

IRS Proposes Requirements to Make Charitable Hospitals More “Charitable”

On April 5, 2013, the Internal Revenue Service (IRS) published a proposed rule regarding certain requirements for tax exempt hospitals to conduct Community Health Needs Assessments (CHNA).¹ These provisions were made as a part of the 2010 Patient Protection and Affordable Care Act (ACA) in an effort to increase community-based preventive public health services, e.g., weight loss clinics, smoking cessation programs, in lieu of charity medical care.²

The approximately 2,900 tax exempt hospitals across the U.S. receive an estimated \$13 billion in tax benefits annually.³ However, a recent study utilizing 2009 IRS data for more than 1800 charitable hospitals indicated that the level of community benefits provided varied significantly, i.e., from 1.1% to 20.1% of the hospital’s operating expenses. Hospitals spent an average of only 7.5% of operating expenses on community benefits. Of this amount, 85.3% was spent on patient care services and only 5.3% on community health improvement.⁴

In March 2013, the City of Pittsburgh brought forth a civil action complaint against the University of Pittsburgh Medical Center (UPMC) alleging that UPMC failed to meet the criteria to qualify as an *Institution of Purely Public Charity* (IPPC). Included in the list of allegations were that UPMC: (1) subsidized for-profit enterprises in lieu of supporting charitable activities; (2) replaced hospitals in underserved, poor communities with those in areas of higher socioeconomic status; and, (3) paid unreasonable compensation and benefits to UPMC officers, not consistent with the charitable status of UPMC.⁵ UPMC, comprised of more than 20 hospitals, 400 outpatient sites, and over 50,000 employees, boasted annual compensation exceeding \$1 million for over 20 employees in fiscal year 2011, with the highest-paid—UPMC President and CEO Jeffrey Romoff—paid an annual salary of over \$5.9 million.⁶

Previously, tax-exempt hospitals were only required to submit to the IRS a list of community benefits provided on an annual basis.⁷ However, under the the recent proposed rule, hospitals will also be required to conduct and widely publicize the results of a CHNA at least every 3 years, and develop an implementation strategy to address identified community health needs found in the CHNA, to be filed with the Form 990 on an annual basis. The new regulations would go into effect for every tax year after March 23, 2012.⁸

Consequences for failing to adhere to the regulations result in revocation of a facility’s tax exempt status, after a thorough review, as well as any other applicable penalties published in prior rules. In addition, an excise tax may be applied to those tax-exempt hospitals that fail to complete a CHNA under the proposed rule. All rulings and investigations of misconduct will be conducted for hospitals on a case-by-case basis, regardless of hospital subsidy or system ownership, i.e., a tax-exempt health system would retain charitable status, if only one hospital has tax-exempt status revoked.⁹

The provisions detailed in the April 5 proposed rule, while more demanding than previous regulations, were designed to allow charitable hospitals to retain the flexibility of identifying and choosing the method(s) by which to address those particular community needs that are prioritized in the CHNA.¹⁰ Despite this relative “freedom,” it is anticipated that the provision of the proposed regulations would result in greater transparency in the conduct of tax-exempt hospitals, and may have the potential to positively impact healthcare costs and consumer access to healthcare as well.

¹ “Community Needs Assessments for Charitable Hospitals: Notice of Proposed Rulemaking”, Internal Revenue Service, April 5, 2013, 26 CFR Parts 1 and 53, p. 1

² “What Tax Exempt Hospitals Owe Their Communities”, by the editors, Bloomberg, April 24, 2013, <http://mobile.bloomberg.com/news/2013-04-24/what-tax-exempt-hospitals-owe-their-communities.html#footer-container> (Accessed 5/2/2013)

³ *Ibid*, Bloomberg, April 24, 2013

⁴ “Provision of Community Benefits by Tax-Exempt U.S. Hospitals”, by Gary J. Young et al., *New England Journal of Medicine*, April 18, 2013, Vol. 368, p. 1522-1523

⁵ “City of Pittsburgh v UPMC” Court of Common Pleas of Allegheny County, Pennsylvania, No. GD-13 (March 2013), p.5

⁶ *Ibid*, p. 1, 5; “CEO Romoff Remains Top UPMC Wage Earner”, Peter Hart, *University Times* (University of Pittsburgh publication), May 17, 2012, Vol. 44, Issue 18, <http://www.utimes.pitt.edu/?p=21317> (Accessed 5/2/2013)

⁷ *Ibid*, Bloomberg, April 24, 2013

⁸ “Treasury Releases Proposed Guidance for Charitable Hospitals Performing Community Health Needs Assessments”, U.S. Department of the Treasury, April 5, 2013, <http://www.treasury.gov/connect/blog/Documents/Treasury%20ACA%20Charitable%20Hospitals%20Fact%20Sheet.pdf> (Accessed 5/14/13), p. 1

⁹ *Ibid*, p. 1-2

¹⁰ *Ibid*, Internal Revenue Service, April 5, 2013, p. 10



(800) FYI - VALU

*Providing Solutions
in the Era of
Healthcare Reform*

Founded in 1993, HCC is a
nationally recognized healthcare
economic financial consulting firm

- [HCC Home](#)
- [Firm Profile](#)
- [HCC Services](#)
- [HCC Experts](#)
- [Clients Projects](#)
- [HCC News](#)
- [Upcoming Events](#)
- [Contact Us](#)
- [Email Us](#)

HEALTH CAPITAL CONSULTANTS (HCC) is an established, nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, Missouri, with regional personnel nationwide. Founded in 1993, HCC has served clients in over 45 states, in providing services including: valuation in all healthcare sectors; financial analysis, including the development of forecasts, budgets and income distribution plans; healthcare provider related intermediary services, including integration, affiliation, acquisition and divestiture; Certificate of Need (CON) and regulatory consulting; litigation support and expert witness services; and, industry research services for healthcare providers and their advisors. HCC's accredited professionals are supported by an experienced research and library support staff to maintain a thorough and extensive knowledge of the healthcare reimbursement, regulatory, technological and competitive environment.



Robert James Cimasi, MHA, ASA, FRICS, MCBA, AVA, CM&AA, serves as Chief Executive Officer of **HEALTH CAPITAL CONSULTANTS (HCC)**, a nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, MO, serving clients in 49 states since 1993. Mr. Cimasi has over thirty years of experience in serving clients, with a professional focus on the financial and economic aspects of healthcare service sector entities including: valuation consulting and capital formation services; healthcare industry transactions including joint ventures, mergers, acquisitions, and divestitures; litigation support & expert testimony; and, certificate-of-need and other regulatory and policy planning consulting.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: *“Accountable Care Organizations: Value Metrics and Capital Formation”* [2013 - Taylor & Francis, a division of CRC Press], *“The Adviser’s Guide to Healthcare”* – Vols. I, II & III [2010 – AICPA], and *“The U.S. Healthcare Certificate of Need Sourcebook”* [2005 - Beard Books]. His most recent book, entitled *“Healthcare Valuation: The Financial Appraisal of Enterprises, Assets, and Services”* will be published by John Wiley & Sons in the Fall of 2013.

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious *“Shannon Pratt Award in Business Valuation”* conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows. In 2011, he was named a Fellow of the Royal Institution of Chartered Surveyors (RICS).



Todd A. Zigrang, MBA, MHA, ASA, FACHE, is the President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas valuation and financial analysis for hospitals and other healthcare enterprises. Mr. Zigrang has significant physician integration and financial analysis experience, and has participated in the development of a physician-owned multi-specialty MSO and networks involving a wide range of specialties; physician-owned hospitals, as well as several limited liability companies for the purpose of acquiring acute care and specialty hospitals, ASCs and other ancillary facilities; participated in the evaluation and negotiation of managed care contracts, performed and assisted in the valuation of various healthcare entities and related litigation support engagements; created pro-forma financials; written business plans; conducted a range of industry research; completed due diligence practice analysis; overseen the selection process for vendors, contractors, and architects; and, worked on the arrangement of financing.

Mr. Zigrang holds a Master of Science in Health Administration and a Masters in Business Administration from the University of Missouri at Columbia. He is a Fellow of the American College of Healthcare Executives, and serves as President of the St. Louis Chapter of the American Society of Appraisers (ASA). He has co-authored *“Research and Financial Benchmarking in the Healthcare Industry”* (STP Financial Management) and *“Healthcare Industry Research and its Application in Financial Consulting”* (Aspen Publishers). He has additionally taught before the Institute of Business Appraisers and CPA Leadership Institute, and has presented healthcare industry valuation related research papers before the Healthcare Financial Management Association; the National CPA Health Care Adviser’s Association; Association for Corporate Growth; Infocast Executive Education Series; the St. Louis Business Valuation Roundtable; and, Physician Hospitals of America.



Anne P. Sharamitaro, Esq., is the Executive Vice President & General Counsel of **HEALTH CAPITAL CONSULTANTS (HCC)**, where she focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro is a member of the Missouri Bar and holds a J.D. and Health Law Certificate from Saint Louis University School of Law, where she served as an editor for the Journal of Health Law, published by the American Health Lawyers Association. Ms. Sharamitaro has presented healthcare industry related research papers before Physician Hospitals of America and the National Association of Certified Valuation Analysts and co-authored chapters in *“Healthcare Organizations: Financial Management Strategies,”* published in 2008.