

## Details, Details

**Our communications expert reveals the secrets to success for nonprofits facing greater transparency on IRS Form 990.**

**D**uring the next three years, changes to Internal Revenue Service Form 990 reporting requirements for nonprofit hospitals and healthcare systems will result in greater transparency—and greater confusion.

More raw data about executive compensation (990J) and the value of community benefits (990H) will be available from nonprofit hospitals and healthcare systems due to expanded IRS reporting requirements. The Senate Finance Committee, among others, has been urging more detailed reporting to encourage better governance and greater transparency.

As tax-exempt 501(c)(3) entities, nonprofit hospitals enjoy tremendous financial advantages, and in the view of some (particularly their for-profit competitors) an unfair edge.

To determine whether or not a hospital is entitled to claim or retain tax-exempt status, the federal government looks at the “community benefit” it provides. Since the adoption of this term some 40 years ago, confusion and controversy has been rampant as to what constitutes real, demonstrable community benefit.

Another source of controversy has been compensation for healthcare executives. In their tax returns for fiscal year 2009, nonprofit hospitals are required to report more detailed information about executive compensation, including the kinds of compensation executives receive. There are also more executives whose compensation must now be detailed.



The new numbers may not match up handily with prior-year reporting, and the expanded numbers may enable critics to ramp up contentions that healthcare executives are overpaid. Hospitals need to show how appropriate compensation levels enable them to provide quality care and extend their effectiveness through programs that benefit the broader community because they can attract the right clinical and management teams.

With greater specificity required in the reporting of executive compensation and community benefit, forms 990J and 990H will offer critics and supporters a much more detailed look at what a nonprofit healthcare provider does for its community, over and above providing medical care, and what it costs in executive pay to achieve that benefit.

### **Beyond raw numbers**

The new reporting requirements are aimed at making more information available to the public and eliminating confusion, if not controversy. Whether or not they will achieve that goal is debatable, since the raw numbers won't tell the whole story.

An early draft of the IRS 990H merely required reporting more hard numbers in an attempt to show the dollar value of community benefits. The nonprofit healthcare community

reviewed the draft and argued, successfully, that hard data without some context, clarification, and explanation could be misleading, confusing, and counterproductive.

The IRS agreed. The final version of 990H allows for the addition of clarifying and amplifying text for narrative support. When filed, the three-page form could easily morph into scores of pages jammed with overwritten, self-congratulatory propaganda, or, just as useless, paragraph upon paragraph so densely written as to add neither light nor balance to the ensuing debate.

And debate there will be. Hospitals were right in their concern that raw numbers can easily be misinterpreted, with the data skewed to support this or that pet criticism of the nonprofit healthcare sector. It remains to be seen, however, if those who prepare the supporting narrative in the 990H forms will take to heart the intent: to be more transparent, make the hard data more meaningful and assessable, and add clarity and context to the discussion.

How can the nonprofit healthcare world ensure the 990H form best serves the public interest? If you accept the premise (and some don't) that nonprofit hospitals fill a unique and important need (particularly in the way they benefit a community over and above simply providing access to quality inpatient and outpatient care), it is incumbent on the nonprofits to clearly and effectively communicate their complete value.

Some nonprofit hospitals may file optional 990H forms for the 2009 fiscal year (which for most nonprofit hospitals ended June 30), but most will opt to wait until next year, focusing their attention on the issues related to expanded reporting of executive compensation.

With this year-long grace period, the nonprofits would be well advised to review the 990H reporting requirements; instill a sense of cooperation among their financial, community outreach, and communications staffs; reorient or develop reporting procedures to collect the needed data and supporting narrative detail; and review what they have been reporting about their community benefit. It is not too early to start.

The collected data will have to be placed into context. A look back will tell the hospitals what they have said in the past to ensure continuity or to identify potential disconnects between prior-year voluntary community benefit reporting and future-year IRS-mandated reporting. The narrative about community benefit also must show consistency with the stated mission and goals of the organization.

To prepare for the release in 2010 of the expanded executive compensation data, and in 2011 of the new and comprehensive 990H community benefit reports, nonprofits should begin the process of identifying potential issues. In some cases, it may mean simply changing some policies or procedures to align them in light of current economic and political realities. In other cases, it may mean reshaping, adding, or curtailing programs to comply with the updated definition of community benefit. For some, it may mean finally accepting the fact there is, indeed, more they should be doing to earn their tax-exempt status.

Nonprofit hospitals and healthcare systems must be prepared, individually and as a group, to stand up to those critics who will use the 990H information to rally support to reduce or eliminate tax exemptions. For more than a decade, the Senate Finance Committee has been driving to eliminate fraud, waste, and abuse within nonprofits.

The Obama Administration has been pushing for healthcare reform and, in the process, an overall reduction in healthcare costs. Local governments at the state, county, and municipal levels are strapped for cash and see the nonprofit hospital segment as a largely untapped source of new revenue—if they can only get past their tax-exempt status.

The move by the IRS to foster greater transparency of nonprofit hospitals and health systems is for the greater good. If they prepare and plan now to take advantage of it, nonprofits will have a tremendous opportunity to communicate their total value to the communities they serve.

The less astute will carp, complain, and procrastinate, and then wonder why they make such juicy targets for their critics. The more savvy will see the new reporting requirements as an opportunity to convey more clearly and effectively the tremendous service and value they provide.

Nonprofit hospitals need to think carefully about what and how much they say about their community benefit in the new 990H. More is not necessarily better. Over-inflated hyperbole rooted in self-congratulatory hot air will not win the day. The more compelling argument will be clear, concise statements showing how the resources invested are showing tangible, measurable, actionable results. +

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