



Comments on Sen. Chuck Grassley's Staff Discussion Draft:  
Tax-Exempt Hospitals

Submitted by:  
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Dear Sen. Grassley and members of the staff of the Senate Committee on Finance - Minority:

The Association for Healthcare Philanthropy (AHP) is pleased to present its comments on Tax-Exempt Hospitals: Discussion Draft. The comments below relate to the philanthropic work of nonprofit hospitals and how proposed legislation could have a negative impact on those efforts. With the challenges facing health care delivery and the definite need for philanthropic support, it is crucial that the role of the development office and its operation is fully understood so as not to thwart fundraising efforts and erode the public trust of nonprofit health care providers.

AHP is an association of professional development executives who are responsible for the management of foundations and development departments of nonprofit health care providers throughout the United States. A critical part of their mission is supporting local health care programs through philanthropic fundraising that directly benefits the institution in which they work. These nonprofit medical facilities approach and have come to rely on the generosity of grateful patients who they have served to help underwrite wellness programs, mobile health vans, mammography screenings, hearing and eye exams, hospital facility improvements, essential equipment upgrades and health care services for the uninsured.

Established in 1967, AHP is a not-for-profit organization whose 4,500+ members manage philanthropic programs of foundations and development departments in 2,200 of the nation's not-for-profit, charitable health care providers. In 2006, this philanthropic support reached \$7.9 billion according to AHP's most recent giving survey report. As a practical matter, most, if not all, of health care providers routinely factor into their budgets an expected level of philanthropic support.

AHP represents highly skilled fundraisers in health care philanthropy. Many hold the Certified Fund Raising Executive (CFRE) or the Fellow Association for Healthcare Philanthropy (FAHP) designation, which recognize professionalism in the field by documenting experience and testing knowledge in health care resource development. More than 60% of AHP members have been in the field of fundraising for 11 or more years, with 39% having been in the field for 16+ years. Our members believe in transparency and

accountability in their work and follow the AHP Statement of Professional Standards and Conduct and its companion Donor Bill of Rights, copies of which are included with the letter. In addition, in 2006 AHP launched the AHP Performance Benchmarking Service. One of the goals of this program is to provide consistent reporting of fundraising dollars that AHP member organizations generate.

AHP members are an integral part of their health care institutions and are a critical component in attracting needed dollars to support community benefit programs. With that in mind, AHP is a supporting organization of the Catholic Health Association's *Guide for Planning and Reporting Community Benefit*.

AHP agrees with the premise of the staff discussion draft that nonprofit hospitals which receive federal income tax benefits and subsidies should provide commensurate benefits to society. AHP firmly believes that the vast majority are doing just that. In fact at the July 24, 2007 House Ways and Means Subcommittee on Oversight hearing, testimony by the GAO stated that there are 1.8 million registered 501(c)(3)s with 55,000 delinquent with their taxes, or less than 3 percent are "bad apples." As we review public charities and in this case specifically nonprofit hospitals, we must take into account that the majority of nonprofit hospitals are fulfilling their missions in providing community benefit and charity care. As with all industries, there are those that will try to take advantage of the system. These "bad apples" should be dealt with appropriately but not to the detriment of nonprofit hospitals that are providing necessary care to the populations they serve.

As I mentioned earlier, AHP supports clearly defined terms for data reporting across the board for fundraising entities. Evidence of this is our successful launch of the AHP Performance Benchmarking Service. At its launch, 41 of our AHP members in 18 states and two Canadian provinces have become part of this new fundraising system designed to better meet corporate compliance and transparency requirements, and to ensure that dollars donated by grateful patients or their families are accounted for and spent effectively.

The AHP Performance Benchmarking Service, is a unique, integrated database of business practices and performance metrics for raising philanthropic health care fundraising to new levels of performance. Participating organizations are in Alabama, Arizona, California, Florida, Georgia, Illinois, Maryland, Michigan, Minnesota, Nebraska, New Jersey, New York, Oklahoma, Pennsylvania, Tennessee, Virginia, Washington, Wisconsin, Ontario and Saskatchewan. Philanthropic fundraising, now more than ever, is vital to sustain and grow the nonprofit health care sector's ability to deliver first class services to patients and communities. AHP's Performance Benchmarking Service advances this effort by transforming basic financial and program data into useful information that enables hospital CEOs and boards of directors to integrate philanthropy into their overall strategic planning for their health care organizations.

AHP members have as their missions to serve their communities. According to AHP's Report on Giving 2006, health care institutions in the U.S. raised \$7.9 billion through philanthropy, a 11.5% increase over 2005. Those dollars are being used for health care construction and renovation, equipment purchases, community benefit programs, charitable care, research and training, general operation, among others. In 2005, the largest expense item for institutions was construction and renovation, accounting for 23.9%. In 2006, that expense rose to 31.8%. Each year AHP members provide data that demonstrate where their philanthropic dollars are being used by their health care organization in order to support their missions – to serve their communities.

With that in mind, as policymakers review 501(c)(3) tax-exempt health care organizations, AHP would like to share with you a number of critically important challenges facing the not-for-profit health care community and some steps AHP is taking to meet these challenges. It is important to understand the environment that health care fundraisers are currently working within to fully grasp the importance of their institutions' tax-exempt status and the need for transparency and accountability.

These challenges are fairly complex, but they fall into three main categories: long-term cultural trends, financial challenges, and regulatory concerns.

First, the long-term trend that permeates a whole range of issues confronting the health care community is the sense of entitlement that has developed over the years with regard to health care delivery. This development in our society creates many stumbling blocks for health care philanthropy – particularly for hospitals, medical centers, long-term care facilities and hospices.

Patients believe that they have a right to the highest quality of care; that the US has the best health care in the world; that it is far too expensive; and that third parties such as insurance companies are making decisions about health care unrelated to the delivery of good care – decisions that should be made by physicians and nurses. For philanthropy, it raises the question - why donate to such a system?

In addition, few Americans are aware of the differences between for-profit and not-for-profit health care providers or the fact that only 12 to 14 percent of providers are in a for-profit delivery system. Fewer still know that only about one-third of hospitals in the United States have a positive bottom line, while another third are barely keeping their heads above water and the rest are deep in red ink and financially in trouble.

Second, the financial challenges to nonprofit health care providers are many. Some are linked to the fact that many hospitals have postponed capital spending and underinvested in their infrastructure. They need to address deteriorating facilities, but fully 85 percent of hospital chief financial officers say it is going to be more difficult for their organizations to fund capital expenditures in future years.

At the same time, technology's promise, particularly in health care delivery, has created enormous stresses on finances relative to providing quality health care and using cutting-edge technology in providing that care. Expensive technological initiatives need to be undertaken to maintain effectiveness, while operating margins that already are thin threaten to become thinner, placing more responsibility on philanthropy to fill in the gap.

Similarly, the burden of meeting the health care needs of the uninsured, including non-citizens, weighs heaviest on the nonprofit sector, even as revenues from Medicare and Medicaid decline.

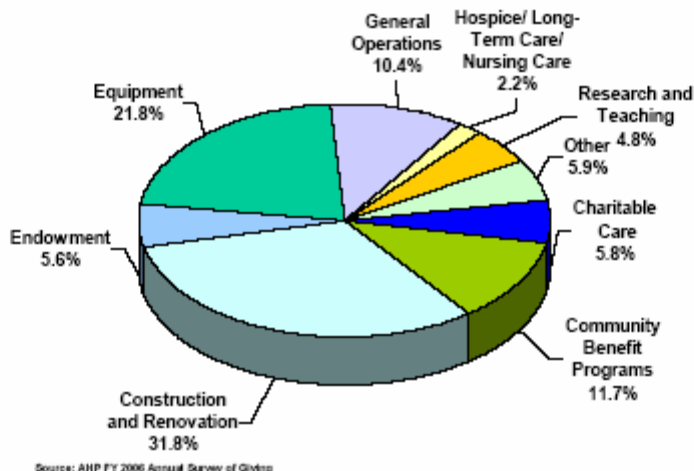
The discussion draft calls for quantifiable definitions for charity care and community benefit. AHP is concerned with the amount of attention provided only to charity care. A large part of what nonprofit hospitals provide goes beyond charity care and includes community benefit programs and services, the above mentioned capital/technology improvements, not to mention providing for the bottom line of many hospitals.

As previously mentioned according to AHP's most recent Report on Giving, construction and renovation grew to become the largest expense item for philanthropic dollars in FY 2006, rising to 31.8% of all expenses from 23.9% the previous year. Once again, equipment was the second largest expense at 21.8%. Only 10.4% of funds were used for general operations and 11.7% for community benefit programs. Unchanged from FY 2005, endowments accounted for 5.6% of all funds, just below the FY 2004 level, while research and teaching, at 4.8%, dropped a little bit.

The discussion draft recommends that no hospital can maintain 501(c)(3) status without dedicating a minimum of 5% of its annual patient operating expenses or revenues to charity care, whichever is greater, in accordance with its charity care policy. Charity care would not include bad debt and bad debt can not be recharacterized as charity care later. Critical access hospitals would be exempt from this provision.

What is this going to mean to nonprofit hospitals? Will it shift the focus from providing charity care **and** community benefit, which includes needed capital/technology improvements, to only charity care? Can nonprofit hospitals survive under this model?

The pie graph below from AHP's Report on Giving, shows charitable care accounting for 5.8% of expenditures of philanthropic dollars in FY 2006. In FY 2005, charity care was 7.3%.



The discussion draft references the CBO report that found that nonprofit hospitals provided only slightly more uncompensated care than for-profit hospitals, based on a five state survey. AHP would contest this statement. We are confident nonprofit hospitals are providing substantially more charity care and community benefits than for-profit hospitals. The CBO reports that there are quite a few nonprofit hospitals that provide significantly more than 4.7% in uncompensated-care and many nonprofit hospitals provide less than 3% in uncompensated care. AHP has some concern with this analysis since many hospitals do not even achieve a 3% operating margin, and yet are expected by the CBO to provide a level of care that would be almost impossible to achieve.

Third, on the regulatory scene, the Health Insurance Portability and Accountability Act, or HIPAA, is severely impacting efforts of fundraisers. It is making philanthropic activities more costly and less efficient while increasing the cost of compliance because hospitals, nursing homes, clinics and hospices must upgrade computer systems, train staff and pay for legal advice. AHP fully supports HIPAA. Unfortunately, a lack of understanding on the role of institutionally related development offices in a health care organization has led the federal government to enact that portion of the rule that restricts philanthropic efforts.

In fact, four years after HIPAA went into effect, the federal government in a recent letter to AHP, conceded there were practically no examples of any violations "in the context of fundraising efforts." Complaints of violations of the HIPAA rule have been received by the agency's Office of Civil Rights with practically none involving fundraising.

Yet in a 2007 AHP survey, 56% of respondents who contact past patients report that HIPAA has had a negative effect in their ability to run a successful grateful patient program.

AHP has a lot of educating to do. Health care providers need more information about HIPAA compliance. Government officials and legislators need a better understanding of philanthropy.

With that in mind, AHP wants to take the opportunity to educate legislators, the media and the public with regard to nonprofit health care providers and their tax-exempt status. AHP fully supports legislation that stems tax-avoidance scams and that shines more light on compensation packages of nonprofit executives. However, there is a real danger that an all too common problem will arise: unintended consequences. With the challenges facing health care delivery and the definite need for philanthropic

support, it is crucial that the role of the development office and its operation is understood fully so as not to thwart fundraising efforts and erode the public trust of nonprofit health care providers.

In summary Sen. Grassley and staff members of the Senate Finance Committee - Minority, AHP members feel that every dollar donated is critical, and we are taking all necessary steps to ensure we achieve the most efficient return on the philanthropic investments of grateful donors and their families. We welcome your questions and ask for a response to these comments as they relate to the philanthropic work of nonprofit hospitals and how you see your proposed reforms would impact the necessary work of nonprofit hospital development offices as they carry out their missions to serve the communities of their health care institutions.

Enc.: AHP Statement of Professional Standards and Conduct  
Donor Bill of Rights

## **Association for Healthcare Philanthropy Statement of Professional Standards and Conduct**

All members shall comply with the Association's Statement of Professional Standards and Conduct:

Association for Healthcare Philanthropy members represent to the public, by personal example and conduct, both their employer and their profession. They have, therefore, a duty to faithfully adhere to the highest standards and conduct in:

- I. Their promotion of the merits of their institutions and of excellence in health care generally, providing community leadership in cooperation with health, educational, cultural, and other organizations;
- II. Their words and actions, embodying respect for truth, honesty, fairness, free inquiry, and the opinions of others, treating all with equality and dignity;
- III. Their respect for all individuals without regard to race, color, sex, creed, ethnic or national identity, handicap, or age;
- IV. Their commitment to strive to increase professional and personal skills for improved service to their donors and institutions, to encourage and actively participate in career development for themselves and others whose roles include support for resource development functions, and to share freely their knowledge and experience with others as appropriate;
- V. Their continuing effort and energy to pursue new ideas and modifications to improve conditions for, and benefits to, donors and their institution;
- VI. Their avoidance of activities that might damage the reputation of any donor, their institution, any other resource development professional or the profession as a whole, or themselves, and to give full credit for the ideas, words, or images originated by others;
- VII. Their respect for the rights of privacy of others and the confidentiality of information gained in the pursuit of their professional duties;
- VIII. Their acceptance of a compensation method freely agreed upon and based on their institution's usual and customary compensation guidelines which have been established and approved for general institutional use while always remembering that:
  - a. any compensation agreement should fully reflect the standards of professional conduct; and,
  - b. antitrust laws in the United States prohibit limitation on compensation methods.
- IX. Their respect for the law and professional ethics as a standard of personal conduct, with full adherence to the policies and procedures of their institution;
- X. Their pledge to adhere to this Statement of Professional Standards and Conduct, and to encourage others to join them in observance of its guidelines.

## **A Donor Bill of Rights**

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

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| I.<br>To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes. | VI.<br>To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.   |
| II.<br>To be informed of the identify of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.         | VII.<br>To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature. |
| III.<br>To have access to the organization's most recent financial statements.  | VIII.<br>To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.                    |
| IV.<br>To be assured their gifts will be used for the purposes for which they were given.   | IX.<br>To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.                     |
| V.<br>To receive appropriate acknowledgment and recognition.  | X.<br>To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.                            |

### **DEVELOPED BY**

American Association of Fund Raising Counsel (AAFRC)  
Association for Healthcare Philanthropy (AHP)  
Council for Advancement and Support of Education (CASE)  
National Society of Fund Raising Executives (NSFRE)

### **ENDORSED BY**

(in formation)

Independent Sector

National Catholic Development Conference (NCDC)  
National Committee on Planned Giving (NCPG)  
National Council for Resource Development (NCRD)  
United Way of America

