

The Challenge of Non-Profit Status in an Era of Accountable Care

Written by Steve Ronstrom, CEO, Western Wisconsin division of Hospital Sisters Health System

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Non-profit hospitals like my own now face a more skeptical regulatory environment, challenging whether we give back enough to our communities to justify our tax-free status. While some of the criticisms of non-profits have been unfair, this is basically a healthy trend. It reaffirms our age-old commitment to care for the poor and support of the community. It brings us back to our roots.

Many of our institutions were founded in the 19th century by Catholic and other religious groups who cared for the poor and were deeply committed to their communities. There are stories of Catholic sisters arriving in frontier towns with just a few dollars in their pockets and founding a rough-hewn hospital soon crowded with the poor. These hospitals are now sprawling behemoths worth hundreds of millions of dollars, but their connection to the original mission has frayed a little.

How we got here

In the mid-1950s, the IRS recognized the charity mission of non-profit hospitals as an explanation for not paying taxes. To qualify for a 501(c)(3) tax exemption, the hospital had to be "operated to the extent of its financial ability for those not able to pay for the services rendered," the agency stated. That meant providing free care for the poor, but when Medicare and Medicaid came along in 1965, many of those patients were now paid for, reducing non-profits' obligations to the poor. The two new federal programs also began doling out disproportionate share hospital payments to all hospitals in exchange for providing charity care, which helped narrow the difference between non-profit and for-profit hospitals.

To reflect these changing circumstances, the IRS in 1969 formalized a new way for non-profits to earn their tax-exempt status. They were required to provide community benefits such as running clinics, providing other services and educating physicians and other healthcare personnel. However, there was very little enforcement of this requirement.

Then came the rise of large, investor-owned hospital systems. These organizations applied business principles, focused on making profits, that many non-profit hospitals adopted as well. I don't want to disparage that aim, because it has helped make the entire healthcare industry

more efficient, but it is certainly a different aim from treating the poor and serving the community. Non-profits took on many of the practices of the for-profits, such as investing in expensive service lines to make money, instituting revenue cycle management and selling patient debts to collection agencies. Reports began circulating of some non-profit hospitals charging uninsured patients higher rates than the insured and aggressively pursuing patients who didn't pay.

Tightened obligations

Many people began to feel that non-profit hospitals had strayed from their mission and values. This led to a backlash against non-profit hospitals in Congress, federal agencies and the courts. In late 2007, the IRS rewrote the Form 990 for tax-exempt organizations and added Schedule H, where tax-exempt hospitals now have to report the total amount of charity care and community benefits they provide.

In 2009, Sen. Chuck Grassley (R-Iowa) called for legislation to clarify requirements for hospitals' tax-exempt status. Many of Sen. Grassley's provisions ended up in the healthcare reform law. Starting in March 2012, non-profit hospitals must conduct a community health needs assessment every three years. Those that don't comply may have to pay a \$50,000 fine and risk losing their tax-exempt status. Also, patients who are uninsured or on financial assistance cannot be charged more than levels for insured patients. And non-profits must make "reasonable efforts" to determine whether uninsured patients qualify for financial assistance before they can begin "extraordinary" collection practices, such as slapping liens on patients' homes.

On the local level, non-profits still are free from paying property taxes, but this could change. Even non-profits who don't give back anything to the community still have access to police, fire and other services, a situation that local governments, with their tax revenues shrinking, may want to change. In the future, there may be more cases like a local tax board's action against Provena Covenant Medical Center, a non-profit Catholic hospital in Urbana, Ill. The hospital lost its local tax exemption because it allegedly did not provide enough charity care, and in March 2010, the Illinois Supreme Court upheld the local board's decision.

Requiring non-profit hospitals to justify their tax-exempt status is basically a good thing, if done fairly. The recent government actions have resulted in more sharply defining the community benefit that non-profits have to provide. Many hospitals, such as my own, already leverage their resources to help the community. We host a free clinic and we bus patients there when it's cold. We also assist a medical group in running a large dental clinic. And we host several programs that do not have a direct connection to healthcare but aid the community, such as meals on wheels and an "adopt a family" program.

Non-profits will find their own path

Despite all that has been said about non-profit hospitals becoming more like their for-profit counterparts, a lot of differences remain. I believe they will become more pronounced in the future. I'm not implying there's anything bad about for-profit hospitals, but the non-profits will be taking a different route.

One big difference is the nature of management. At for-profits, management is beholden to the shareholders, while at the non-profits management is beholden to the community and the common good. Teaching and research, usually not a profitable service line, are almost entirely in the non-profit world. And while the amount of charity care does not differ that much between these two species of hospital, non-profit hospitals still tend to see more Medicaid patients and they also tend to have lower margins.

For religious-based non-profits, aiding the community also gets into the value of the Gospel. The first Beatitude in the New Testament states, "Blessed are the poor in spirit, for theirs is the kingdom of heaven." For-profit organizations have been buying up non-profit hospitals, even religion-based institutions. While the profit motive has a place in healthcare, we need to make sure that non-profit hospitals, with their dedication to the community and to service to the poor, remain a viable force in U.S. healthcare.

To this end, Ascension Health, the largest Catholic healthcare system in the country, is using private equity money — the same funding fueling the for-profits' acquisitions — to keep Catholic hospitals connected with their mission. In February, Ascension Health formed a joint venture with Oak Hill Capital Partners to buy Catholic hospitals so that they would not be sold to for-profit organizations.

The status of non-profit hospitals is going through many changes. I believe is time for us to ask ourselves a number of questions. What is our responsibility as a kind of social services agency for the community? What is our responsibility to ourselves? And what accountability do we have?

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