United States Senate
Committee on Finance

Sen. Chuck Grassley · Iowa
Ranking Member

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M E M O R A N D U M

To: Reporters and Editors
Re: EMBARGOED staff discussion draft (not proposed legislation) of non-profit hospital reforms
Da: Wednesday, July 18, 2007

Last September, Sen. Chuck Grassley, as chairman of the Committee on Finance, directed his staff to create a discussion draft of potential reforms to ensure an adequate level of charitable care from the nation's non-profit hospitals. Grassley's direction came at the conclusion of a hearing examining the level of charitable care from non-profit hospitals in exchange for the tens of billions of dollars of tax breaks they receive. Today, Grassley – now ranking member of the Finance Committee – released the staff discussion draft, which is EMBARGOED until 10 a.m. on Thursday, July 19, the date the IRS is scheduled to release a report on non-profit hospital practices. Grassley made the following comment on the EMBARGOED staff discussion draft (which is not proposed legislation), which is attached.

"The staff draft of potential ideas is the beginning of a discussion, not the end. I welcome public comments and encourage those interested to discuss how they believe we can best ensure that all non-profit hospitals are providing charitable care and medical assistance to our nation's vulnerable populations. While many non-profit hospitals do good work, too many non-profit hospitals get big tax breaks but provide small benefits to those in need."

Public comment should be sent to hospital_comments@finance-rep.senate.gov by the close of business on Friday, Aug. 24, 2007.

Grassley's statements from last September's hearing follow here.

Opening Statement of Chairman Grassley
Hearing, "Taking the Pulse of Charitable Care and Community Benefits at Nonprofit Hospitals"
Wednesday, Sept. 13, 2006

The Finance Committee today considers the issues of nonprofit hospitals. Nonprofit hospitals are a vital part of our nation's health care systems. Federal, state and local governments have provided nonprofit hospitals – through the tax code -- tens of billions of dollars each year in tax breaks. It is our responsibility for oversight to examine these billions of dollars of tax breaks to

understand what benefits they are providing to Americans. This is important because I think the President's panel on tax reform had the right idea -- when you look at a tax break the question is: Can it be justified by everyone else having to pay more taxes?

However, I think it's important that we recognize that this policy discussion is not just words and numbers. More than many other discussions, this is about real people and their lives. I'd like to recognize in the audience one of those people affected by today's hearing – Mrs. Diane Insco.

I will be entering Mrs. Insco's statement into the record, but it is a story we hear all too often in looking at these issues. In short, Mrs. Insco was making $14,000 a year when she was hospitalized due to problems related to her Type II diabetes. She was charged by the nonprofit hospital more than $4,639 – far more than if she had had insurance. No one told her about financial assistance or charity care at the hospital. The tax-exempt hospital went after her for the debt and ultimately put a lien on her house. Mrs. Insco almost lost her home.

Mrs. Insco's story fortunately has a happy ending when after many lawyers and many phone calls, the hospital did the right thing and tore up the bill. But I believe this committee needs to think about whether we are comfortable with a system that works only if you have every lawyer in the yellow pages getting in on the act. I think we can do better and I believe so do the vast majority of the tax-exempt hospitals. Thank you, Mrs. Insco, for traveling to be with us here today and allowing me to share your story.

While there are many issues that I think are important in the area of nonprofit hospitals, I wanted in my opening statement to just focus on two: measurements and reporting of community benefit and also discounted charges or free care to low-income uninsured individuals

I commend the Catholic Health Association (CHA)and particularly Sister Carol Keehan, here with us today, who has provided real leadership in establishing best practices for measurements and reporting for community benefits. The great frustration in looking at this area is that there is little common ground on how to measure or determine answers to basic questions. It makes it extremely difficult to make policy judgments.

In our review of the nonprofit hospitals it was very rare to get the same answer or same methodology to a question. That is not to say that the hospitals that responded gave a "wrong" answer, it is just that is very difficult to measure and compare. We found that it wasn't even comparing apples to oranges but more like comparing apples to farm tractors. I'm pleased that CHA has given us guidance and common terms here and I think it's something we should be looking at across the board.

Hundreds of hospitals have already agreed to comply CHA's standards. Should we get everyone else on board? I'll be listening closely today to see to what extent congressional action may be necessary, and to what extent the IRS and the non-profit hospitals can achieve much more meaningful, uniform disclosure about hospital activities without additional legislation.

Turning now to charity care, particularly discounted care and free care for low-income uninsured, there actually seems to be some agreement that nonprofit hospitals should be providing such discounts and free care. The CHA and American Hospital Association (AHA) testimony talk about basic policies in this area. As always there are details, but I think it is important for members

and the press to recognize that the nonprofit hospital organizations agree that there needs to be real charity care provided.

I think the question then comes about how can we make this policy real for folks like Mrs. Insco. I think Sister Carol has it exactly right in her testimony that: "It is one thing to have policies in place, and quite another to implement them." We need to think about how we can best make policies of discounted and free care to low-income uninsured a real benefit to those in need.

Non-profit hospitals receive billions in tax breaks at the federal, state and local level. The public has a right to expect significant, measurable benefits in return. I hope the hearing will help the Finance Committee decide how we can best ensure that non-profit hospitals provide appropriate levels of benefit to the communities they serve. As we consider these questions, I think it right to also bear in mind the particular issues facing critical access rural hospitals.

Let me end by saying that the Government Accountability Office (GAO) and the IRS Commissioner Mark Everson have both commented that there is often little to no difference between for-profit hospitals and non-profit hospitals when it comes to charity care and community benefits provided. I'm confident that many non-profit hospitals are well-intended and do outstanding work on behalf of their communities and the poor. But I'm concerned that the best practices of non-profit hospitals are not common practices for all. That needs to change.

Closing Statement of Chairman Grassley
Hearing, "Taking the Pulse of Charitable Care and Community Benefits at Nonprofit Hospitals"
Wednesday, Sept. 13, 2006

I thank the panelists for their time. This has been a useful hearing, giving us a wide range of views and thoughts on different issues. There are some issues that I think are just common sense that we should seek to deal with when possible, such as ending country club payments for tax-exempt hospital executives. The tax code doesn't allow publicly traded corporations to deduct these expenses for country clubs; it's outrageous that tax-exempt hospitals are providing this benefit.

However, there are other matters that we need to give serious consideration. The questions are what can be accomplished through voluntary agreements by the hospitals; the role of states; as well as action that the IRS and Treasury can initiate that don't require statutory changes. However, this must be considered with a realistic eye of what can or will be accomplished, and the limits of what can be done in these forums.

For those reasons, I am directing the Finance Committee staff to develop a staff discussion paper that will provide the Finance Committee members proposals to consider in addressing the issues we've heard discussed today and in the written testimony. I think particularly the proposals of CHA – proposals that have been agreed to already by hundreds of hospitals – can serve as a starting point as well as many of the common sense suggestions provided by Professor Kane.

I want this draft developed in consultation with your office, Senator Baucus. In addition, I think the committee would benefit from hearing from interested and knowledgeable parties in considering draft proposals. This approach is similar to the model that we used with the charity reforms, which I believe was successful ultimately in getting wide, bipartisan consensus both in the committee and in the charity community and may prove beneficial here as well. I'd like to have a

draft for public comment within a few weeks. It is important that we make real progress in ensuring that these billions of dollars in tax breaks actually are effective in helping those in need.

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