Federal and State Trends in Hospital Oversight

Hearing before:

Health and Government Operations Committee

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Federal / National Trends in Tax-Exempt Hospital Oversight

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Current federal exemption standards

- Requirements for Hospital 501(c)(3) status
  - Revenue Ruling 56-185: Charity Care up to the hospital's financial ability
  - Revenue Ruling 69-545: Community Benefit Standard
- 501(c)(3) hospitals pay no income tax, receive charitable donations, issue exempt bonds
- 501(c)(3) hospitals generally exempt from state and local taxation as well

Federal concerns

- Research: few differences between taxable and tax-exempt hospitals
- Billing and collections practices/stories
- Executive compensation
- Adequacy of the community benefit standard
- Definition of “community benefit”
- Visibility of state/local tax challenges
- Accountability of non-profits generally

Federal responses

- Major redesign of IRS Form 990
  - More extensive disclosures regarding compensation, governance, policies, programs (all non-profits)
  - New “Schedule H” for 501(c)(3) organizations that operate one or more hospitals
- Proposed changes to exemption standards in federal health reform legislation

SCHEDULE H
(Form 990)

Department of the Treasury
Internal Revenue Service

Hospitals

▶ To be completed by organizations that answer "Yes" to Form 990, Part IV, line 20.

▶ Attach to Form 990.

OMB No. 1545-0047

2008

Open to Public Inspection

Name of the organization

Employer identification number

Schedule H: Organized into Six Parts

I: Charity Care and Certain Other Community Benefits at Cost

II: Community Building Activities

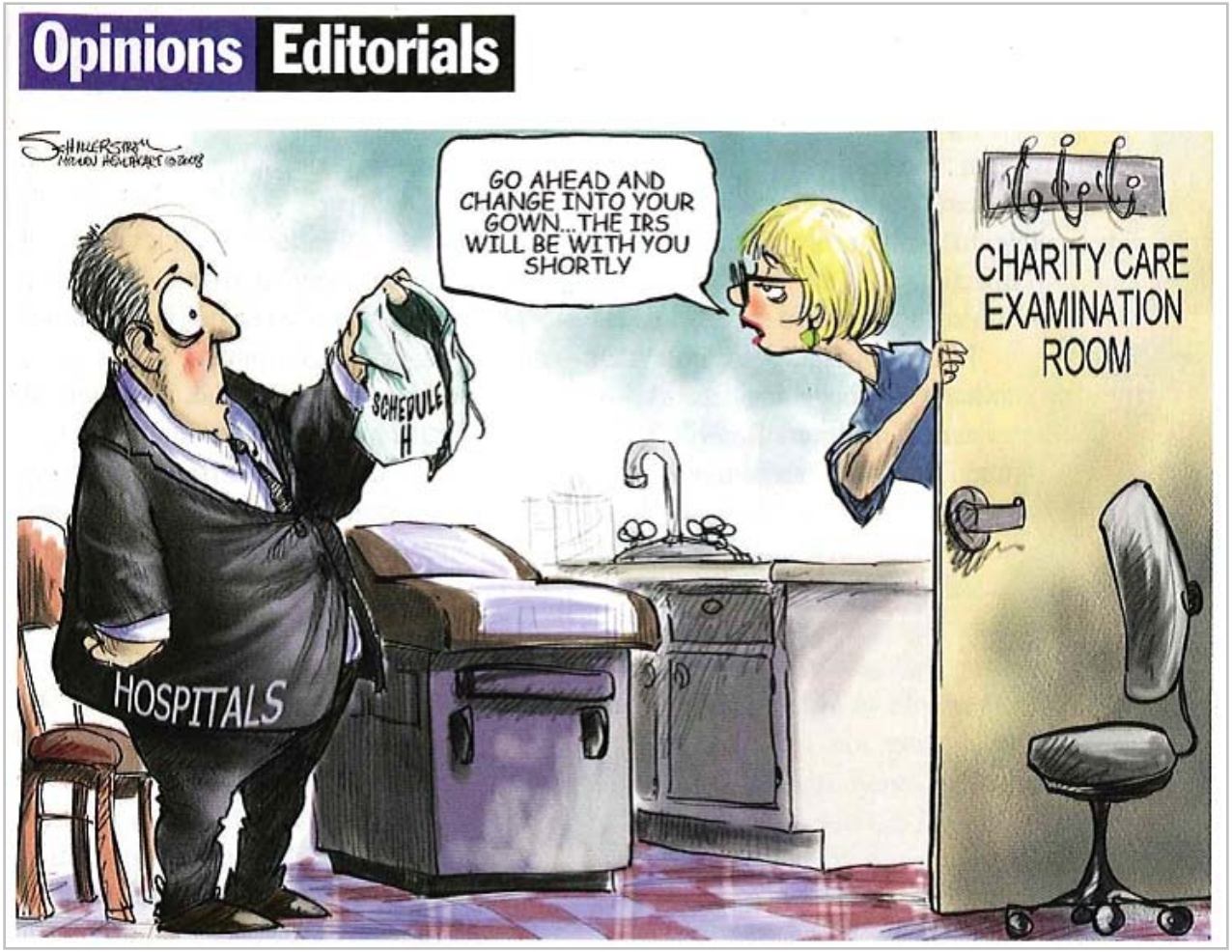
III: Bad Debt, Medicare, & Collection Practices

IV: Management Companies and Joint Ventures

V: Facility Information

VI: Supplemental Information

Modern Healthcare



Proposed Federal Health Reform Legislation

- Community Health Needs Assessment
- Financial Assistance Policy
- Limitation on Charges for patients qualifying for financial assistance
- Informing/qualifying patients for charity before extraordinary collections actions
- Regular IRS review of each hospital organization

Recent federal policy debate

- Require “bright line test” – 5 percent charity care or community benefit spending?
- Require more specific charity care policies and collections practices?
- Provide IRS with intermediate sanctions (rather than revoking exemption)?
- Role of exemptions if reform expands coverage?

Financial Protections for Hospital Customers:

State Policy Directions

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State Action

- In recent years, a number of states have passed laws intended to provide additional financial protections for uninsured and underinsured hospital patients.

- The laws set forth statewide standards on a wide range of issues affecting hospitals and their uninsured and underinsured patients.

A Few State Examples (other than Maryland)

- IL--2006 (Public Act 094-0885)
- NJ--2008 (New Jersey statutes Section 26 and NJ administrative code)
- NY--2007 (NY State Public Health Law, Section 2807)
- CA--2006 (Health and Safety Code, Division 107, Part 2, Article 3)
- CT--2003 (Public Act No. 03-266)

Policy Themes in State Laws

- Setting standards for free hospital care and discounted care for uninsured and underinsured persons.
- Regulating hospital billing and collection practices.
- Mandating consumer education and outreach practices by hospitals.

Free Care and Discounts

- Uninsured persons with incomes below threshold amount are entitled to free hospital care.
- Prices charged to uninsured persons above free care threshold are limited based on ability to pay or amounts billed other insurers.

Billing and Collection Practices

- Require hospitals to offer payment plans.
- Require hospitals to limit certain agency processes
- Cap or eliminate interest rates charged on unpaid bills
- Require hospitals to allow patients to dispute bills

Consumer Education and Outreach

- Hospitals must notify consumers at several points during their stay about:
  - free care and discounts and their ability to apply for them
  - billing and collection practices
  - dispute resolution options.
- Hospitals also must notify the public about these policies in various ways

Negotiated standards with state AGs

- In some states, similar standards for prices, billing and debt collection have been set through negotiated settlement agreements between State AG offices and hospital systems.

- MN and WI are examples

Catalysts for State Policymaking: Insurance Coverage Rates, and Hospital Behavior

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Catalyst for State and Federal Intervention No. 1: Rate of Uninsured

- As the number of uninsured increases, policymakers often intervene to impose charity care duties on tax-exempt hospitals, as a component of their community benefit linked to tax-exempt status
- As the number of uninsured decreases, policymakers increasingly allow tax-exempt hospitals to fulfill their community benefit obligation in other ways
  - For example, contrast 1956 IRS Rev. Ruling with 1969 IRS Rev. Ruling; consider the Provena Covenant lawsuit in Illinois

Catalyst for Intervention No. 2: Anecdotal Info that some Nonprofits Are Acting like For-profits

- The clear trend since 2000 has been in the direction of regulation (not deregulation), and consumer protection
- Maryland has been among the states moving in this direction, with several legal acts:
  - Community benefit reporting laws
  - HB 1069 (2009 Session)
- The discussion in the recent HSCRC workgroup falls within the range of other states' recent actions

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