities,” in between lines 9 and 10 of Part I of Schedule H.

Rationale:

Consistent with the way that Trinity Health is currently using the CHA/VHA guidelines, the inclusion of the community building category in the community benefit report is fundamental to a well-defined understanding of community benefit for the following reasons:

- Community building activities support the health of persons in communities by preventing disease and injury, clearly an important aspect of "promotion of health," the basis for hospital tax exemption.
- Community building activities, like all community benefit programs, come about because of a community needs assessment and board approval.
- Community building services would otherwise be the responsibility of government, therefore providing community building services relieves a government burden.
- Community building activities help to distinguish not-for-profit tax-exempt hospitals.
- Not allowing the inclusion of community building activities would provide a disincentive to hospitals, to the detriment of community health.
- Community building activities are part of a comprehensive community benefit reporting system

By adding a duplicative reporting requirement, the IRS would be going against one of its main goals of revising the Form 990 , which is to **minimize the burden on filing organizations** (see goals on page 1). The category of community building is a fundamental part of the CHA reporting process used by over 1,000 hospitals, which the Internal Revenue Service has chosen to use for reporting community benefit. If one of eight categories in the reporting framework is excluded, the overall reporting system is disrupted. Organizations carrying out these programs will have to develop duplicative reporting systems.

Schedule H: Part II – Billings and Collections

Comment:

Trinity Health recommends that Part II of Schedule H be deleted.

Rationale:

Trinity Health believes that Part II reflects a departure from the IRS application of Revenue Ruling 69-545, which sets forth the community benefit standard. This ruling does not mention billing and collection at all. Neither the IRS nor Congress has ever stated that a hospital's billing and collection and discount practices are a basis for tax-exemption. However, Trinity Health believe that how we treat our patients in the billing and collection process reflects upon our commitment to respecting the dignity of the patient. For this reason, we support the proposed CHA question about billing and collection practices which can be found in their comment letter.

Beyond the legal argument against the collection of this information, there are many issues from a practical perspective. Complying with the requirements of this section of the form would be incredibly burdensome, and would certainly undermine your stated guideline of minimizing burden on the filing organization. Hospital billing operations are complicated by their very nature. Hospitals do not retain

the data in the same discrete categories requested by the IRS. For example, our hospitals classify patients as “self pay,” not “insured” and “uninsured” as the chart would require. Sorting data to satisfy the chart’s requirements would be immensely burdensome.

Schedule H: Part III – Management Companies and Joint Ventures

Comment:

Trinity Health believes the questions on management companies and joint ventures should be moved to Schedule R and answered by all nonprofit organizations.

We also recommend that IRS consider determining a threshold before a nonprofit is required to disclose joint ventures. Without a threshold the information provided by a larger health system would be so voluminous it would difficult for the IRS to analyze it.

A suggested threshold would be to use both a minimum percentage of ownership by the nonprofit and a minimum amount of revenue generated by the joint venture as a percentage of the organization’s total revenue.

Rationale:

Many nonprofits, not just hospitals, participate in joint ventures (schools, trade associations, museums, and low-income housing organizations to name a few). We do not believe that hospitals should be singled out. Moreover, to the extent that other nonprofits participate in joint ventures, we believe that in the interests of transparency and disclosure such nonprofits should also disclose their joint venture activities.

The IRS should be aware that in some circumstances hospitals may not be able to disclose the ownership interest of other parties due to confidentiality provisions in the agreements with those parties. Moreover, to the extent a hospital is a minority owner, it may not know the ownership interest of other parties. For these reasons, the hospital should only be required to disclose its own interests.

Our recommendation for a threshold stems from recognizing that the list from some corporations that operate many different hospitals could be so long as to be difficult to analyze meaningfully. This two-part threshold would identify ventures in which the organization has influence and has financial significance. It is also worth noting that there are three places in three different forms that hospitals are required to provide information on joint ventures in the discussion drafts. This redundancy goes against the goal of minimizing burden and increases the risk of error in form completion.

COMMENTS RELATED TO SCHEDULE J

Schedule J: Line 1 Columns B & C

As written, it appears that nonqualified deferred compensation amounts are reported twice – once when earned and again when paid out. This double-reporting makes it look like the person is receiving double the amount, when that is not the case. Can this be adjusted?

Schedule J: Line 1 Column D

Comment:

We recommend that de minimis fringe benefits be specifically excluded from reporting in Schedule J.

Rationale:

A de minimis fringe benefit by definition is so small as to make accounting for it administratively impracticable.

Comment:

We believe that nontaxable fringe benefits such as health insurance, dental insurance, etc., reported here should include only the **employer-paid** portion.

Rationale:

Many employers have a cafeteria plan where employees pay for a portion of these welfare benefits using pre-tax dollars. We believe that nontaxable fringe benefits reported here should include only the employer-paid portion because that is the portion that is part of the compensation package.

Schedule J: Line 1 Column G

Would a Section 457(b) plan be considered a supplemental nonqualified retirement plan for purposes of Column G?

Schedule J: Lines 4 and 5

Comment:

We recommend that the IRS provide some explanation and examples of when compensation is "determined in whole or in part on revenues" or "net revenues," respectively. Moreover, the term "net earnings" should be defined and there should be space to allow the filing organization to have an opportunity to explain its answers to lines 2-5.

Rationale:

There are many bonus arrangements that may use "revenues" or "net revenues" as a factor in determining a bonus amount. For example, the revenues of a department of a business may be a factor in the bonus of a department chair.

COMMENTS RELATED TO SCHEDULE K

Schedule K: Part I Column g – Please clarify what you are looking for in this column. Most larger financings include borrowings for hundreds of assets across many different hospitals. Our hospitals would have significant difficulty obtaining the information to complete this section of the form.

Schedule K: Part I column h - This question would not be meaningful because for conduit borrowers the answer would be "no."

Schedule K: Part II Line 3 – Please clearly define what is meant by "Principal amount Unspent." Would this include investment income?

Schedule K: Part II Line 4 through 8 - Please define what is meant by each of these lines. Instructions do not provide any guidance except for some additional information for line 7.

Schedule K: Part III

This portion of the Schedule will require significant due diligence each year to fully and accurately answer each question. The scale of work that will need to be done in order to complete the form is

similar to a private use audit for each individual bond issue of our organization. The costs associated with such due diligence are likely to be significant and redundant for us, as an organization that already monitors its management contracts for compliance with the management contract and research guidelines safe harbors.

Because use of bond financed property pursuant to a compliant contract under Rev. Proc. 97-13 or 97-14 is not considered to be “private use” as specifically provided by the safe harbors of those Revenue Procedures, an organization typically will not compute a “percentage of use” allocable to its compliant contracts. Such a percentage would be meaningless in determining compliance with the applicable limitations on “private use” of bond financed property under the Code. Only if the contract fails to satisfy the safe harbor should such an analysis be necessary. In other words, only if the answer to 2b or 3b is “no,” should a computation of the percentage of private use allocable to such contract be required. We anticipate considerable difficulty and expense will be required to comply with these requests in the form presently included on Schedule K. We also expect that the data so derived will be irrelevant to any substantive assessment of the amount of true “private use” of the bond issue. We ask that you would consider these issues as you finalize the forms.

Schedule K: Part IV last column - Need clarification on what "selected through formal process" means.

COMMENTS RELATED TO SCHEDULE N

Schedule N: Part I lines 7a, b and c

Comment:

These questions in Schedule N should be modified to evidence the possibility that if the assets of the organization are transferred to another exempt 501(c)(3) organization in the same related trade or business, or to a state or local governmental entity, no defeasance of the bonds may be necessary.

Rationale:

This schedule, in Part I, lines 7a, b and c, requires certain information with respect to any organization that ceased its operations and where its remaining activities are for the purpose of dissolving, paying debts or distributing any remaining assets. The line items related to bonds ask whether the organization complied with defeasance requirements under the Code and state law, and if “yes,” how the organization defeased or settled those liabilities. These questions do not adequately account for the fact that if the assets of the organization are transferred to another exempt 501(c)(3) organization in the same related trade or business, or to a state or local governmental entity, no defeasance of the bonds may be necessary,

Minor Comments (Typographical in nature)

Form 990: Part IV

Column C – The “Tip” in the instructions states that if the organization enters an amount in column (A) for lines 2 and 13, it must also enter a business code for each line from the Codes for Unrelated Business Activity. We think this statement should apply to amounts reported in column (C), the unrelated business revenue column, and not column (A), which is the total revenue column.

Line 2 – The “Caution” in the instructions states that for each amount entered in lines 2a through 2g, the organization must also enter a corresponding business code from the Codes for Unrelated Business Activity. Again, we think that the business code should only be reported for those items appearing in column (C), and not for any amounts reported in the other columns.

Line 11a – The first example in the instructions refers to a fundraising dinner where an organization received \$1,000 in gross receipts for goods valued at \$400. The example goes on to state that the \$400 should be reported as gaming revenue on line 11a. We think that the \$400 should be referred to as “fundraising” revenue and not “gaming” revenue.

Line 11a – The second example in the instructions states that the entire amount received for the dinner should be reported as a contribution on line 1c and within the parenthesis on line 9a. We think the instructions should be changed to refer to line “11a” and not line “9a.”

Line 13 - The “Caution” in the instructions states that for each amount entered in lines 13a through 13c, the organization must also enter a corresponding business code from the Codes for Unrelated Business Activity. Again, we think that the business code should only be reported for those items appearing in column (C), and not for any amounts reported in the other columns.

Line 14 – The form and instructions do not refer to the correct line items that should be added together to derive total revenue. The correct line items are 1h, 2g, 3-8, 9d, 10d, 11c, 12c, and 13e.

Form 990: Part VI

Line 14 – The instructions refer to the wrong section of Schedule D. The amount reported should be from Part IV, column (b) of Schedule D, and not Part VI.

Schedule A

The Overview of Schedule A indicates that Parts II and III no longer need to be prepared using the cash method of accounting. However, on the Schedule A form, the top of Part III still says “Use the cash method of accounting.”

Schedule D

Parts I, III, and IV, Column (c) – It appears that there are only two acceptable responses here. If this column were turned into a choice of two checkboxes, it would allow column (a) to be widened to accommodate a larger description.

Schedule I

Part I, Question 2a - This wording is confusing because the word organization is used multiple times referring to both the reporting organization and the donee organization. We suggest using the terms “reporting (donor) organization” and “recipient (donee) organization” in Question 2.

CONCLUSION

We have provided all of the comments above with the desire to help the IRS meet its goals to enhance transparency, promote compliance and minimize burden. We understand that this is difficult to achieve those often conflicting goals. We applaud the IRS utilization of the CHA/VHA community benefit framework, which will increase transparency and consistency in charity care and community benefit reporting. We think that our comments will help to improve the Form 990 and assist the IRS in meeting its goals.

Sincerely,

Daniel J. Hale
Executive Vice President,
Community Benefit Ministry and Public Affairs

From: [Schinko, Elizabeth](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Form 990 Redesign - Comments
Date: Friday, September 14, 2007 1:57:04 PM
Attachments: [wfhc 2008 final 990 input 09.14.07.pdf](#)

Hello-

Attached is a PDF version of a letter we will be sending out today, certified return receipt, related to our comments on the 990 redesign. Due to our size, we have comprehensive knowledge of all 990 issues, and since we spent a lot of time on this analysis (approx 85 hours by all staff), we really hope you will take a look at our comments and give them some serious consideration.

In addition to providing comments on both the 990 core form and all related schedules, we quantified each schedule in terms of increased hours of tax burden, assigned a "degree of difficulty" to each form or schedule, and attempted to provide feedback in the areas where the IRS specifically asked for comments. We would draw your attention to the **Summary of Findings** presented in a narrative form on Pages 3-4, and the **Summary Table** presented on Page 5.

As it states in the letter, Wheaton Franciscan Healthcare is very committed to being involved in this project. If there is anything else I can do, please contact me either by phone or email at the number or email address below.

Thank you for this opportunity to comment on such an important development in the non profit community!

Liz Schinko

<<wfhc 2008 final 990 input 09.14.07.pdf>>

Elizabeth A. Schinko

Manager of Tax Compliance

Wheaton Franciscan Healthcare

phone: 414-465-3542

fax: 414-465-3591

email:

Privileged/Confidential information may be contained in this message. The information contained in this message is intended only for the use of the recipient (s) named above and their co-workers who are working on the same matter. The recipient of this information is prohibited from disclosing the information to any other party unless this disclosure has been authorized in advance.

If you are not intended recipient of this message or any agent responsible for delivery of the message to the intended recipient, you are hereby notified that any disclosure, copying, distribution or action taken in reliance on the contents of this message is strictly prohibited. You should immediately destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer does not consent to Internet E-Mail for messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of the firm shall be understood as neither given nor endorsed by it.

September 14, 2007

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

To Whom It May Concern:

Wheaton Franciscan Healthcare ("WFH") is taking this opportunity to respond directly to the IRS on our concerns and suggested improvements related to the PROPOSED Form 990, scheduled for implementation for the 2008 tax year. We are submitting these comments directly to the IRS because we feel it is important that the IRS hear directly from the individuals who prepare the tax returns at the different non-profit entities that will be affected by these changes. These individuals are not only familiar with community benefit issues, but with **all** the tax reporting issues and other challenges of gathering information necessary to properly prepare a 990.

We are submitting our comments to the IRS by the requested date of September 14, 2007, although this turn around time was extremely aggressive. The draft 990 was released on June 14, 2007 and given the amount of changes and new schedules (the first major redesign since 1979), there was a material amount of information to analyze within this 3 month time frame. We hope the IRS will consider providing a more lengthy comment period in the future, especially the next time such substantial changes are proposed. Although we have focused mainly on what changes will impact us most directly, wherever possible we have also attempted to provide feedback in the areas where the IRS has specifically requested comments. **WFH has provided a Summary Table, quantified in estimated total hours of increased tax reporting burden, on Page 5, and included a Summary of Findings in narrative form, on Page 3-4.**

Wheaton Franciscan Healthcare is a large healthcare organization conducting operations in 4 states (Wisconsin, Iowa, Illinois, and Colorado). Our most recently completed statistics for June 30, 2006 reports 14 hospitals, 4 long term care facilities, 2 home health agencies, various other organizations such as medical groups, and approximately 23,000 employees. One full-time employee manages our tax function with staff from other departments providing limited assistance throughout the year. WFH currently prepares approximately 40 IRS Form 990's in house, with the goal of continuing to expand our tax function into a formal department, and bringing more and more tax returns under our responsibility each year.

Since our entities report on a June 30th year end basis, when fully extended, our 990's and 990-T are due on May 15th of each year. Should the above mentioned IRS PROPOSED 990 go into effect for the 2008 tax year, WFH will first be impacted for June 30, 2009 information, which will be due (if fully extended) on May 15, 2010.

E-filing and Software / Service Provider Issues

Surprisingly, the truly colossal effort it will take for software and service providers to make the substantial changes on the draft 990, while still rolling out a solid product capable of e-filing, has been talked about very little, and is our primary concern. Without a good product, we can't give the IRS the information they are asking us for and still remain in compliance with e-filing requirements. We wonder if the IRS knows when there are software issues, the non-profit community gets put in the middle, with the software provider stating "the IRS has not yet mandated that" or "the IRS schema requires us to do it that way" and the IRS telling us "that is a software issue, and you have to be sure the software meets all your needs". Will anyone from the IRS be monitoring these communications and activities with the software community, to ensure these problems are mitigated?

For the year ending June 30, 2006 (using 2005 tax forms), and the first year WFH was required to e-file the majority of our 990's, the vast amount of our problems were created by the time it took to test and implement software and related software issues. A limited number of software and service providers existed that were capable of e-filing 990's at the time¹, and they all had limitations of varying degrees. Due to these limitations, we were forced to make a last minute change from ATX to RIA InSource². The limitations and amount of time it took (needing to cooperate with internal processes related to information systems and budgeting) ran us alarmingly close to our deadlines. The software limitations were so severe that after a conversation I had with Donna Hockensmith from the IRS on the ATX issue, and Donna's communication with ATX, the IRS added a "disclaimer" statement to their list of "approved e-file providers" listed at www.irs.gov that stated "*meeting these requirements means that the software can provide correct data in the proper format for processing by IRS systems. It does **not** mean that a software package includes every possible schedule or attachment, or that it will meet the needs of all filers*". Considering the small amount of changes that occurred between 2004 and 2005 compared to what is on the table for 2008, it is anticipated that even greater software and e-filing problems will occur related to this draft form.

The extra time it will take the non profit community, especially larger systems such as ours, to demo, test, implement, work with information systems and budgeting, determine work-arounds to any problems encountered, field decisions on any last minute changes, test out the 2008 capabilities to ensure the product is adequate related to the several new schedules, learn the nuances of new software and the navigation of new schedules, and a host of other things we can not even begin to predict, must be factored in. We quantify this burden of software and e-filing issues, defined in WFH staff time, to be approximately **520** hours, and also anticipate that due to these many changes, the cost of most software will drastically increase.

To minimize this burden, we would ask the IRS to consider phasing in the new schedules over four tax years. This would create a need for some revisions to the "core" 990 form, but would dramatically decrease the burden on both the tax software provider community as well as the non profit tax preparer community. Using our assigned "degree of difficulty" for each

¹ Only the following 7 providers were capable of e-filing 990's for the 2005 edition: ATX, Drake, LaCerte, CCH ProSystems, RIA GoSystems, Thomsen Fast Tax, and Urban Institute. Due to limitations with both ATX (see footnote #2) and Drake (Part VII only allows up to 99,999,999 in revenue), that left us with only 5 choices, all with limitations of varying degrees.

² The 2005 version of ATX was not capable of providing a schedule to support Part V-A Line 75b, lacked a General Explanation Attachment to enter our Statement of Program Service Accomplishments data, and had limited ability to provide supporting schedules in other areas of the tax return.

schedule (as presented on the **Summary Table** on page 5) we paired less difficult schedules with more difficult ones, and would offer the following recommendation as being one way the Schedules could be phased in over a number of years:

2008 Schedules A, B, C, E and H
2009 Schedules J, K, L and N
2010 Schedules G, I and M
2011 Schedules D, F and R

Summary of Findings:

The additional reporting burden related to the PROPOSED 2008 Form 990 and its related Schedules is estimated to be approximately **4,865** hours in total, occurring between August 2007 (with the review of this draft 990) and continuing through May 2010 (when the 2008 990's would be due, if fully extended). This estimate includes both the increased time to actually prepare each return, as well as all preparatory work that will need to begin as soon as the 2008 final tax forms are released, especially related to certain Schedules. The estimate also includes the increased time related to issues that will impact all 2008 990's equally, namely due diligence requirements, software and e-filing preparedness.

Calculating this total estimate of 4,865 hours across the 40 990's that are currently prepared in-house, in order to determine an "average" increased burden per 990, we get approximately **122** hours. However, as previously stated, the actual amount of increased burden per 990 will vary according to the complexity of that 990, and the majority of these hours will occur in the area of preparedness, well before the tax returns are actually prepared. This is a substantially increased burden, and we would respectfully request that the IRS look at alternatives for decreasing this burden, in particular the phased-in implementation that was suggested on Page 2, last paragraph, of this correspondence.

We would highlight the following issues as our primary areas of concern and reason for this increased burden (*please reference the **Summary Table** at Page 5 for a breakdown of estimated increased hours per Schedule, and Page References to the Specific comments on each Schedule*):

1. Software and E-filing Issues

WFH is very concerned about whether the tax software and service provider community have adequate time to make the substantial changes to their software in order to meet the 2008 release date, little more than 1 year from now. Once the software is released, it will take the non profit tax community additional time to evaluate, demo, install, test, and learn the software, especially if any problems are encountered or if it is found a change needs to be made in order to remain compliant with both 2008 form changes and e-filing requirements. It is also anticipated that because of all these changes, software costs will drastically increase.

2. Tax Exempt Bonds (Sch K and other questions throughout the Core 990)

WFH is anticipating many hours of due diligence efforts in this area, in order to trace every bond issue back to inception, then forward to account for every project funded, for both current and defeased bonds. This effort will be an enormous undertaking, and will be a material amount of the total increased burden. If it is determined that an external

third party will need to assist us in completing this work, it could also mean very high fees will be incurred by our organizations.

3. Compensation (Newly Designed Form 990 Part II Sections A and B and Sch J)

Due to the addition of former officers, former key employees, and former top 5 compensated employees, using a five year look back period, WFH expects a dramatic increase in burden related to due diligence efforts in sending out questionnaires to identify family or business relationships, as well as quantifying on Sch J, compensation for any individuals paid more than \$100,000. The addition of reporting expense reimbursements made under an accountable plan as an element of compensation, in addition to other changes, also adds to the burden.

4. Fund Raising / Gaming / Donations (Schedules G, M, B and other questions throughout the Core 990)

Substantially increased burden is added in this area to properly account for non cash donations, special events, gaming activities, and other activities conducted each year mainly by our foundations.

5. Community Benefit (Sch H and Statement of Program Services on Core 990)

Related to community benefit reporting, new processes and procedures will need to be put in place in order to gather the information in a way that will facilitate tax reporting, again substantially increasing our burden. Pending clarifications and changes to Sch H, much of this is yet to be determined.

Summary of Estimated Increase in Tax Reporting Burden, In Staff Hours

Form, Schedule, or Issue	Description of Form, Schedule, or Issue	Schedule Degree of Difficulty ³	Page Reference	2008 Estimated Increased or (Decreased) Burden	Number of 990's Affected	Total Increased Burden in Hours
E-filing and Software	E-filing and Software Issues	9	Pgs 2-3			520
Core Form 990	Core 10 page Form	8	Pgs 6-7	10	40	400
Schedule A	Public Charity Status	7	Pgs 8-9	6	40	240
Schedule B	Contributors	3	Pg 9	No Changes		0
Schedule C	Political and Lobbying Activity	5	Pg 9	2	5	10
Schedule D	Supplemental Financial Stmt Detail	5	Pg 10	4	40	160
Schedule E	Schools	N/A	Pg 11	N/A	N/A	N/A
Schedule F	Foreign Activities	4	Pg 11-12	5	10	50
Schedule G	Fundraising and Gaming	7	Pg 12	20	12	240
Schedule H	Hospitals	8	Pg 13-14	50	15	750
Schedule I	Grants	5	Pg 14	5	10	50
Schedule J	Compensation	8	Pgs 14-15	20	30	600
Schedule K	Tax Exempt Bonds	10	Pgs 15-16	100	10	1,000
Schedule L	Loans	4	Pg 16			20 ⁴
Schedule M	Non cash Contributions	7	Pgs 16-17	12	15	180
Schedule N	Termination or Disposition of Assets	6	Pg 17	9	5	45
Schedule R	Related Organizations	7	Pg 18	15	40	600
Total Increased Hrs	Summary of Findings		Pg 3-4			4,865

³ WFH has assigned a "degree of difficulty" to each Schedule with "1" being the least difficult and "10" being the most difficult. In addition to hours, other factors that were taken into consideration in assigning this value included: the amount of coordination required by and with other employees, difficulty in gathering or compiling information, process and/or procedure changes required, and information location.

⁴ We estimate total due diligence efforts across all 40 990's to be no more than 20 hours. Please see related comment in the body of this letter at Schedule L.

Form and Schedule-Specific Comments:

WFH will comment on a schedule by schedule basis, in a bullet point fashion that will facilitate easy reading. Wherever possible, we have attempted to quantify the additional staff hours that will be required to meet the IRS' reporting requirements (please reference the **Summary Table** on page 5). The summary table presented on page 5 uses the actual known staff time in hours for our most recently filed tax year (June 30, 2006 using 2005 tax forms) to determine the estimated time to complete the 2008 PROPOSED tax forms presented as part of the table. We have also taken the liberty to comment on the complete 2008 draft, including forms or schedules that may only be new only in part, or not new at all.

Core Form 990:

- **Part II Section A Compensation and Other Financial Arrangements with Officers, Directors, and Key Employees** – WFH is in full support of the new requirement to report calendar year compensation or payment information, based on Box 5 of the W-2 and/or Box 7 of Form 1099-MISC. This provides a simplified way to not only report the amounts, but to tie compensation to official information returns, which creates a decreased burden for both the reporting organizations and the IRS. Please see additional comments at Sch J.
- **Part II Section B Line 5b Compensation and Relationships** – WFH seeks clarification on the IRS definition of a business relationship for the performance of services for purposes of disclosures related to this line. In addition to the banking exception, we are also asking the IRS to consider other issues such as HIPPA, Attorney-Client Privilege, and others as it relates to the definition of a reportable business relationship in the following examples: 1) One board member has performed a surgery (is the personal physician) of another board member 2) One board member is an attorney (or a CPA) and does estate planning (or tax return preparation) for another board member. 3) One board member is an insurance agent and insures the home, auto, or business of another board member. We understand with the addition of "valued in excess of \$5,000", that relationships below this level would be excluded, but are concerned about any privacy issues with arrangements above this level.
- **Part II Section B Lines 5a-5f Compensation and Relationships** – Due to the confusion in this area, WFH appreciates the additional clarifications and examples provided by the IRS in the 2008 PROPOSED instructions related to family and business relationships.
- **Part II Section B Lines 5f Page 19 of 47 under Instructions "Tip"** – WFH seeks clarification on the following point: Under the IRS Tip, it states "*the organization is not required to provide information about the relationships identified for lines 5b-5e if it is unable to secure the information after making a reasonable effort to obtain the information*" Why has line 5a been left out (family relationships)? With such a large organization and the many individuals that serve as officers, key employees, and board members, without direct disclosure from the individual, we normally have no knowledge of family relationships either that may exist. WFH recommends adding 5a, family relationships to this Tip.
- **Part II Section B Line 5f Page 19 of 47 under Instructions "Tip"** – WFH is bringing an inconsistency to the IRS' attention. Page 19 of 47 under "Tip" states "*An example of a*

reasonable effort would be for the Form 990 preparer or an officer eligible to sign the Form 990, to distribute a questionnaire annually to each person listed in Part II Section A.” But on Part II Section B Line 5, it states only “During the tax year, did any person who is or was an officer, director, trustee, or key employee within the past 5 years”. This might lead one to believe that the annual questionnaires may only need to be sent out to individuals listed as part of Part II Section B Line 5, while still naming (on the annual questionnaire) all individuals listed on Part II Section A. Since Part II Section A also includes current and former top 5 compensated employees, did the IRS intend or not intend to include this category as part of Part II Section B Line 5?

- Part II Section B Line 6 Compensation Related to Former Officers, Triggering Completion of Sch J – To avoid confusion, WFH would recommend changing the sentence “*former officers, directors, trustees, key employees, or highest compensated employees in Section A*” to “*former officers, **former** directors, **former** trustees, **former** key employees, or **former** highest compensated employees in Section A*”, as that is what we are assuming is being asked.
- Part II Section B Line 8 Compensation Triggering Completion of Sch J – WFH often has severance accruals that are required to be accrued, footnoted in the general explanatory attachment of the electronic return, and added to other compensation for purposes of 990 reporting. WFH recommends changing “*Did any individual listed in Section A receive or accrue more than \$250,000 of reportable of other compensation including deferred compensation, nontaxable fringe benefits and expense reimbursements?*” to “*Did any individual listed in Section A receive or accrue more than \$250,000 of reportable or other compensation, including, **but not limited to**, deferred compensation, **severance payments**, nontaxable fringe benefits, and/or expense reimbursements?*”
- Part II Section B Line 10a Top Five Compensated Independent Contractors – WFH supports the following IRS changes in reporting independent contractor payments: 1) Decreasing the number of independent contractors from 10 to 5 2) Reverting back to the 2004 methodology of combining “professional” and “other” services and finally 3) Increasing the threshold from \$50,000 to \$100,000. All three changes will serve to decrease our reporting burden.
- Part IV Line 6 Tax Exempt Bonds – The IRS has requested that income from investment of tax-exempt bond proceeds be reported on this line, to include earnings on escrows securing defeased bonds. These amounts may not appear on of our financial statements, which will make this very difficult information to gather.
- Part VI Line 21 Tax Exempt Bond Liabilities - WFH would recommend that clarification be provided on whether tax exempt bonds which have been legally defeased (that are no longer reported in our financial statements) are required to be included.
- Part IX Line 2 Statement of Program Service Accomplishments – WFH likes the new section which asks for the organization’s most significant program accomplishment for the year, however with such a variety of activities for our larger organizations, it will be difficult to determine only one.

Glossary:

- Overall, we are very pleased with the addition of the “glossary” and are happy to finally see clarification related to how the top five compensated employees (other than officers, directors, and key employees) are determined (by using Box 5 of their W-2). Other definitions that stand out and provide needed clarity include excess benefit correction, family relationship, control for purposes of related organizations, business relationship, and others. This glossary is a move in the right direction to clarify certain concepts and will positively impact the IRS, the non profit tax preparer community and others.
- WFH seeks clarification from the IRS on whether the definition of “disqualified person” should include a substantial contributor for a 509(a)(3) or any other organization. We were previously under the impression that the answer was yes, yet see no mention of it here.
- WFH recommends adding the term “transactional expenses” to the IRS Glossary, using the definition as provided on Page 2 of 5 of the Sch N instructions.
- WFH recommends the addition of the definition of “gaming” to the IRS glossary, using the definition as provided on Page 3 of 6 of the Sch G instructions.

Schedule A Public Charity Status:

- Sch A Part III Heading – It is reported in the IRS “Rationale of Schedule A” that the IRS eliminated the requirement to use the cash method of accounting, yet “Use the cash method of accounting” still appears in the heading of Part III.
- Sch A Part I Reason for Public Charity Status - WFH likes how you have included the code sections 509(a)(2) to Line 9 and 509(a)(3) to Line 11 and are wondering if you could take a similar approach with 509(a)(1) (Line 7-8).
- Sch A Part I Reason for Public Charity Status – (also see comment at Sch E). The medical residents FICA withholding issue is moving in the direction that could make revisions necessary so that future tax reporting by teaching hospitals would be subject to both Sch E and Sch H completion.
- Sch A Part I Line g(i – iii) Reason for Public Charity Status, New Question on Gifts or Contributions Received after Aug 17, 2006 – WFH seeks clarification from the IRS on the following example: We are preparing the 990 of Parent Corp, a 509(a)(3) organization that supports Hospital A. John Smith is a board member of Hospital A. John Smith’s Company, Smith Brothers, has made a charitable donation to Parent Corp, and has been listed on Parent Corps Sch B as a substantial contributor. Based on our interpretations, alone, John Smith does not “control” either directly or indirectly either organization. Nor does John Smith, together with any family member or with Smith Brothers (a 35% or greater business affiliate) directly or indirectly control either organization. Yes we have accepted a donation, but there is no control. Are we correct to answer “NO” to all three questions? Likewise, if the donation were made to Hospital A instead of Parent Corp (or if John Smith were a board member of Parent Corp instead of Hospital A), would the outcome be the same? (In our opinion, it would).

- Sch A Part I Line h(v) Information on Supported Organizations and if they were Notified of Support – WFH is seeking clarification from the IRS on what this question means. Is this a one time notification that the supported organization is being supported by the supporting organization per the corporate bylaws, or is this an annual notification requiring the quantified support be communicated? Is there a requirement to “notify”?
- Sch A Part I Line h(vii) Information on Supported Organizations, Support Quantified – Quantifying “support” in terms of a dollar amount will require several new procedures to be put in place, especially if the IRS is moving toward reconciling “support provided” by the supporting organization to “support received” by the supported organization. For large systems that are all members of a controlled group of providers, it is not uncommon to have monthly allocations related to this support, but tracking these allocations can be extremely cumbersome because they appear in different general ledger accounts. Complying in this area will dramatically increase our tax reporting burden. We would also seek clarification on what the IRS considers “support”, as this term is not defined in the IRS’ new glossary.
- Sch A Part III Support Schedule for 509(a)(2) Orgs – WFH supports using Sch A Part II or III in lieu of Form 8734 for requesting a change in public charity status from 509(a)(3) to either 509(a)(2) or 509(a)(1). Our recommendation would be that in the year the organization requests the change, they would not only complete their “normal” information related to Line 11, but also would complete Part II or Part III (Support Schedule). The completion of both Part I Line 11 and Part II or III would be the IRS’s trigger that a change in public charity classification had been requested. We would also recommend adding a check box at Line 11f stating “Change in Classification Requested, See Part II or III”. If approved, in the following year, the organization could then check the applicable Line 7, 8, or 9 related to their newly approved public charity status.

Schedule B Contributors:

- Sch B Part II Description of Non cash Property - Considering the addition of the new Sch M for Non Cash Contributions, Sch B Part II now seems duplicative related to the description of non cash property (See Comment at Schedule M also).
- Sch B Part II Column B Description of Non cash Property - “*Description of non cash property given*” should be replaced by “*Description of non cash property received*”.
- Sch B Instructions (Reference page 9 of 2006 instructions, Column 2 Paragraph 2) related to which contributors must be listed under the special rule for 501(c)(3)’s meeting the 33 ½ support test must eventually be revised as there is no longer a “Line 1e” per the 2008 PROPOSED 990.

Schedule C Political and Lobbying Activity:

- Sch C Part II-B Line 2a Tax on Disqualifying Lobbying Expenditures Question - WFH was initially confused with how this question reads, and are suggesting to reword it to “*Were any of the activities listed under Line 1 subject to the tax on disqualifying lobbying expenditures under Section 4912?*”

Schedule D Supplemental Financial Statement Detail:

- **Sch D Parts I-VII Assets, Investments, Securities, and Liabilities Balance Sheet Detail** – Certain classes of assets, investments, securities, and liabilities, especially tax exempt bond issues, can have rather long names. WFH would recommend adding the appropriate amount of space under column heading “a” (description of security, investment, or asset) which would enable us to enter a complete name. Along these same lines, the IRS currently only provides for 5 lines in each of Parts I – VII. WFH normally has a need for up to 10-15 lines in any needed category, so we would recommend adding 10 lines (15 lines total) to each Part I – VII.
- **Sch D Part V and Part VI Program Related Land, Buildings, and Equipment and Other Assets** – WFH has many more categories of assets that fall into Part V and Part VI. Would recommend adding several more lines to allow for this.
- **Sch D Part VI Other Assets** – We believe the IRS had an incorrect reference stated as “*Complete the table for assets not reportable on lines 1-16. (Form 990, Part VI, Line 17)*”. The correct reference should be “*Complete the table for assets not reportable on lines 1-15. (Form 990, Part VI, Line 16)*”.
- **Sch D Part VII FIN 48 Footnote Disclosure** - The new FIN 48 disclosures (Accounting for Uncertain Tax Positions) on this Schedule will now make it necessary for the Tax Department to work much more closely and directly with our financial auditors in determining what, if anything, qualifies for FIN 48 disclosure, and how each position will be documented. While this closer working relationship is ultimately a positive thing, it will also increase our burden in terms of tax reporting. The amount of space on the tax return where any FIN 48 footnotes are recapped is also insufficient. WFH recommends adding several lines or a supporting schedule in this area.
- **Sch D Part X Art and Historical Treasures Question** - The new footnote disclosure related to art and historical treasures seems like a reasonable way of increasing transparency regarding collections of this type.
- **Sch D Part XII Endowment Funds** - Compliance in this area will create a need to implement several new procedures for data gathering, as well as educating philanthropy personnel in providing information in a way that is useful to the tax department for reporting purposes. It also remains to be determined how administrative expenses will be allocated to endowment funds, and other issues related to reporting on the current year and four prior years. These issues in combination will significantly increase our burden.
- **Sch D Part XII Endowment Funds** – We believe the IRS has an incorrect reference stated as “*Form 990, Part VII, Line 6*”, which deals with tax exempt bonds. The correct reference should be “*Form 990, Part VII, Line 16*”.

Schedule E Schools:

- **Sch E General Comment** - Due to our primary exempt purpose being to provide healthcare services, we have had little exposure to this Schedule. As such, we will defer comments on this Schedule to non profit universities and others who are more knowledgeable with this Schedule.
- **Sch E Question as it Applies to Teaching Hospitals** - Due to the pending Medical Residents FICA issue, we seek clarification from the IRS on whether this Schedule, and the related IRC § 170(b)(1)(A)(ii), could be revised in order to apply to a teaching hospital with regular faculty and intern and resident students. Depending on the outcome in this area, one recommendation would be on the new Sch H, next to the check box for "teaching hospital", that an "also complete Sch E" could appear.

Schedule F Foreign Activities:

- **Sch F General Comment** - Now that the IRS has increased the "scope" of activities conducted outside of the United States that are required to be reported, WFH will have to implement new information-gathering procedures to ensure we have captured all activities that may have occurred outside the United States. This will materially increase our reporting burden, however we expect relatively few 990's (we are estimating approximately 10 of 40 total) will be impacted by this change.
- **Sch F Instructions Page 2** - WFH notes that the IRS instructions provide the following examples of program services conducted outside of the United States: "*operating an orphanage, school, hospital, or church, temple, or synagogue; disaster relief efforts, and providing indigent relief*". WFH assumes conducting recruitment efforts overseas (obtaining employees), or contracting with a language interpreter residing in Spain would fall under "business" or "trade" activities, but the IRS is silent on this point. WFH would appreciate some examples or clarification on "business" and "trade" activities.
- **Sch F Part I Line 1 Column f Total Expenditure In Country** – WFH would recommend the IRS clarify "total expenditure in country" related to the following points: 1) Is only the amount spent while actually in the foreign country required to be included, or are all expenses related to that activity required to be reported? 2) We assume the IRS wants reporting in USD (US Dollars) and not the local foreign currency, but is silent on this point. If expenditures are made in the foreign currency, the IRS should consider providing clarification on the date of valuation for purposes of any necessary foreign currency conversions.
- **Sch F Part 1 Line 5a Grants Issued to Related Persons** – Should also include "Key Employee" and possibly "Top Compensated Independent Contractors" and "Top Compensated Employees" as "persons with an interest in the organization". WFH also seeks clarification on the IRS definition of blood "related" for purposes of this question. WFH recommends the IRS adopt the same definition of "family" and "business" as the 2006 Part V-A Line 75b for this purpose.
- **Sch F Part III Grants and Other Assistance to Individuals Outside the United States** – Is not cross referenced at the Form 990 Part V Line 3. The IRS may have intended this

due to form 990 Part VII Lines 1a-1c (where Schedule F is cross referenced), but WFH would recommend also adding something at Part V Line 3 so this is clear.

Schedule G Fundraising and Gaming:

- **Sch G General Comment** – Pending clarification on the items below, Sch G appears to be well designed and easy to understand. The presentation of this schedule aids in organizing and understanding the concepts which still seem to meet with much confusion. That said, WFH will need to make several changes in terms of accounting and data collection in order to present the needed information to facilitate the tax reporting for purposes of this schedule. This will require training of foundation, accounting, and philanthropy staff to gather the data in a way that is accurate and useful to the tax department, as well as ensuring tax reporting compliance related to prize winners, donors, and others. These process improvements will substantially increase our reporting and complying burden.
- WFH recommends the addition of the definition of “gaming” to the IRS glossary, using the definition as provided on Page 3 of 6 of the Sch G instructions.
- **Sch G Part I Line 1b Written or Oral Agreement for Fundraising Activities Question** – WFH seeks clarification on the intent of this question, and what would constitute an “oral agreement” for this purpose. We also believe the IRS meant to cross reference the individuals listed in Form 990 Part II (and not Part III).
- **Sch G Part II Special Events** – WFH seeks clarification on raffles and silent auctions, two activities that are often conducted as part of a special event, and how this relates to “Cash Prizes” (Line 4) and “Non-cash prizes” (Line 5). We assume the amount received for the sale of a raffle ticket would be reported in Line 1 Gross Receipts with the resulting pay out reported on Line 4 Cash Prizes. The direct costs of purchasing the raffle tickets by the organization would be reported on Line 7 Other direct expenses. Likewise for silent auction items, the amount of the winning bid would be reported on Line 1 Gross Receipts with the resulting fair market value of the item awarded reported on Line 5 “non cash prizes”. Is this correct? We are also seeking clarification on how Line 2 Charitable Contributions is affected, if at all, for silent auction items and raffle tickets. The silent auction item can potentially have two different fair market values associated with it – one at the date of donation, and one at date the item receives a winning bid. Normally they are the same, but can be different, especially for objects of art, rare coins, or anything else that more frequently fluctuates in value. For organizations that conduct limited raffles in relation to special events only, it would be preferable to report the raffle amounts as a component of the Part II Special Event and not have to break out for purposes of reporting on Part III Gaming.
- **Sch G Part III Line 6 Volunteer Labor** – Most of our special events and gaming activities are run by employee's who are volunteering their time. Although these employee's are sometimes salaried staff, they are technically not paid for their time in helping with the special event. WFH seeks clarification on the term “Volunteer Labor” in this regard. We assume this would only include non employees, but the IRS is silent on this point.

Schedule H Hospitals:

- Sch H General Comment - WFH has closely participated in conference calls with CHA, AHA, and other state hospital associations, and are relying heavily on Schedule H input that has already been provided. However, we will take this opportunity to reemphasize a few things here.
- Sch H CHA Checkbox Recommendation to Identify "Hospital Type" - We have reviewed the revised Schedule H as proposed by CHA, and like the idea of having a checkbox at the beginning of the Sch H to identify hospital "types". This is critical for a variety of reasons, mainly because your hospital "type" (critical access, teaching, disproportionate share, etc.) is often directly related to the hospital's patient population, reimbursement, and thus charity care, bad debt, and ultimately community benefit.
- Sch H CHA Recommendation to Aggregate Community Benefit - We are in support of the CHA's aggregating concept which seeks to include related organizations that conduct community benefit activities on behalf of their related supported organizations. All of our hospitals have separately incorporated foundations and/or auxiliaries which participate in community benefit activities on behalf of the hospitals they support. We are in favor of making the necessary form revisions in order to include this information as part of our community benefit activities.
- Sch H Part II Billings and Collections – This section requires us to gather information that we have previously not had to gather for purposes of 990 presentation and will dramatically increase our reporting burden. Additionally, this information is then required to be broken down by type of insurance, causing us to make further modifications to our existing procedures in order to comply with the information in this new section.
- Sch H Part II Lines 2-3 Discounts and Net Expected - We are confused on the terminology used and would recommend the following changes if the IRS decides to keep this section: 1) Change Line 2 from "Discounts" to "Contractual Allowances" and 2) Change Line 3 from "Net Expected" to "Line 1 Minus Line 2".
- Sch H Part II Line 4 Fees Collected - We seek clarification from the IRS on how "Fees collected" should be reported related to accounting timing differences such as accruals. For example, if your "Net expected" recorded at 06/30/06 was \$1,073,000 but the cash related to this amount was not collected until 9 months later (in the next fiscal year), what should be reported on the 06/30/06 990? And the 06/30/07 990?
- Sch H Part III Management Companies and Joint Ventures – This entire section should be removed, or alternatively would seem more appropriately placed with Schedule R, related organizations.
- Sch H Part V Facility Information – We are seeking clarification on whether or not Wheaton Franciscan Medical Group, Inc., a non hospital entity but an entity "providing medical care" would be required to complete Sch H. For medical groups, listing every physical address will be overly burdensome as our medical groups are normally affiliated with perhaps 25-50 separate outpatient clinic addresses at any given period in time.

Schedule I Grants and Other Assistance:

- **Sch I Part 1 Line 2a Grants to Related Persons** – Should also include “Key employee” and possibly “Top Compensated Independent Contractors” as “persons with an interest in the organization”. WFH also seeks clarification on the IRS definition of blood “related” for purposes of this question. WFH recommends adopting the same definition of “family” and “business” as the 2006 Part V-A Line 75b instructions for this purpose.
- **Sch I Part II Line 3 Total Number of Other Organizations** – There does not appear to be a properly formatted line in which to enter the information related to “Enter total number of other organizations”.

Schedule J Compensation:

- **Form 990 Part II Sections A and B and Sch J General Comment** – In addition to tracking compensation data related to former directors, the IRS has now added former officers, former trustees, former key employees, and former top five compensated employees to this requirement using a five year look back period. Without exception, tracking this compensation data is extremely cumbersome to say the least, and now, the scope of this area has once again been increased. This issue also impacts the due diligence we are required to complete related to family and business relationships (Part II Section B Lines 5a-5f) by increasing the pool of reportable individuals and businesses which must be analyzed and compared for these relationships. Although the IRS does not expect Sch J to affect many organizations, for large healthcare systems such as WFH, this change will cause an extremely increased burden, as well as trigger the completion of Schedule J each year for almost all of our organizations. While WFH supports transparency in this area, we feel that these reporting requirements are becoming more comprehensive and burdensome each year. In addition to several processes that must be changed to gather this data, including but not limited to due diligence efforts, we are estimated this impact alone to be approximately 450 additional hours.
- **Sch J Line 1 Officers, Directors, Trustees, Key Employees, and Highly Compensated Employees** – Incorrectly states “*Do not list any individuals that are not listed on Form 990, Part III*”. The correct reference, we believe, should be to **Part II**.
- **Sch J Compensation Template** – WFH anticipates this will become a very useful tool, and in general although our burden will substantially increase due to this new Schedule, the creation of the template will serve to mitigate it somewhat. WFH recommends that the Column heading names be added under each B(i) – H, and also added to Page 10 of 11 to assist in its use. Also consider adding the following categories of compensation: tuition assistance, malpractice insurance, pension plan, elective deferrals such as 403(b) and 401(K), and loan forgiveness. The IRS may even want to consider adding a column for “not included anywhere as compensation”, instead of leaving blank, so as to avoid confusion.
- **Sch J “Trigger” Questions on Form 990 Part II Section B Lines 6 – 9 Requiring Completion on Sch J** – WFH seeks clarification from the IRS on the following point: When a “yes” response is received on Form 990 Part II Section B Lines 6-9, WFH assumes only the specific individuals that triggered the “yes” response be carried to Sch

J, where more in depth compensation information will be provided on just those specific individuals. Is this correct?

- Sch J Col E Nontaxable Expense Reimbursements – WFH notes that the IRS has now added all reimbursements made under an accountable plan to total compensation, a category not previously required to be factored in as part of compensation. Again, although we anticipate this information will be relatively simple to gather, it none the less creates an increased burden.
- Sch J Instructions Page 6 of 11 Nontaxable Fringe Benefits – WFH would like to point out that nontaxable tuition assistance under §127 of up to \$5,250 should also be included as an element of “Nontaxable Fringe Benefits” (tuition assistance can also fall under §132 which appears to have been included).

Schedule K Tax Exempt Bonds:

- Sch K and Form 8038 General Comment – When a bond is issued or refunded, the IRS requires Form 8038 to be filed within 2 months following the end of the quarter in which the bond was issued. There is some information on Sch K which is duplicative of information already provided on Form 8038 (Sch K Part I and II in particular). WFH has recently reorganized and brought in-house an internal office of general counsel, and will need to verify the details of old Forms 8038 related to availability and location, increasing our burden in this area.
- Sch K General Comment on Burden - To gather Sch K information on all our bond issues will be a monumental task requiring a material amount of staff time to go back to the inception of each bond issue, and trace each forward to the current reporting period. The impact of this new Schedule is not yet fully known, but we estimate the total increased burden to be approximately 1,000 hours.
- Sch K General Comment on Defeased Bonds – It appears from reading the IRS instructions that detailed information on legally defeased bonds that are no longer on the organization's financial statements need to be included, and we seek clarification on this point. Information on private use and other detailed information may not be readily available if the defeasement occurred many years ago. We would be opposed to such a requirement, as the additional effort required to gather this information would be enormous. Pending clarification on this point, we have included this issue in our estimated increased burden of 1,000 hours.
- Sch K General Comment on Space Limitation – For large healthcare organizations, considering the amount and variety of projects that each bond issue can potentially fund, we would advise that increased space would need to be made available, in order to provide all the detail the IRS is requesting on this new schedule.
- Sch K Part III Private Use – WFH comments that this section will be particularly difficult and labor intensive, requiring a material level of staff time by the tax, legal, and accounting departments. It may also create a need for an external third party, which will cause non-profit organizations to potentially incur fees. We would recommend that the IRS implement some trigger to filling out this section, such as a “No” response to either question at Line 2b or 3b. Even this may not be adequate, because it is our

understanding that very few bond issues meet the safe harbor requirements of 97-13 or 97-14. We would respectfully request that the IRS reconsider this Part III, and the additional burden it will place on non profit organizations.

- Sch K Part IV Compensation of Third Parties – WFH recommends adding the definition of “Formal Selection Process” as it relates to Sch K Part IV, and asks for clarification in this regard.

Schedule L Loans:

- Sch L General Comment on Due Diligence - We don't, as a general rule, provide loans to, or receive loans from, any officers, directors, or key employees. We like this schedule, however, because it is a good reminder to double check for other potential loans to disqualified persons. On occasion, we may have a child or spouse of a key employee or officer that is employed by a related organization, and who could have applied for one of our loan programs such as The Employee Hardship Program. Also on occasion, there may be an income guarantee or other arrangement in place with a physician board member. This schedule is relatively simple to complete, and serves as a reminder to check for these loans.

Schedule M Non cash Contributions:

- Sch M General Comment on Duplicative Questions as compared to Sch B - Considering the addition of the new Sch M for Non Cash Contributions, Sch B Part II now seems duplicative related to the description of non cash property (Also see comment at Sch B).
- Sch M General Comment on Increased Burden - WFH needs to implement several process improvements in order to comply with gathering the information on this form. Several key decisions need to be made on valuation issues. For example, will we use a certain valuation method for one type of contribution, such as vehicles, without exception? Should different valuation methods be implemented? And under what circumstances? Are we currently in compliance with 1098-C issuances? And are all the Forms 8283 currently being forwarded to the tax department? What procedure will be implemented to ensure all relevant information is being communicated by the philanthropy department to the tax department? WFH needs to make substantial improvements in this area in order to comply with these reporting requirements, and this will dramatically increase our reporting burden.
- Sch M Line 28b Number of 1098-C's Issued – There is no place to insert the number of 1098-C's that were issued to report the sales price of any vehicles donated to our organizations.
- Sch M Line 29 – The word “contribution” is misspelled (last word in sentence).
- Sch M General Comment on Timing of Valuation Determination - WFH seeks clarification from the IRS on the following valuation point: It appears from reading the Sch M instructions that any non cash donation must be recorded at the date of the contribution, independent of whether income is recorded at that same date. For purposes of a donated item, if the fair market value on the contribution date was used to record the “value” for purposes of Sch M, then later sold (in a later fiscal year for

example) at an amount different than that originally reported on Sch M, how is this reported, if at all?

Schedule N Termination or Significant Disposition of Assets:

- Sch N General Comment - In a merger or dissolution, what is normally transferred to a surviving or related organization (in order to zero out the balance sheet of the eliminated organization) is the “net equity” of the eliminated corporation (2006 Form 990 Line 21) which is oftentimes negative, so the ability to enter dispositions of assets that allow both positive and/or negative numbers on Sch N becomes important.
- Sch N Instructions, Page 2 of 5, under Part I Liquidation, Termination, or Dissolution – There are several areas throughout both the schedule and the instructions, that the use of the word “attach” is used in the traditional sense (related to the filing of a paper return). WFH recommends with the onset of e-filing, that a separate set of instructions for “attaching” documentation related to an e-filed return be added and emphasized, in order to encourage e-filing.
- Sch N Part I Line 1c-1d Liquidation, Termination or Dissolution - WFH recommends adding the term “transactional expenses” to the IRS Glossary, per the definition appearing on Sch N Instructions, Page 2 of 5.
- Sch N Part I Line 2a-2e (and also Part II Line 9a-9e) Officers and Key Employees of Successor and Transferee Organizations – With larger systems, mergers and other reorganizations are very common. The amount of information that could potentially need to be included here, especially in the context of a hospital merger and the resulting severance payments for any officer or key employee positions eliminated, could be substantial. We are concerned that under this scenario, the software may not allow for the needed space to properly report the information asked for. Line 2e does not seem to provide adequate space to fully address all potential issues requiring explanation from Lines 2a-2d.
- Sch N Part I Line 7a-7c Tax Exempt Bonds Outstanding at Time of Restructuring - The information requested related to the discharge or defeasement of any tax exempt bonds will cause an increased tax reporting burden. However the number of organizations meeting the requirements for filing Sch N should be relatively small each year.
- Sch N Part I vs. Part II – WFH seeks clarification from the IRS on the following point: It appears from reading the instructions that in a merger, the “eliminated” entity would complete Sch N Part I and the “surviving” entity would fill out Sch N Part II. However, the Part II Schedule itself does not seem to support this. For example, the questions on Part II Lines 9a-9e read exactly the same as the questions in Part I Lines 2a-2e. In the context of a merger, the IRS may want to consider rewording the successor organization questions in Part II Lines 9a-9e.

Schedule R Related Organizations:

- **Sch R General Comment** - Sch R will be tremendously burdensome, in particular Part V, due to the fact that we are a large and complex healthcare system of interconnected controlled group members, and have substantial related organization relationships.
- **Sch R Parts I-II Column G and Parts III-IV Column D Direct Controlling Entity** – It is a bit unclear as to when this applies, or when an “N/A” should be entered. We have 7 system organization charts, all with the same parent organization. Would an Iowa organization be considered to “indirectly control” a Milwaukee organization (2 separate organizational charts), simply because they have the same parent organization? In our opinion, no, yet the IRS instructions read as if the answer to this question would be yes
- **Sch R Part III Column I Identification of Related Orgs Taxable as a Partnership Code V on K-1's** – WFH comments that this is an excellent double check for potential UBI.
- **Sch R Part V Transactions with Related Organizations** – WFH feels In general this section is overly burdensome. Transactions of this nature are not uncommon for large systems, and the extensive detail asked for in this section will require that we make several process changes to more closely track these types of transactions. The impact of Part V alone is estimated to be approximately 400 additional hours.
- **Sch R Part V Line 1a-b Capital Contributions to Related Organizations** – How is “capital contribution” defined outside of the partnership context? For example, if we make an investment in a joint venture that is not taxed as a partnership, is this still considered to be a “capital contribution”? WFH comments that a better word may be “investment”.
- **Sch R Part V Lines 1e-g Asset Transfers to Related Organizations** – Many times members of controlled groups move their assets without actually consummating a “purchase” or “sale”. For example, the net book value of a piece of MRI equipment might be transferred from one hospital to another through the use of a balance sheet account called a “due to” or “due from”. This type of balance sheet account is used between related organizations that share the same cash account, but cash is never actually exchanged. Which line would apply in this example? We assume this would be an “exchange” but the IRS instructions are not clear on this point.
- **Sch R Part V Lines 1j and 1k Performance of Services to or by Related Organizations** – we are seeking further clarification from the IRS on when these lines apply. For example, when are you considered to be performing services “for” another organization? And when are you considered to have “received” some level of service? Related to fundraising services, there are a variety of issues from an accounting standpoint that may need to be considered such as the date the donation is received, recorded, how it is restricted (if at all), when it is “released” from restricted assets, what fund it benefits and which organization that fund rolls up to, among other things. These lines leave many questions unanswered.

Conclusion

In conclusion, the additional reporting burden related to the PROPOSED 2008 Form 990 and its related Schedules are estimated to be approximately **4,865** hours in total. Calculating the increased burden across the currently **40** 990's we prepare in house, the impact per 990 will be approximately **122** average additional hours of staff time for each 990. We would also draw your attention to the **Summary Table** presented on Page 5 and the **Summary of Findings**, in narrative form, presented on Pages 3-4.

In the opinion of WFH, this increased tax reporting burden is substantial, and we would respectfully request that the IRS consider some alternatives that have been suggested in order to decrease this burden, especially the phased in implementation as described on Page 2, last paragraph of this correspondence. WFH is very committed to assisting in this project. Should you have any further questions, please contact me by phone at 414-465-3542 or via email at elizabeth.schinko@wfhc.org.

Sincerely,



Elizabeth A. Schinko
Manager of Tax Compliance
Wheaton Franciscan Healthcare

From: [Pete Willson](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Donna Shelton; Keith.Hearle@veriteconsulting.com; Ann Langley; Shawn Gremminger;](#)
Subject: Comments of the National Association of Children's Hospitals on the Proposed Changes in Form 990
Date: Friday, September 14, 2007 1:45:37 PM
Attachments: [nach comments on 990 form.doc](#)

The National Association of Children's Hospitals is pleased to submit the attached comments, which also are embedded below.

We would be pleased to try to answer any questions you might have. Please contact me at the phone numbers or e-mail address below.

Thank you for your consideration of our comments.

Sincerely,

Peters D. Willson
Vice President for Public Policy
National Association of Children's Hospitals
401 Wythe Street
Alexandria, VA 22314

Ph: 703/797-6006
Cell: 301/980-1569
Fx: 703/684-1589
pwillson@nachri.org

The Honorable Charles E. Grassley
August 14, 2007
Page 2

children. The ability of the children's hospitals to fulfill these missions is critically important, because the health care needs of children are distinctly different from those of adults. Children's health and well-being would be significantly harmed if only adult medicine were available to them.

Because of this, not only children's hospitals but all of children's health care would be uniquely and adversely affected if legislative proposals articulated in *Tax-Exempt Hospitals: Discussion Draft* issued on July 18, 2007, were implemented. We appreciate very much the opportunity to explain this serious, adverse effect.

From an overall perspective, the *Discussion Draft* is helpful in providing additional perspectives and ideas regarding the requirements associated with federal tax-exemption and encouraging public debate about them. **However, we believe that action on federal legislation to change community benefit reporting requirements would be premature at this time.** The recently proposed revisions to the Form 990 issued by the Internal Revenue Service, as well as voluntary efforts of children's hospitals and many other tax-exempt hospitals across the country to document and enhance the community benefits they provide, will yield important insights that should inform debate about the need for any future legislative reforms.

Focusing more specifically on issues of concern to children's hospitals, N.A.C.H. has the greatest concern about the proposal that hospitals exempt from federal income tax under Sec. 501(c)(3) must provide charity care in an amount no less than five percent of total operating expenses or revenues (whichever is greater). While this staff proposal would pose serious challenges for both independent children's hospitals and children's hospitals that operate under the EIN of larger tax-exempt medical centers, our comments below focus on the independent children's hospitals operating under their own EIN. Additional comments on the *Discussion Draft* are provided in the attached addendum.

The coverage and financing of health care for children is distinctly different from that of adult health care. A perfect illustration is the fact that a proposal to require 501(c)(3) hospitals to contribute five percent of total patient operating expenses or revenues (measured by the lesser of cost of care or Medicaid reimbursement) to charity care would set a standard that virtually no independent children's hospital in the country would be able to meet.

The Honorable Charles E. Grassley
August 14, 2007
Page 3

At best, failure to comply with this charity care requirement would result in a children's hospital paying intermediate sanctions of hundreds of thousands to millions of dollars in new, annual excise taxes. At worst, failure to comply could lead to revocation of the hospital's federal charitable tax status, which would impose literally millions of dollars of financial hardship on individual children's hospitals.

Collectively, loss of 501(c)(3) status to all independent children's hospitals could amount to billions of dollars lost to children's health care, pediatric training, research and public health promotion. That, in turn, would jeopardize health care for all children, not just children's hospital patients.

As we discuss below, because of the different circumstances of children's health coverage and the enormous impact of a charity care standard on children's hospitals and children's health, we would recommend retaining a broad definition of community benefit, including Medicaid payment losses and charity care as well as other benefits. Were that not possible, we would recommend exemption of children's hospitals, just as the draft proposes exemption of "critical access hospitals" as defined under Medicare law.

During the past decade, while the number of uninsured adults rose steadily, the number and percentage of uninsured children significantly declined. Today, nearly 20 percent of non-elderly adults are uninsured compared to less than 1 percent of children, according to the U.S. Census Bureau.

That trend is due in part to the fulfillment of the 1990 federal phase-in of mandatory Medicaid coverage for all children under age six with family incomes up to 133 percent of the federal poverty level (FPL) and all older children up to 100 percent of FPL. It also is due in part to the 10-year implementation of the State Children's Health Insurance Program, which extended health coverage to uninsured children of low-income families who do not qualify for Medicaid.

As a result, charity care at children's hospitals is uniformly lower than at adult hospitals, because federal and state-sponsored insurance programs cover most children's hospital patients who are not privately insured. In particular, Medicaid, by far the nation's single, largest payer of both children's health care and children's hospitals' services, covers two populations of children who together account for the majority of children's hospitals' patient care: 1) the poorest children and 2) children whose medical expenses are so great that even middle income families qualify for Medicaid.

Independent children's hospitals, on average, devote less than three percent of their patient care to charity care patients. However, the same hospitals devote a disproportionately large portion of their patient care – more than 50 percent on average -- to children of low-income and medically needy families in their communities. For example, according to an analysis by The Lewin Group, on average an independent children's hospital provides more than 20,000 inpatient days of care per year to children covered by Medicaid. In contrast, on average a community hospital provides less than 1,000 inpatient days of care per year to children under Medicaid.

Because of this exceptional commitment to children of low-income families, independent acute care children's hospitals comprise less than one percent of all hospitals but provide 15.9 percent of all inpatient care to children assisted by Medicaid and an even more substantial portion of all inpatient care to children with serious medical conditions assisted by Medicaid.

It is important to note that children's hospitals devote more than 50 percent of their patient care to children assisted by Medicaid, despite the fact that on average Medicaid reimburses 30 percent below what it costs to provide the care. On average, financial losses on Medicaid payment represent 13 percent of operating expenses of an independent children's hospital or more than \$2 billion nationwide. Together, charity care and Medicaid payment shortfalls average 16 percent of a children's hospital's operating expenses.

To give you just one example, the State of Illinois' expansion of health coverage to all children in recent years has resulted in a decline in charity care patients but a dramatic rise in Medicaid patients at Children's Memorial Hospital in Chicago, one of the nation's largest children's pediatric academic medical centers. Since 2000, Children's has experienced a 57% increase in the volume of Medicaid inpatient days. Medicaid as a percentage of total inpatient days has increased from 49.1% in FY2006 and peaked in FY2007 at 57%. In addition, the hospital has experienced a 36% increase in outpatient visits. And Medicaid now represents more than 60 % of all emergency room visits. As a result, for FY 2007, the hospital will incur a loss of \$40.5 million on the care of children covered by Medicaid, because Medicaid payment rates fall so far short of the cost of care.

Despite the enormous financial contribution children's hospitals make to the care of low-income and medically needy children across the country, the proposals in the *Discussion Draft* would not count the substantial Medicaid payment losses that children's hospitals incur toward the five percent charity care standard that 501(c)(3) hospitals would be required to meet.

In addition to not recognizing the huge financial cost that children's hospitals experience in caring for low-income patients covered by Medicaid, a standard for 501(c)(3) status based on the amount of charity care a hospital provides also would ignore children's hospitals' role as the foundation of health care for all children – today and tomorrow. For example:

- Independent children's hospitals are the centers of excellence for the nation's sickest children. Less than one percent of all hospitals, they account for nearly 50 percent of all inpatient care for children with spina bifida or cancer and 60 percent of all inpatient care for children requiring organ transplants.
- Independent children's hospitals train 33 percent of all pediatricians, nearly 50 percent of all pediatric subspecialists and the majority of the nation's pediatric research scientists. At a time when the nation has major shortages of pediatric subspecialists in many regions, children's hospital training programs are essential to the future of pediatric medicine.
- Independent children's hospitals house the premier centers of pediatric research in this country, which account for about \$500 million in grant awards from the National Institutes of Health (NIH). They are essential to the engine that drives pediatric biomedical research and accelerate the translation of bench research to bedside practice for children. The exempt status of children's hospitals is important to this support. While NIH makes awards to both not-for-profit and for-profit institutions, more than 90 percent of its awards go to not-for-profit entities.
- Independent children's hospitals are fundamental to the public health infrastructure of their communities and states through their primary and preventive care clinics, immunization campaigns, injury prevention efforts, child abuse prevention and treatment programs and other public health initiatives – most of which are provided with limited or no reimbursement to the hospitals.

The loss of their 501(c)(3) tax status would have an enormous financial impact on children's hospitals. They could incur more than \$600 million in new tax expenditures. They would lose more than \$1 billion dollars in charitable giving. And they would risk loss of more than \$6 billion in tax-exempt financing. Such losses would come on top of the more than \$2 billion dollars in Medicaid payment losses the independent children's hospitals already must absorb. Such a financial burden would place

The Honorable Charles E. Grassley
August 14, 2007
Page 6

children's hospitals in serious financial jeopardy, the cornerstone of children's health care in this country.

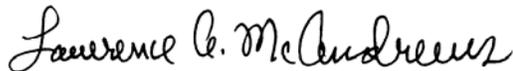
The alternative of 501(c)(4) status is not a viable substitute for independent children's hospitals, because it still would trigger the loss of their charitable support and tax-exempt financing. Children's hospitals are uniquely dependent on charitable contributions from private individuals, foundations, corporations and governments. Such philanthropic support is a tangible recognition of their community benefits. Children's hospitals also are heavily dependent on tax-exempt bonds to expand their facilities and thereby meet the growing demand for their services as well as keep pace with rapid changes in medical technology and care delivery.

In closing, we urge you not to condition tax-exemption for children's hospitals on an arbitrary measure of charity care. Instead, we would recommend a standard based on all community benefits, including but not limited to charity care and Medicaid payment shortfalls. Were such an approach not taken, it would be imperative to exempt children's hospitals from the proposed charity care standard, just as your proposal would exempt critical access hospitals.

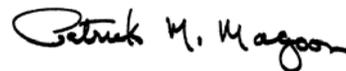
We commend your commitment to ensuring that tax-exempt hospitals earn the benefits provided by 501(c)(3) status. We would welcome the opportunity to discuss our concerns about how these proposals would affect children's hospitals, and in turn health care for every child in this country.

To that end, we will ask Peters Willson on the N.A.C.H. staff to follow up with your staff to see if we might be of assistance in providing any additional information you might wish to have in considering our recommendations. In the meantime, thank you for your consideration.

Sincerely,



Lawrence A. McAndrews
President and CEO
N.A.C.H.



Patrick M. Magoon
Chairman, Board of Trustees
N.A.C.H.
President and CEO
Children's Memorial Hospital
Chicago, IL

From: [Schultz, Beth](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Draft Redesigned Form 990
Date: Friday, September 14, 2007 1:43:38 PM
Attachments: [ole0.bmp](#)
[ole1.bmp](#)

Picture (Metafile)

September 14, 2007

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

REF: Comments on Form 990 and Associated Schedules

Dear Mr. Schultz:

On behalf of Providence Health & Services (Providence), I want to thank you for the opportunity to provide our comments on the changes proposed by the Internal Revenue Service (IRS or Service) to Form 990 and the newly developed associated schedules to Form 990. The IRS published these changes on June 14, 2007 and seeks public comment on the revisions.

Providence is a not-for-profit organization extending across five states, including Alaska, Washington, Montana, Oregon and California. The System operates 26 acute care medical centers and hospitals, more than 35 non-acute facilities, physician clinics, a health plan, a liberal arts university, a high school and numerous other health, housing and educational services. In total, more than 45,000 people are

employed by Providence. In Alaska, Washington, Montana and Oregon, Providence is sponsored by the Sisters of Providence religious community. In Southern California, the health ministry is co-sponsored by the Sisters of Providence and the Little Company of Mary.

As a Catholic health care system striving to meet the health needs of people as they journey through life, Providence is pleased to submit comments on several areas related to the proposed changes to the IRS Form 990 and associated schedules.

The IRS has stated three goals for the redesign of Form 990: 1) Enhancing transparency; 2) promoting tax compliance; and 3) minimizing the burden on the filing organization. We emphatically support the IRS' goal of enhancing transparency. At Providence, we strive to provide the people we serve with access to information that enables them to make good choices and build trust in the services we provide. Transparency is essential for our customers and the general public to have consistent, comparable information on our non-profit activities in order to make informed decisions – where the redesign of Form 990 supports and furthers this purpose, Providence fully endorses the IRS' proposed changes.

We also support a form that accurately reflects an organization's operations and use of assets; the redesign of Form 990 and the creation of the associated schedules make great strides towards meeting this goal. Providence is pleased to offer a few suggestions to bring clarity to the form and schedules to further meet the IRS' second stated goal of tax compliance.

The redesign will not minimize the burden of reporting for most hospitals and health care systems, including Providence. Our health system is organizationally very complex and we estimate that 63 Form 990s will need to be filed and a total of 467 associated schedules will be required under the proposed IRS changes. The redesign will necessitate the addition of at least one full-time equivalent at the corporate level as well as added responsibilities to existing personnel at the regional and local levels of our organization. However, given the overall benefits of the redesign of Form 990, we support the IRS' efforts and look forward to working with the Service to improve the form and associated schedules.

Schedule H

Requirements to File 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.” Providence believes this requirement is too broad and captures a number of facilities that are not hospitals and potentially creates confusion for the public when reviewing these documents. The only facilities that should complete the proposed Schedule H are hospitals as the title to the form – Hospitals – suggests.

We also strongly believe that data contained on Schedule H must be comparable across all filers. Depending on how organizations are structured, as currently drafted one Schedule H form may contain information on a single hospital or aggregate data from multiple hospitals. For instance, a parent company may have many unincorporated hospitals as part of its organization. This company would file one Form 990 and one Schedule H with data aggregated from the multiple unincorporated hospitals. Thus, it would be virtually impossible for the Service or the public to make an “apples to apples” comparison from one hospital to another; the forms may be misleading – a Schedule H for one filer would contain information on only one hospital, while another filer’s Schedule H would contain aggregate information on two or more hospitals.

However, if organizations, regardless of how they are structured, are required to complete a Schedule H for *each* hospital they directly operate, the Service and the public would be able to use Schedule H as a tool for accurate comparisons between non-profit hospitals. Although such a proposal would increase the number of Schedule H forms filed by many organizations – including Providence – the benefit of having comparable information far outweighs the burden.

Recommendation – Requirements to File Schedule H:

Providence urges the IRS to require organizations to complete a Schedule H for each hospital they directly operate. This change would necessitate a number of revisions to the proposed Core 990 Form, Schedule H and the Glossary:

§ Delete the phrase “medical or hospital care” from the Glossary;

§ Change the glossary term “hospital facility” to “hospital” and reword as follows: “A hospital is a health care organization that (1) has a governing body, (2) has an organized medical staff and professional staff, (3) has inpatient facilities, (4) provides medical, nursing, and related services for ill and injured patients twenty-four hours per day, seven days per week, and (5) the facility (and all of its components) is licensed or recognized in its state as a hospital. Some examples of hospitals are: general hospitals; rehabilitation hospitals; acute long-term care hospitals; children’s hospitals; psychiatric hospitals; and hospitals for treating certain disease categories (e. g., cancer, heart). Examples of facilities that are not hospitals are: nursing facilities (including skilled nursing facilities, convalescent homes, or homes for the aged); free-standing outpatient clinics; community mental health or drug treatment centers; physician group practices/faculty practice plans; physician offices; facilities for mentally retarded/developmentally disabled; facilities for treating alcohol and/or drug abuse; and hospital wings of schools, prisons, or convents.

§ Replace the word “organization” with “hospital” throughout Schedule H, including:

- Part I, Line 12a, 12b, 13a, 13b
- Part II, Line 5, 6a
- Part III, column (c)
- Part IV, Line 1, 2, 3, 4

§ Delete Part V which is no longer necessary if each hospital completes a separate Schedule H. Information

contained in column (B) to “Describe the activities and programs conducted at the hospital” could be added to Part IV – General Information.

Part I – Medicare Shortfall and Bad Debt Reporting – Community Benefit Report

The first page of Schedule H contains a Community Benefit Report and does not include reporting of Medicare shortfalls or bad debt expense. Providence believes that to protect the integrity and credibility of these reports, the IRS should resist efforts of others to include such reporting on Schedule H. While it is true that Medicare does not pay the full cost of patient care, tax exempt organizations do not have the exclusive market on serving Medicare patients – both for-profit and non-profit hospitals provide care and service to this population and the shortfalls experienced do not distinguish unique characteristics of tax exempt hospitals.

Likewise, bad debt should not be considered community benefit. If a hospital serves many patients who are truly unable to pay and whose accounts are being written off to bad debt, the hospital should adjust its charity care policy and/or billing practices to better recognize patients eligible for financial assistance.

Recommendation – Medicare Shortfall and Bad Debt Reporting: Providence urges the IRS to continue to exclude Medicare shortfalls and bad debt expense from the Community Benefit Report. We would also suggest that the IRS include definitions of bad debt and charity care in the Glossary modeled after those used by the Healthcare Financial Management Association (HFMA) in their Principles and Practices Board Statement 15: “Bad debt results when a patient who has been determined to have the financial capacity to pay for healthcare services is unwilling to settle the claim, whereas charity care is provided to a patient with a demonstrated inability to pay.”

Community Building

The IRS modeled the redesigned Form 990 using the Catholic Health

Association (CHA) framework. However, the category of Community Building, which is part of the CHA design, is notably absent in the IRS' proposed Schedule H. Providence strongly believes that Community Building activities help address the root causes of health problems and therefore should be included in the Community Benefit Report. Programs that address poverty, homelessness and neighborhood improvements are clearly linked to the overall health in the community. For instance, Providence St. Vincent Medical Center partnered with six Catholic Parishes to train and develop 75 Spanish-speaking "health promoters." These health promoters reach out to community members to address healthy behaviors and access to care issues. Community Building programs such as this one provide extraordinary benefits by building partnerships between the hospital and the public.

Recommendation – Community Building: Providence urges the IRS to reconsider its decision and include Community Building as part of the Community Benefit Report in Part I of Schedule H. The activities and services our hospitals provide to the public as part of Community Building are an integral part of the overall Community Benefit and should be reflected in the redesigned Form 990.

Part II, Section A – Billing Information Chart

While much of the information contained in Schedule H is specifically relevant to whether a hospital is meeting the community benefit standard, Providence does not believe that the Billing Information chart in Part II provides pertinent information. Attempts to capture billing information in the proposed format create new reporting standards that are unnecessary in light of the other sections of the redesigned form that detail a wealth of information on Medicare and Medicaid revenues, charity care, and financial assistance practices and policies.

Recommendation – Billing and Collections: We strongly urge the IRS to eliminate the Billing Information chart contained in Section A of Part III from Schedule H. The information reported in this chart is unrelated to community benefit and is unduly burdensome – thus in direct conflict with IRS stated goals for the redesigned form. If the Service is seeking information specifically related to the hospital's discount policy or practices, Schedule H should require a hospital to

describe its policy rather than complete the Billing Information chart.

Part III – Management Companies and Joint Ventures

Providence believes that the level of detail the IRS requests in Part III related to management companies and joint ventures is unnecessary to ascertain whether a hospital meets community benefit standards. Additionally, many of the questions are redundant from information already provided in the “core” Form 990 and Schedule R; reporting the same or similar information in three different portions of the redesigned Form 990 does not meet the IRS’ goal of minimizing burden to filing organizations.

Recommendation – Management Companies and Joint Ventures: Providence urges the IRS to eliminate Part III of Schedule H. If the IRS feels additional information is necessary to capture related to potential private inurement or benefit arising from ventures, we assert that such information is relevant for all tax-exempt organizations, not just hospitals, to report and should be captured via Schedule R.

“Core” Form 990

Unrelated Business Revenue – Part I – Line 9a and 9b

Many organizations, including Providence, routinely request and receive a 6-month extension to file Form 990-T. By requiring an organization to report the net unrelated business taxable income from Form 990-T, the organization would need to request additional extensions to file Form 990. The information in Line 9a is available elsewhere on Form 990, and with Form 990-T open to public inspection, the information in Line 9b is also available.

Recommendation – Unrelated Business Revenue: We urge the IRS to remove both Line 9a and 9b from Part I of Form 990. Providence cautions the Service to refrain from simply removing Line 9b from Form 990 without also removing Line 9a – to do so would give an incomplete and inaccurate picture of a tax-exempt organization’s activities.

Fundraising Expenses – Part I – Line 19a and 19b

Many fundraising projects, especially large capital campaigns, occur over multiple years. For these large fundraising activities, a substantial portion of expenses are realized during the first year of the campaign and revenues may not be generated to a significant extent until the second or even third year of the campaign. The proposed redesigned Form 990 captures only the current tax year of fundraising expenses and compares it to the current tax year of contributions and grants. In a situation where an organization is beginning a substantial fundraising project, the expenses during the first year may present a skewed picture of facility activities in Part I of the “core” form. For instance, a hospital may begin a capital campaign to raise funds to support an expansion of a maternity wing. The first year, expenses from fundraising activities are twice the amount of revenue received from contributions and grants. However, in the second and third years of the project, the expenses are only a minute fraction of the revenue received since most of the costs associated with the fundraising project have already been incurred. Without some way for the hospital to explain the apparent discrepancies in fundraising expenses compared to contribution and grant revenue, the public may have misconceptions about the hospital’s fundraising activities during all three years of the fundraising project.

Recommendation – Fundraising Expenses: Providence urges the IRS to revise the line items related to fundraising expenses (Line 19a and 19b) on the “core” Form 990. One possible solution that the IRS could adopt would be to allow a filer to average fundraising expenses over the course of five years to reduce the likelihood that any given tax year’s data is not representative of the organization’s fundraising activities. Such a rolling average support test is already in place on the draft version of Schedule A, Parts II and III, as well as Schedule D, Part XII. Another option would be to provide space for the filer to describe the response in Line 19b, so that a facility could explain that large fundraising expenses were recognized for the current tax year because of a special fundraising project expected to take many years, or that small fundraising expenses were recognized because of a multi-year campaign where large expenditures occurred in prior years.

Total Expenses as a Percentage of Net Assets – Part I – Line 24b

Providence is unclear as to the purpose of the percentage requested in Line 24b. This number is variable from year to year in both for-profit and non-profit organizations. The meaningful numbers – percentage of expenses in program services, management, and fundraising – are captured in Lines 17, 18, and 19a. We are concerned that the Service is suggesting that certain percentages in Line 24b would be construed as either “good” or “bad” when such assumptions cannot be made given the variability of the percentage.

Recommendation – Total Expenses as a Percentage of Net Assets: Providence urges the IRS to remove Line 24b from Form 990. This number does not provide useful, comparable information regarding a tax-exempt organization’s activities.

Conflict of Interest – Part III – Line 3b

The proposed “core” Form 990 queries tax-exempt organizations on the number of transactions reviewed under a conflict of interest policy. We caution that this number may be deceptive and will not provide useful information to either the IRS or the public about the filer. If an organization is aggressive about educating all workforce members on its conflict of interest policy and creates an environment where more *potential* conflicts are disclosed, the organization may report a high number of transactions on Line 3b of Form 990. This type of behavior on the part of the tax-exempt organization should be encouraged. However, another organization may also report a high number of transactions on the “core” form that were reviewed under a conflict of interest policy, but this number is due solely or in large part to prohibited arrangements entered into in violation of the organization’s conflict of interest policy. While both organizations report high numbers on Line 3b, the two numbers are not comparable and may lead both the public and the IRS to have mistaken perceptions of the organization’s actual conflict of interest policy compliance. The same types of misrepresentations can be made regarding tax-exempt organizations that report small numbers on Line 3b – either the organization does not engage in activities creating even a potential conflict of interest or the organization does not encourage the reporting and investigation of transactions that may involve a conflict.

The draft form may have the unintended consequence of discouraging non-profit organizations from identifying potential conflicts of interest.

Recommendation – Conflict of Interest: To capture information on whether a tax-exempt organization has a process in place to evaluate potential conflicts of interest and/or whether the organization is actually involved in transactions that represent a conflict, Providence urges the IRS to remove Line 3b in Part III of the “core” form and replace it with the following two items:

§ 3b: If “Yes,” does the organization have a written procedure or process to evaluate transactions that give rise to a potential conflict of interest?

§ 3c: If “Yes,” how many transactions were evaluated that resulted in a finding of an actual conflict of interest?

Investment Management Fees – Part V – Line 11f

The proposed “core” Form 990 asks organizations to report the expenses related to investment management fees in opposition to accepted industry practice. Dividends and interest from securities are reported in Part IV, Line 5 – typically these figures are reported net of investment fees. If the Service maintains Line 11f in Part V, an organization would have to create a book tax difference and report investment management fees as reconciling items.

Recommendation – Investment Management Fees: Providence urges the IRS to remove Line 11f from Part V of Form 990 and provide instructions that the dividends and interest from securities reported in Line 5 of Part IV are net of investment management fees. Such a change would align with currently accepted industry practice and reduce the burden on filers without impairing transparency or tax compliance goals.

Other Schedule Issues

Schedule F – Foreign Activities

The definition of what constitutes foreign grant-making has substantially changed with the introduction of Schedule F. Currently organizations must identify grants provided to organizations established outside the United States. However under the proposed changes, the organization would also need to identify grants given to certain organizations within the United States. Specifically, Providence is concerned that the IRS is placing unreasonable burden on tax-exempt organizations by requiring that the filing organization investigate and determine if the U.S. charity receiving the grant conducts more than one-half of their activities outside the U.S or for the benefit of persons in foreign countries. For example, as a result of a significant natural disaster, many domestic organizations may have conducted more than one-half of their activities outside the U.S. or for the benefit of persons in foreign countries during a one-year period of time, but then resumed normal operations focusing on domestic issues during subsequent years. On one of the Form 990s filed by Providence for 2005, a total of 174 grants were provided to charities – the resources required to ascertain and document whether any of those 174 charities conducted more than one-half of their activities outside the U.S. or for the benefit of persons in foreign countries are astronomical and unnecessary. This burden should not be placed on the organization.

However, we agree with the Service that any grants provided to U.S. charities with the *intention* of supporting activities outside the U.S. or to a foreign branch of a domestic office should be identified by the filing organization. This type of information reporting is well within the scope of responsibility of the organization and we believe it is appropriate for the organization to bear this burden.

Recommendation – Foreign Activities: We urge the IRS to remove the words “a grant to a domestic organization if more than one-half of its activities are conducted in foreign countries or for the benefit of persons in foreign countries” from the instructions. This identification assigned to the tax-exempt organization is unduly burdensome and unnecessary.

Schedule G – Fundraising and Gaming

Often, as part of a large fundraising event for an organization, a small raffle will take place during the activity. For instance, at a recent luncheon with a prominent guest speaker, participants paid a fee to attend. This fee (above and beyond the actual cost of the meal) represented the fundraising activity and garnered a substantial total of money. However, towards the end of the lunch, a small raffle occurred where tickets were sold for \$1.00 with the prize being the flower centerpiece from the guest speaker's table. A very small amount of money was raised by this raffle activity, but expenses and revenue from this action would be required to be reported in Part II and III of Schedule G. The ability for an organization to allocate expenses to such a minor raffle activity that takes place as part of a broader fundraising event is difficult and unduly burdensome. The impact of this minor raffle activity is miniscule in relation to the overall fundraising event.

Recommendation – Schedule G: Providence urges the Service to create a reasonable dollar amount or percentage (i.e. 50%) threshold of raffle proceeds to gross fundraising revenue when required to report raffle proceeds on Schedule G. Without a dollar amount or threshold percentage, tax-exempt organizations will either expend their limited resources attempting to allocate raffle expenses unnecessarily, or simply remove all minor raffle activities from fundraising events when these proceeds, albeit small, help further the tax-exempt purposes of the organization.

Schedule K – Tax Exempt Bonds

A substantial portion of the information requested on Schedule K in Parts I and II is currently required on Form 8038. It is unnecessary for organizations to provide information on tax exempt bonds in multiple locations and multiple formats and increases the burden on the organization without any substantial improvement in transparency or promotion of tax compliance.

Recommendation – Schedule K – Tax Exempt Bonds: We urge the IRS to eliminate the duplication between Form 8038 and Schedule K by deleting Schedule K from the redesigned Form 990. Because there is no benefit to providing Schedule K when the information is already on file with the IRS via Form 8038, the requirement to

complete Schedule K for tax exempt bonds is unnecessary.

Schedule M – Noncash Contributions

The information requested in Part I, column (b) is, in essence, a duplication of the information contained in column (d). Revenues are recorded on the books at the same time as assets are recorded on the balance sheet – thus, these two columns must be equal. The IRS is not gaining any useful information by keeping both columns on the form, even though the burden to an organization is not greatly increased by requiring completion of both columns (b) and (d).

In addition, in Part I, column (c), information regarding the method of valuation used by the charity is irrelevant. The tax-exempt organization is not claiming a tax deduction for the items and the law requires that donors, not donees, obtain qualified appraisals to support their tax deductions. It is not the responsibility of the organization to value the item, and thus it is not appropriate for the IRS to request information on the method of valuation.

Recommendation – Schedule M – Noncash Contributions:
Providence urges the Service to eliminate column (c) and column (d) in Part I of Schedule M. By removing these columns, organizations will not be required to provide information on the valuation of noncash donations or duplicate information on revenues and assets.

Transition Timeline

Organizations will need to make substantial changes in recordkeeping and information collection processes in order to accurately and completely report the information required by the redesigned Form 990 and associated schedules. It is imperative that all forms, schedules, worksheets and instructions are complete well before any scheduled implementation so that Providence can make an informed evaluation and assessment of personnel requirements, financial systems and recordkeeping processes. At this time at least one worksheet (Worksheet 8 to Schedule H) has not yet been made available for review.

Recommendation – Transition Timeline: Because this is such a substantial

body of work, Providence recommends that the IRS perfect the form and associated documents, including all schedules, worksheets and instructions by mid-year 2008. If the forms will be used for tax year 2009, the healthcare community would then have at least six months to revise any necessary systems as well as hire and train additional staff where required. We urge the IRS to delay the reporting requirements under the redesigned Form 990 until tax year 2009.

In closing, thank you for the opportunity to review and comment on the proposed changes to the IRS Form 990 and the newly created associated schedules. Please contact Beth Schultz, System Manager, Regulatory Affairs, at (206) 464-4738 or via e-mail at Elizabeth.Schultz@providence.org if you have questions about any of the material in this letter.

Sincerely,

Picture (Metafile)

John Koster, M.D.
President/Chief Executive Officer
Providence Health & Services

DISCLAIMER:

This message is intended for the sole use of the addressee, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the addressee you are hereby notified that you may not use, copy, disclose, or distribute to anyone the message or any information contained in the message. If you have received this message in error, please immediately advise the sender by reply email and delete this message.

From: [Nancy Galvagni](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Form 990 and Schedules
Date: Friday, September 14, 2007 1:41:03 PM
Attachments: [IRSCommentLtr090607.doc](#)
[ATT2525290.txt](#)

Dear Sir:

Attached please find the comments of the Kentucky Hospital Association on the above forms.

Nancy Galvagni
Senior Vice President
Kentucky Hospital Association
[502-426-6220](tel:502-426-6220)

September 14, 2007

Internal Revenue Service
Form 990 Redesign, SE: T: EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

By Electronic Filing

RE: COMMENTS ON DRAFT REDESIGNED FORM 990 AND SCHEDULES

The Kentucky Hospital Association, on behalf of all hospitals in the Commonwealth, appreciates this opportunity to comment on the draft redesigned Form 990 (core form) and new draft schedules.

Kentucky's tax-exempt hospitals have numerous concerns about the draft redesigned Form 990 and many of the new schedules. We believe that the IRS should address these concerns before asking hospitals to file the Form or schedules.

Our concerns can be summarized as follows:

- The filing deadline is far too short and should be extended to tax year 2010 for Form 990 and all schedules.
- The full value of hospital community benefit is not included in Schedule H,
- The IRS is requesting information that is unrelated to community benefit and will not be meaningful to the public. It should be removed from the form.
- Form 990 and other schedules are full of questions that require substantial revision before the goals the IRS set for itself can be achieved. Schedule K, Supplemental Information on Tax Exempt Bonds, is particularly problematic.

IMPLEMENTATION SHOULD BE DELAYED UNTIL 2010

The hospital community has demonstrated in many ways its commitment to transparency. However, the reconfiguration of financial data and other record-keeping systems required to capture the substantial amount of information required just for Schedule H cannot reasonably be accomplished by January 1, 2008. This short

timetable is exacerbated by the lack of necessary instructions, definitions and worksheets that will not be forthcoming until the following June. Completion of schedule H, therefore, should be delayed until after the IRS issues all accompanying instructions and hospitals are afforded sufficient lead time to make programming changes necessary to be able to capture the reportable data.

Our comments herein on the core form and other schedules are based on the preliminary review of our members. Many large hospitals and hospital systems will need to fill out as many as 14 schedules, and most will have to fill out at least 8-10. This is an enormous, expensive and time-consuming undertaking for tax-exempt hospitals.

Significant revisions and refinements must be made to the core form, schedules and instructions. We think it is critical that exempt organizations be given an opportunity to review the revised set of forms, schedules and instructions in their entirety, with another 90-day review period following the re-draft. The IRS should release the second draft with instructions in 2008, and provide another 90-day review period, with a final form release by December 31, 2008.

It would be a disservice to the entire tax-exempt sector – hospitals in particular – to undertake the first major overhaul of the Form 990 in 25 years without adequate time for review and input. A rushed implementation schedule will inevitably require revisions and modifications that will be costly both to exempt organizations and the IRS, and that will not result in the desired transparency.

Schedule H (Supplemental Schedules to be completed by all hospitals)

SCHEDULE H FAILS TO ADHERE TO THE COMMUNITY BENEFIT STANDARD

The community benefit standard, which requires the promotion of health in accordance with community needs in the absence of private benefit, is the legal basis for hospitals' tax exemption. Therefore, to be consistent with the basis on which tax exemption is granted to hospitals, the IRS should incorporate the community benefit standard into Schedule H, in the same manner it is incorporated into other forms and reflected in the IRS' own rulings and legal precedent. Further, the IRS should rely on it exclusively to determine compliance.

For almost 40 years, the community benefit standard, set forth in Revenue Ruling 69-545, has been the standard used by the IRS, the courts and the tax-exempt community in determining tax- exemption for hospitals and health care organizations. The reasons for that ruling and for the movement away from a "financial-ability" standard are still compelling. As the U.S. Supreme Court recognized in 1976:

"The concept of the nonprofit hospital and its appropriate and necessary activity has vastly changed and developed since the enactment of the Nonprofit Institutions Act in 1938. The intervening decades have seen the

hospital assume a larger community character. Some hospitals, indeed, truly have become centers for the 'delivery' of health care. The nonprofit hospital no longer is a receiving facility only for the bedridden, the surgical patient, and the critical emergency. It has become a place where the community is readily inclined to turn, and because of increasing costs, physician specialization, shortage of general practitioners, and other factors is often compelled to turn, whenever a medical problem of import presents itself." Abbott Laboratories v. Portland Retail Druggists Ass'n., 425 U.S. 1, 11 (1976).

The Court recognized that hospitals have evolved into community organizations whose mission, appropriately, is to promote the health of the entire community. **In numerous rulings since 1969, the IRS has recognized that the "promotion of health" is a charitable purpose in and of itself.**

Revenue Ruling 69-545 recognized that a variety of factors are the pillars of the "community benefit" standard, including operating an emergency room open to all regardless of ability to pay; having an independent board of trustees composed of representatives of the community; having an open medical staff policy with privileges available to all qualified physicians; providing care to all persons in the community able to pay either directly or through third-party payers; and utilizing surplus funds to improve the quality of patient care, expand facilities and advance medical training, education and research.

Those same factors are reflected in the form hospitals use to apply for tax exemption: Form 1023, Application for Recognition of Tax-Exempt Status, Schedule C. It is additionally concerning that Schedule H does not incorporate that same focus and inquire about those factors in seeking to determine compliance. At the very least, this inconsistency could unfairly increase the likelihood of a hospital being subjected to an IRS audit.

Because the mission of hospitals is not just to tend to the sick and injured, but also to promote the health of their communities, many hospital programs and activities go beyond traditional health care. Often, the local hospital provides the social safety net that others have abandoned. Hospitals should be rewarded for assuming this mantle of responsibility and their efforts should be recognized as community benefit. To do otherwise, would, in effect, permit the IRS to substitute its judgment about a community's needs for that of an independent board of hospital trustees who truly know and represent the community served by the hospital.

MEDICARE UNDERPAYMENTS AND BAD DEBT ARE COMMUNITY BENEFIT

The IRS should incorporate the full value of the community benefit that hospitals provide. Kentucky hospitals believe it is inappropriate to totally exclude all Medicare

underpayment and patient bad debt from being counted as part of a hospital's community benefit.

As a condition of participating in the Medicare program, hospitals are required to accept Medicare's payment as payment in full. The federal government reimburses the majority of hospitals prospectively for inpatient and outpatient care using fixed rates. In Kentucky, Medicare pays less than the actual costs incurred by Kentucky hospitals to treat Medicare patients. Over the last ten years, there has been a cumulative shortfall of 11 percent between actual cost increases among Kentucky hospitals and the inflationary update to rates provided by the federal government. These Medicare payment shortfalls have resulted in a precipitous reduction in aggregate Medicare margins. Kentucky hospital aggregate Medicare margins have been negative since 2002, and are projected to be negative 3.3 percent in 2008. Hospitals that lose money under the Medicare payment system must absorb those losses. They cannot simply bill Medicare patients for the difference between Medicare payment and their cost – even if the Medicare patient could afford to pay this difference. Furthermore, while Medicare is not an entitlement program based on income, nevertheless, a large percentage of Medicare beneficiaries are poor. In Kentucky nearly one-half (46.4%) of our seniors age 65+ are poor – with income below 200% poverty – a level that is 10 percentage points higher than the national average of 36.4%. In many Kentucky communities, the percentage of poor seniors is even higher than the state's average rate. Clearly, underpayment associated with the provision of care to poor Medicare patients, which comprise upwards of 50% of those patients, is a community benefit that should be recognized.

The high poverty level among Kentucky seniors goes hand in hand with the state's high poverty level among the general population. Only five states exceed Kentucky's percent of population below 100% of poverty and only six states are higher in population below 200 percent of poverty. Kentucky's median household income of \$37,566 ranks 45th lowest among all states as well as 13 percent below the national average (\$46,037). Because average income is low, most Kentuckians that do not qualify for Medicaid lack the resources to pay for their medical care. This extends not only to those that lack insurance, but also to the insured population that cannot afford their required cost sharing. In 23 Kentucky counties – primarily in Eastern Kentucky and Appalachia – the percent of the population below 100% of poverty ranges from 27 percent to 46 percent – which is two and one-half times greater than the U.S. average. With such high rates of poverty in Kentucky, indigent care and bad debt are virtually one in the same. For many hospitals, it is of no benefit to distinguish between bad debt and charity because the vast majority of patients do not have the ability to pay. This was additionally confirmed pursuant to a survey conducted by KHA in 2005, where hospitals indicated that, on average, approximately two thirds of their bad debt accounts were comprised of uninsured patients without the resources to pay their bills. Several hospitals reported more than 80 percent of their bad debt being attributable to uninsured patients. Our findings are also consistent with a 2006 Congressional Budget Office report citing two studies which indicated that the great majority of bad debt was

attributable to low income patients – those with incomes below 200 percent of the poverty level.

The fact that Kentucky's hospitals continue to provide care to Medicare beneficiaries – the majority of whom in Kentucky are poor - at a substantial financial loss is undeniably a significant benefit to the communities hospitals serve and this should be counted as part of their quantifiable community benefit. Similarly, the full value of patient bad debt should also be counted, in that the vast majority of these patients in Kentucky are poor and uninsured without the resources to pay for their care. The fact that these patients do not sign up for financial assistance should not be held against the hospitals that are providing care to these individuals. In doing so, hospitals are providing the safety net for the poor and uninsured of their communities, and this should certainly be counted as part of their quantifiable community benefit. If the full value is not recognized, then we encourage the IRS to recognize the bad debt burden on hospitals is worse in state's where a large portion of the population is poor and consider counting bad debt in relation to a state's poverty and income level as this indicates the financial ability of the state's population to pay for health care services.

THE PROPOSED BILLING CHART SHOULD BE ELIMINATED

The proposed chart on Schedule H, Part II relating to billing should be eliminated. It has no relevance to determining whether a hospital is meeting the community benefit standard. Additionally, it should not be used to create either new reporting standards or billing requirements for hospitals. In Kentucky, hospitals do not bill any patient who is uninsured with income below poverty, when that patient provides the required income documentation to the hospital. Hospitals throughout the state have different charity and financial assistance policies for patients with higher income. The IRS's proposed billing chart is not informative, and could likely be confusing to the public. Relevant information on charity care will already be provided in Part I of Schedule H and Medicare and Medicaid payments will be included on Form 990. If the IRS requires more information on specific hospital charity care policies and practices, then specific questions should be structured to obtain that information.

THE CORE FORM AND SCHEDULES NEED SUBSTANTIAL REVISION

Core Form

The IRS asked for comments on whether "the IRS should preclude group rulings". We understand this request was intended to elicit comments on whether hospitals and other organizations that have a "group exemption" should continue to be allowed to file a group return. Some hospital systems have received group exemptions.

If group returns are eliminated, this would result in a significant burden that subverts the underlying group exemption.

1. Part I (Summary), Line 6 requires an organization to enter the number of individuals receiving compensation in excess of \$100,000. This question provides information that is not relevant to an organization's tax exempt status since large organizations will likely have a larger number of individuals receiving such compensation and small organizations will likely have a smaller number. We feel this should be deleted.

2. Part I (Summary), Line 7 requires an organization to enter the highest compensation amount reported on Part II, Section A (relating to reportable compensation paid to officers, directors, trustees, key employees, highly compensated employees and independent contractors). Not only is this duplicative, but requiring disclosure of the highest compensation amount paid on the summary page of the core form could mislead viewers when read outside of the context of the fuller disclosure required in Part II and Schedule J.

3. Part I, Lines 8a and 8b require an organization to calculate total officer, director, trustee and other key employee compensation and then to calculate a percentage by comparing total executive compensation to total program expenses. Again, we question how this is relevant to an organization's tax exempt status. Compensation levels for organizations are based on and should be judged in accordance with market rates for staff needed to perform the required job functions and not in relation to an organization's expenses. This, therefore, provides a misleading picture and should be eliminated from the form.

4. Part I, Lines 19a and 19b require an organization to calculate fundraising expenses as a percentage of total contributions and grants. This percentage does not provide helpful information about an organization's operations. If retained, organizations should be given an opportunity to explain this percentage.

5. Part I, Line 24b requires an organization to calculate total expenses as a percentage of net assets. This information is already available on the hospital's Medicare cost report where the public can get a full picture of the organization. Selecting this one percentage for this form, therefore, is potentially misleading with respect to understanding an organization's overall operations.

6. Part II (Compensation and Other Financial Arrangements with Officers, Directors, Trustees, Key Employees, Highly Compensated Employees, and Independent Contractors), Section A requires information on key employees, which includes a "person who manages a discrete segment or activity of the organization that represents a substantial part of the activities, assets, income or expenses of the organization, as compared to the organization as a whole." Consideration should be given to defining "substantial part" or including examples in the instructions or glossary to help large organizations determine employees who would fall under the broadened

definition. Hospitals could have hundreds of “key employees” if this definition is not clear.

7. Part II, Section A requires an organization to include reportable compensation from “related organizations” for purposes of reporting the compensation of former (within the last five years) directors, trustees, officers and key employees or highest compensated employees. It is unreasonably burdensome for a large filing organization to be required to track all former directors, trustees, officers, key employees or highest compensated employees over a five-year period when they have had no need to do so in the past. Combining this requirement with a need to survey all related organizations to determine whether any individual in this group is being paid compensation by such related organization requires efforts beyond the value the information would provide. Information on former directors, trustees, officers, key employees or highest compensated employees should look to current year only.

8. Part II, Section A requires an organization to use the compensation figures as reported on Forms W-2 or 1099. For hospitals whose tax year is not the calendar year, Forms W-2 and 1099 reporting will result in compensation data that is much more dated than the compensation data currently required. For example, if a hospital’s fiscal year ends on June 30, the hospital would file its return on November 15, with compensation data as of December 31 of the prior year.

9. Part II, Section B, Lines 5a-f require an organization to report the family and business relationships of officers, directors, trustees or key employees during a five-year look-back period. Hospital and health care organizations often have boards of directors with as many as 30 members, and hundreds of contracts. The collection and maintenance of documentation required to respond to these questions will create excessive new burdens for organizations, especially for organizations with large boards of directors. We request that the look-back be removed and, instead, that reporting on these relationships be required only going forward.

10. Part II, Section B, Line 9 requires an organization to report whether any persons listed in Part A receive compensation from any source other than the filing organization or a related organization for services rendered to the organization. In its current form, this question requires organizations to have or acquire access to information that they may not otherwise have. This question should be clarified to address the extent to which an organization is required to seek information regarding such compensation arrangements. Also, if a listed person owns a company that is paid reasonable compensation to perform services, but the person does not receive any payment other than in his capacity as owner of the organization, what amount, if any, gets reported?

11. Part III (Statements Regarding Governance, Management, and Financial Reporting), Line 2 requires an organization to report any significant changes to its organizing or governing documents. The IRS should clarify that this question would

only cover changes to articles of incorporation and bylaws and not other policies of the organization.

12. Part III, Line 3b requires an organization to report the number of “transactions” the organization reviewed under its conflict of interest policy. The important concern around conflict of interest policies is that they are being applied appropriately by the organization; and the number of items reviewed is not a meaningful or appropriate indicator. Accordingly, the question should be revised to ask whether the organization engaged in any transactions that were subject to the policy but were not reviewed under the policy, and the term “transactions” should be defined.

13. Part III, Line 10 asks whether an organization’s governing body reviewed the Form 990 before it was filed. This requirement is overly burdensome, particularly for large hospital systems, which may have dozens of hospitals and related entities for which returns are being filed. The draft form does not provide a definition of “review,” which should be added to the instructions or glossary. It is unclear whether an organization can simply provide the Form 990 to its governing body or whether it needs to receive some kind of certification that each member of its governing body has in fact reviewed the form. The instructions should clarify that review by the finance or an equivalent committee of an organization’s governing body or the governing body of its parent organization is sufficient if the governing body delegates this function. In clarifying what is meant by “review,” the IRS also should consider that boards of directors of public companies are not required to review or certify tax filings under the Sarbanes-Oxley Act.

14. Part III, Line 11 asks an organization to indicate where documents are made available to the public. There is no explanation for why this is being asked.

15. Part IV (Statements Regarding General Activities), Line 1d requires an organization to report the total amount of contributions received from related organizations. The instructions include as examples of related organizations, “a parent organization or affiliates at the local, state, or regional level.” The example is confusing and the instructions should instead use the definition of related organizations from the glossary. Moreover, it is unclear whether all payments to related organizations (except for payments that clearly belong under membership dues, rentals, or sales) should be treated as contributions since there is no corresponding line item under “program service revenue” or “other revenue.”

16. Part IV, Lines 2a – 2g require an organization to enter a corresponding business code from the Codes for Unrelated Business Activity from the 2006 Instructions for Form 990T for the various line items of “program service revenue.” The business codes on 990-T are not broad enough to reflect accurately program service revenue.

17. Part IV, Line 1c requires an organization to report contributions from fundraising events. Although the instructions use an example to show that gross

income from other than contributions is to be reported on Line 11a, a reference at Line 1c to such amounts reported on Line 11a would be helpful.

18. Part V (Statement of Functional Expense), Line 3 requires an organization to report expenses associated with grants and other assistance to governments, organizations, and individuals outside of the U.S. This question does not provide a reference to Schedule F or the threshold for filing Schedule F. These references should be added.

19. Part VII (Statements Regarding General Activities), Line 6a requires an organization to report whether it had any tax-exempt bonds outstanding at any time during the year. The instructions should clarify whether this question is intended to encompass bond financing where the 501(c)(3) organization is not the issuer of the bonds but rather the borrower of proceeds of government-issued bonds.

20. Part VII, Lines 8a (and the applicable instructions) requires an organization to report whether it conducted all or a substantial part of its exempt activities through or using a partnership, LLC or corporation and the aggregate exempt activities conducted through or by such entities involved a substantial portion of the organization's capital expenditures or operating budget, or a discrete segment or activities of the organization that represent a substantial portion of the organization's assets, income, or expenses as compared to the organization as a whole. Neither the instructions nor the glossary provide a definition, percentage or amount for the term "substantial." It is also unclear whether Lines 8a-8c would apply to passive investments of endowment or reserve funds in partnerships or publicly traded corporations.

21. Part VII, Lines 11 and 12 require an organization to report whether it has a written policy or procedure for reviewing the organization's investments and safeguarding its exempt status with respect to transactions and arrangements with related organizations. To the extent the IRS intends to develop sample written policies, IRS should solicit input from members of the tax-exempt sector with respect to the content and form of such written policies.

22. Part IX (Statement of Program Service Accomplishments), Lines 3a – 3c require an organization to describe its exempt purpose achievements for each of its three largest program services. This question should be moved to Part I of the form, as it is a key question. Organizations should be allowed as much additional space as necessary to describe more than three key activities. As drafted, 3d also directs organizations to attach a schedule listing other program services.

Schedule A (Supplementary Information for Organizations Exempt Under Section 501(c)(3))

1. Part 1, Line 11f requires an organization to respond whether it has a "written determination from the IRS that it is a Type I, II or III supporting organization." Since most supporting organizations do not have written determinations from the IRS, the

question as written is misleading and unfair because the IRS did not actually issue such determinations until this year. The question should allow an IRS determination or “a written opinion of counsel.”

2. Part 1, Line 11h, column (vii) requires an organization to report the amount of monetary support provided by the supporting organization to the supported organization(s). This question disadvantages supporting organizations such as parent holding companies within a health care system that do not pay out monetary grants or other support payments because they are functionally integrated or otherwise undertake activities in support of their supported organizations. The question should be revised to include the value of non-monetary support.

Schedule C (Political Campaign and Lobbying Activities)

- Part II-B requires reporting by an exempt organization, including reporting on (b) paid staff or management and for (h) seminars, conventions, speeches, lectures or any other means. It is not clear precisely what the IRS is attempting to capture under (h) and that the category needs to be so broad. Also, instead of asking for precise amounts, the IRS should ask for a range of hours, number of employees or other proxies for amounts that would provide the IRS with useful information while making the category less burdensome.

Schedule D (Supplemental Financial Statements)

1. Parts I and III: Passive investments should be excluded from this schedule, and the listing of securities individually is extremely burdensome.

2. Part VII (Other Liabilities) requires organizations to describe and list the book value of any other liabilities, including federal income tax liabilities, not reportable in the defined categories on Part VI (Balance Sheet) of the core form. Part VII also requires organizations to provide the text of the footnote to the organization’s financial statements that report the organization’s liability for uncertain tax positions under FIN 48. Disclosing the text of footnotes relating to uncertain tax positions in isolation could be misleading. Organizations should be given the opportunity to explain such footnotes or to attach their entire financial statement.

3. Part XII (Endowment Funds) requires an organization that holds assets in term or permanent endowment funds to provide information for the past five years on fund balances, contributions, investment earnings or losses, program expenditures and administrative expenditures. The reporting burden associated with this question outweighs the usefulness of this information. The five-year look-back period should be eliminated pending adoption by the IRS of reasonable standards.

Schedule F (Statement of Activities Outside the U.S.)

1. It is unclear whether Schedule F requires that “captive insurance” activities be reported. Since any organization with captive insurance activity is required to complete IRS Form 5471, such reporting should be referenced here, or the organization should be specifically exempted from reporting again on this form.

2. Schedule F requires the separate reporting of grants outside the U.S. from grants to domestic organizations and individuals. Many hospitals and health care organizations do not maintain records and reports in a format that would permit them to gather all of the information required to be reported on Schedule F. The required amount of recordkeeping and reporting could discourage organizations from making grants, particularly small ones, to foreign organizations or individuals. Moreover, the data required to be reported on the schedule could potentially threaten the safety and security of organizations and individual grant recipients, therefore Schedule F should not be open to public disclosure.

3. It is unclear whether the activities of foreign affiliates of U.S. organizations are covered by Schedule F.

4. Part I (General Information on Accounts and Activities Outside the United States), Line 2 requires an organization to describe its procedures for selecting grant recipients located outside the U.S. and monitoring the use of grant funds. The disclosure of an organization’s grant making procedures is intrusive for a public document. This question should be similar to Schedule I, which simply asks whether the organization maintains records to substantiate its grant making process.

5. Part II (Grants and Other Assistance to Organizations or Entities Outside the United States), Lines 2-3 require an organization to report the number of foreign 501(c)(3) organization grant recipients and the total number of other organizations or entities. This information seems misleading given that most foreign organizations are not formally recognized as 501(c)(3) organizations by the U.S., and the regulatory structure for charitable organizations in many countries is not easily comparable to U.S. requirements.

6. Part II, line 1, column (g) requires that non-cash gifts be reported, and that the fair market value be the basis for the reporting. Hospitals should be exempted from reporting gifts of equipment and supplies since there are many such transfers of fully depreciated items.

7. Part III (Grants and Other Assistance to Individuals Outside the United States) requires an organization to report grants of more than \$5,000 to individuals outside the U.S. Part II (Grants and Other Assistance to Organizations or Entities Outside the United States) requires organizations to check a box if no one recipient received more than \$5,000. Part III should include a similar check-the-box statement to clarify the guidance set forth in the instructions, i.e., that organizations are not required to

complete Part III if no one recipient received more than \$5,000.

Statement G (Supplemental Information Regarding Fundraising Activities)

- Schedule G requires an organization to report supplemental information regarding its fundraising activities. The IRS should clarify how organizations should report fundraising activities by related entities, which is a common occurrence within a health system.

Schedule J (Supplemental Compensation Information)

Schedule J requires an organization to report supplemental compensation information with respect to listed persons from Part II of the core form. There still seems to be confusion about who gets reported on Schedule J, so the instructions should further clarify the individuals for whom such information must be reported.

1. Line 1, column (C) requires an organization to report non-qualified deferred compensation. The instructions should clarify, or the schedule itself should eliminate, double-reporting of nonqualified compensation. This occurs when the amounts of unpaid, unvested deferred compensation are reported when awarded and again when they are vested. Eliminating the double reporting will give a more accurate picture of yearly compensation. The double reporting of deferred compensation is a problem under the current Form 990 and the IRS should take this opportunity to correct the confusion. This question also must address how compensation should be reported if the organization is reporting on an accrual basis.

2. Line 1, column (D) requires an organization to report the amount of non-taxable fringe benefits provided to the listed persons in column (A). The instructions seem to even require reporting of de minimis fringe benefits, which by definition under the Internal Revenue Code are “so small as to make accounting for it unreasonable or administratively impracticable.” The instructions should follow the current Form 990, which allows de minimis fringe benefits to be excluded. The instructions or the compensation matrix also should include examples of nontaxable fringe benefits that physicians would typically be issued as part of providing services at a hospital, e.g., pagers, cell phones and other similar items, or this requirement should be eliminated.

3. Line 1, Column (E) requires an organization to report the amount of all expense reimbursements, and allowances provided for expenses, that are not included on a recipient’s W-2. It is completely misleading to report such amounts on Schedule J, which is intended to disclose compensation amounts. Expense reimbursements under accountable plans that do not result in income to the recipient should not have to be reported on Schedule J.

4. Lines 4 and 5 require an organization to report whether it paid compensation determined in whole or in part by the revenues or net earnings of the organization or a

related organization. The instructions should clarify the types of compensation arrangements that would and would not be deemed to be determined in whole or in part by the revenues or net earnings of hospitals or health care organizations.

Schedule K (Supplemental Information on Tax Exempt Bonds)

We are particularly concerned about Schedule K; a number of hospitals have described the burden associated with this schedule as akin to a full-scale audit, costing, potentially, millions of dollars.

1. Schedule K requires an organization to report supplemental information for each outstanding bond issue with an aggregate principal amount in excess of \$100,000 on the last day of the taxable year. Due to the scope of information required for reportable tax-exempt bonds, the IRS should delay implementation of Schedule K (along with all of the Form 990) until 2010 so that organizations will have sufficient time to complete the analyses required for reporting the new information on the schedule. Also, since the schedule asks for information regarding all bonds outstanding on the last day of the taxable year, no matter how long ago the bonds were issued, organizations may not have all of the requested information because there was no notice at the time the bonds were issued that the organization would be required to report such information to the IRS. Accordingly, the IRS should provide a "grandfather" provision under which information is required to be reported only for bonds issued after the date that the redesigned Form 990 was made public. Also, in light of the IRS' recently announced post-issuance compliance check program, the IRS should consider delaying finalization of this Schedule until the IRS has analyzed the responses to the questionnaires being sent out as part of the program.

2. Part I requires extensive information for each outstanding tax-exempt bond issue with a principal amount greater than \$100,000 on the last day of the tax year. This section is enormously burdensome and needs to be streamlined. First, the IRS should recognize that much of the information requested here is already available through Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, which is filed when the bonds are issued. The new schedule should be reconciled with the reporting already required to eliminate redundancy and burden. Part I, columns F and G, in particular, represent a particular burden for hospitals. For example, for bonds with large principal amounts that funded multiple projects, including buildings and equipment, requiring information on the date that a particular project was placed into service is very difficult and burdensome to provide.

3. Part II requires the provision of information on bond proceeds. The instructions for this section should make it clear that when an organization is dealing with a refunding issue it is not necessary to report how the proceeds of the prior issue were spent. Alternatively, the instructions should reduce the burden associated with reporting this information by, for example, limiting how far an organization must go back when a bond is used to refund a prior issue. In addition, the current IRS regulations permit an organization that funds projects with a mixture of equity and bond proceeds to

wait 18 months after facilities are placed into service to allocate the sources of those funds to particular costs. That means, at the time an organization may be required to file this schedule, there may not be a final allocation. The instructions for the form should reconcile this inconsistency in favor of delayed reporting.

4. Part III requires an organization to report information about private use of tax-exempt bonds. The instructions should clarify that aggregate reporting for private business use is contemplated and the IRS should consider permitting organizations to report private business use as not exceeding a stated de minimis percentage. And, Part III could be streamlined if it allowed organizations to limit the reporting of contracts to those that do not meet the "safe harbors" described in Revenue Procedures 97-13 or 97-14. Question 4 should be re-written, as it does not take into consideration that a hospital may be meeting such "safe harbor" requirements, which would make the percentage computation unnecessary. Also, question 5a, requesting information about all other "use" by other than a 501(c)(3) organization or state or local government is overly broad, as it would presumably include use that is not treated as private use, such as incidental use or use on the same basis as the general public. Additionally, questions 4 and 5 could result in misleading answers, as they fail to anticipate that these percentages may change from year to year and that the proper measure of usage would be the entire term of the bond.

5. Part IV requires an organization to report information about the compensation of third parties who provide services related to bond issuances and whether such parties were selected using a "formal selection process." The instructions should clarify what is meant by a "formal selection process" and should permit organizations to rely on selections that involved advice of bond counsel and/or a qualified underwriter with a reasonable review of qualifications. In addition, a threshold amount for reportable transactions should be added.

Schedule I (Supplemental Information on Grants and Other Assistance to Organizations, Governments, and Individuals in the U.S.)

Part III requires an organization to report grants and other assistance to individuals in the U.S., if the grant amount is \$5,000 or more. This threshold should be increased substantially for large organizations like hospitals. The instructions and the schedule should clarify whether, consistent with the instructions to Schedule F, Part III, organizations need not complete Part III if no individual received more than the new threshold.

Schedule L (Supplemental Information on Loans)

Schedule L requires an organization to report details on loans to and from officers, directors, trustees, key employees, highly compensated employees and disqualified persons. The schedule and instructions should reference "highest

compensated employees” from Part II of the core form, which is also the defined term in the glossary. The use of the expression “highly compensated employee” is unnecessarily confusing in this context.

Schedule M (Non-Cash Contributions)

The threshold for completing this schedule should be increased to at least \$20,000.

Schedule N (Liquidation, Termination, dissolution or Significant Disposition of Assets)

Clarification is needed as to whether transfers to a wholly owned limited liability company that is disregarded as separate from the tax-exempt filing organization need to be reported.

Clarification is needed as to whether transfers for “full and adequate consideration” that are excluded from the definition of “substantial contraction” still need to be reported as a disposition of net assets.

Schedule R (Related Organizations)

The following comments relate to Part V – Transactions with Related Organizations.

1. For multi-hospital systems, Schedule R is extremely burdensome. At a minimum, the definition of “related” needs further review and consideration, as there are many definitions of the term that might have been used.

2. Part V requires an organization to report whether it engaged in certain transactions or transfers with related organizations, including related 501(c)(3) organizations. The instructions carve out transactions between 501(c)(3) organizations where the only transactions between the organizations were gifts or grants. This instruction should be revised to allow transfers that are gifts and grants to be excluded, even where the organizations have other transactions such as leasing or services arrangements.

3. The definition of “transfer” in the instructions should be revised as follows: A transfer includes any conveyance of funds or property, whether or not for consideration, except for gifts or grants between related 501(c)(3) organizations.

4. The compliance burden from this section is of great concern to our members. Tax-exempt organizations within a health system typically have numerous arrangements involving the performance of services, leasing or sharing of facilities,

equipment or employees, cost reimbursement etc. By way of example, a typical 501(c)(3) health system could have hundreds of transactions to report under Part V. The AHA understands that certain questions on this schedule are in response to Section 1205 of the Pension Protection Act (PPA), but the information on transactions between related 501(c)(3) organizations should be limited to transfers that could result in UBIT under the controlled entity rule of Section 512(b)(13). Other transactions between related 501(c)(3) organizations do not raise compliance, exemption, tax or other concerns and should not need to be reported.

5. Schedule R goes beyond what is required under the PPA, which at least limits reporting of transfers among “controlling and controlled” organizations. By defining “related” as including brother/sister organizations controlled by the same person or persons, Schedule R requires any exempt entity within a health care system to include all transfers between it and any other entity within the system, which completely expands the already overly broad disclosure required by the PPA. These requirements are completely unworkable in the health system setting and, again, result in the reporting of transactions that do not raise compliance, exemption, tax or other concerns.

6. The instructions for column (C) require the amount involved in each transaction to be reported, which is defined as the fair market value of the services, cash and other assets provided by the organization or the fair market value received, whichever is higher. This instruction seems to require even related 501(c)(3) organizations that have cost reimbursement arrangements to determine the fair market value for these arrangements, which creates a significant valuation burden for arrangements that should not even need to be reported.

KHA, on behalf of Kentucky’s hospitals, appreciates the openness of the IRS to comments from the hospital community. We urge you to make the changes suggested in this letter and by the American Hospital Association, and to recognize and preserve the full and diversified benefits that hospitals provide under the community benefit standard.

Thank you for the opportunity to comment.

Sincerely,

Nancy C. Galvagni
Senior Vice President