

REPLY TO:

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WASHINGTON, DC 20510-1501  
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☐ 721 FEDERAL BUILDING  
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## United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

June 27, 2012

REPLY TO:

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☐ 307 FEDERAL BUILDING  
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Richard Umbdenstock  
President and Chief Executive Officer  
American Hospital Association  
325 Seventh Street, N.W.  
Washington, DC 20004

Dear Mr. Umbdenstock:

I am writing to express my surprise and disappointment with comments reported in the press as being made by American Hospital Association (AHA) General Counsel Melinda Hatton in reaction to recent regulations issued by the Department of Treasury (Treasury) and the Internal Revenue Service (IRS).

Let me first remind you that these new regulations would not be needed if the AHA had chosen engage when the Catholic Health Association (CHA) took the lead on developing standards for charitable hospitals more than 20 years ago. AHA had another opportunity to do the right thing when I started investigating the practices of your member charitable hospitals in May, 2005 – more than seven years ago. Then, as now, I was concerned that charitable hospitals were not acting charitably. They were suing indigent patients to ensure that they did not return for care and they were spending a pittance on community benefit activities, never mind true charity care.

From 2005 through 2009, as Senator Baucus and I worked together, alternating as Chairman and Ranking Member of the Senate Finance Committee, our staff worked closely with AHA, the Catholic Health Association, patient advocate groups, legal experts, state officials, and other stakeholders to determine the best way to hold charitable hospitals accountable for the enormous subsidies they receive through the tax code – from tax-exemption to the ability to raise capital from tax-exempt bonds and tax-deductible charitable contributions. Legislation was not, in fact, needed as Treasury and the IRS had the authority to set requirements for tax-exemption just as they did in 1965 when they loosened the charity care standard to a community benefit standard. Let me remind you that that change was orchestrated by the AHA.

However, hospitals' refusal to change and AHA's lack of leadership combined with Treasury and IRS's refusal to revisit the standards compelled me to push for common sense reforms. I'm glad to hear that Ms. Hatton agrees that these provisions are "good and sensible steps" but she must think I was born last night when she says that AHA was "never troubled by these provisions" as she is quoted as saying. I was born at night – 10:35 p.m., as a matter of fact – just not last night. AHA fought these "good and sensible steps" tooth and nail.

RANKING MEMBER,  
JUDICIARY

Committee Assignments:

AGRICULTURE  
BUDGET  
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CO-CHAIRMAN,  
INTERNATIONAL NARCOTICS  
CONTROL CAUCUS

The bellyaching about revocation being the only tool IRS has to curb hospitals' collection practices is particularly disingenuous. AHA was responsible for killing a proposed excise tax on hospital executives for failing to determine whether patients qualified for financial assistance before the hospital pursued collection actions against those patients. One proposal would have levied an excise tax of \$1,000 on a responsible executive per failure up to the amount of that executive's compensation.

Astonishingly, even with the new standards written into the tax code, some charitable hospitals refuse to act charitably. Abuses in collection practices continue to be documented by the media. I am even aware of one hospital's insisting to a reporter that the hospital was not required to provide a copy of its financial assistance policy or otherwise make it publicly available. Such reports only continue to make me think that tougher rules are needed.

AHA might want to expend more energy on advising its member hospitals on how to act charitably and help poor patients than worrying about an unlikely penalty such as revocation. Either the AHA wants to be a leader in holding charitable hospitals accountable for their subsidies or it wants to continue to be a voice for bad actors. It is time for the AHA to fish or cut bait. I would appreciate a written response to my concerns, including an accounting of any steps the AHA will take to guide tax-exempt member hospitals to better help poor patients.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley  
United States Senator