Community Health Needs Assessment, Charity Care, Financial Assistance Policies, and Billing and Collection Activities

What California Nonprofit Hospitals Need to Know About the Interplay between California and Federal Laws

Prepared for the California Hospital Association
by Hooper, Lundy & Bookman, PC

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This white paper was prepared for the California Hospital Association by Hooper, Lundy & Bookman, PC.

Editors:
Lloyd A. Bookman
David A. Hatch

Author:
David A. Hatch

Contributors:
Alex M. Brill
David J. Vernon

HLB Offices:
1875 Century Park East, Suite 1600
Los Angeles, CA 90067
310.551.8111

575 Market Street, Suite 2300
San Francisco, CA 94105
415.875.8500

101 W. Broadway, Suite 1200
San Diego, CA 92101
619.744.7300

975 F Street, NW, Suite 1050
Washington, DC 20004
202.587.2590

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I. INTRODUCTION

The Affordable Care Act ("**ACA**") added a new Section 501(r) to the Internal Revenue Code (the "**IRC**") which imposes significant new requirements on tax-exempt hospitals with respect to community benefit obligations.[1] Although these requirements have many similarities to existing California law, there are some important differences, which must be understood to ensure compliance with both Federal law and California law. The purpose of this white paper is to assist California nonprofit hospitals and their leadership with navigating the complex and nuanced differences between the Federal and California community benefit, charity care laws and billing laws and to assist such hospitals with adopting strategies to ensure compliance.

As with many areas of the law, California has been an innovator in enacting laws effecting nonprofit hospitals. In September 1994, Governor Pete Wilson signed SB 697, which established the California Hospital Community Benefit Program requiring non-profit hospitals to develop community benefit plans.[2] In September 2006, Governor Arnold Schwarzenegger signed AB 774, which established requirements for hospitals to maintain charity and discounted care programs.[3]

Section 501(r) was established as part of ACA's health care reform, during a period of increasing scrutiny of the benefits of tax-exemption granted to nonprofit charitable hospitals. Thus, Section 501(r) establishes requirements for expanded community benefit obligations for tax-exempt hospitals by instituting new standards relating to community health needs assessments; financial assistance policies; and hospital charges, billing, and collection practices. Following enactment of ACA, the Internal Revenue Service ("**IRS**") requested public comments and issued proposed regulations to address implementation of the new Section 501(r) requirements. Final regulations have not yet been issued. Nevertheless, as described below, tax-exempt hospitals have been required to comply with certain portions of Section 501(r) since enactment of ACA on March 23, 2010, and other portions in tax years beginning after March 23, 2012.

Unfortunately for California's hospitals, there are a number of inconsistencies between the requirements of SB 697 and AB 774, on the one hand, and the requirements of Section 501(r), on the other hand, and the IRS has declined to adopt the request of commenters that compliance with similar state laws be afforded deemed status with respect to compliance with the requirements of Section 501(r). In addition, although there are inconsistencies between the two legal frameworks, since, for the most part, it is likely possible for hospitals to comply with both frameworks, it may be difficult to claim that the California laws are preempted by Section 501(r) and that California hospitals need not comply with both legal frameworks. Thus, California

[1] The Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119) (2010) Section 9007.

[2] Health and Safety Code Sections 127360-127360.

[3] Health and Safety Code Sections 127400-127440.

hospitals should be prepared to implement and comply, or to have implemented and complied with, both the applicable California and Federal requirements regarding community health needs assessments, charity care, discount and financial assistance policies, and restrictions on billing and collection activities.

Although a more detailed issue-by-issue side-by-side comparison of the requirements under California law and Federal law is provided in Section 3.2 of this white paper, a number of the key differences warrant mention in this introduction. These examples help to convey the importance of ensuring that California hospitals understand and are prepared to comply with both sets of laws.

In particular, the California law and Federal law relating to charity care and discount policies and billing and collection activities apply to different types of hospitals. Section 501(r) (which covers both community benefit laws, charity care and fair billing laws) only applies to hospitals that are or are seeking tax-exempt recognition under Section 501(c)(3) of the IRC. By contrast, AB 774, California's charity care and fair billing laws, generally applies to all hospitals (not only nonprofit or tax-exempt hospitals), with the exception of hospitals operated by the California Departments of Mental Health and Corrections. SB 697, California's community benefit law, applies only to private nonprofit tax-exempt hospitals (similar to Section 501(r)), but provides exceptions for certain small and rural hospitals and children's hospitals that do not receive direct payment for their services.

There are a number of other important differences[4] between the applicable Federal and California laws. Below is a sample of some of the key areas where there are important material differences:

- California law provides specific requirements regarding income eligibility for charity care, while Federal law provides more flexibility in determining eligibility for charity care.[5]

- California law does not specify or limit the type of hospital care that must be covered by the charity care policy, while Federal law requires the policy to apply to all emergency and medically necessary care.

- California and Federal law have differing requirements, among others, as to (1) what must be included and addressed in charity care policies; (2) requirements and restrictions relating to billing and collections activity; (3) limitations on charges for charity care

[4] As a general matter, since the laws generally do not directly conflict with one another, we believe the safest course is to comply with the requirements of both sets of laws.

[5] With respect to this example, since California's more specific charity care income eligibility requirements do not conflict with the IRS requirements, it is likely a hospital's charity care income eligibility requirements that meet the California standards would also satisfy the IRS requirements.

eligible patients; (4) obligations to refund charges to charity care eligible patients; (5) notification and publicizing of the charity care and billing policies; (6) providing notices in languages other than English; and (7) agency reporting.

- California law has more specific requirements than Federal law as to what must be included in a community benefit plan, while, by contrast, Federal law has more specific requirements as what must be included in a community health needs assessment.

- California and Federal law have differing requirements as to (1) when and under what circumstances a community health needs assessment may be conducted in conjunction with other organizations; (2) how the relevant community is defined; and (3) how to make the report publicly available.

- California law allows for updates to community health needs assessments every three years, while the Federal law provides no specific allowance for updates of community health needs assessments every three years. Instead, Federal law appears to require a new community health needs assessment to be conducted every three years.

- Federal law has more specific requirements regarding how the community health needs assessment and implementation strategy must be approved.

- California law allows for system wide community benefit reports, while Section 501(r) requires a distinct community health needs assessment for each hospital.

- Both sets of laws also have differing penalties as to non-compliance, and, importantly, under Federal law, failure to comply with the requirements of Section 501(r) may result in the imposition of taxes for the period of time of non-compliance or, under a worst case scenario, the revocation of tax-exempt status. Thus, it is very important that California hospitals that are tax-exempt under Section 501(c)(3) comply with the new requirements under Section 501(r).

For more specific information regarding these differences, see the side-by-side comparison of the requirements under California law and Federal law provided in Section 3.2 of this white paper.

In order to assist the reader in best accessing the information in this white paper, a detailed table of contents is included after the title page. A summary of the organization of the white paper follows: Following the Introduction in this Article I, is Article II entitled Background. Article II addresses background regarding the development of the community benefit standard in IRS guidance and the adoption of SB 697, AB 774, the relevant ACA provisions, and the proposed Treasury Regulations addressing Section 501(r). Article III, entitled Discussion, includes two key subsections. The first, Section 3.1, includes a summary of the obligations under both sets of laws and recommendations for ensuring compliance with both sets of laws. The second is Section 3.2, which includes a detailed issue-by-issue side-by-side comparison of the requirements under California law and Federal law. Article IV includes the Conclusion. Finally, an appendix of links to websites with useful topical resources and materials is included at Article V.

II. BACKGROUND

Despite the longstanding tradition of charitable hospitals in this country, since the latter half of the Twentieth Century there have been cycles of tension and commentary involving the provision of tax-exempt status to nonprofit hospitals in the United States. These cycles have led to increasing scrutiny and regulation of tax-exempt nonprofit hospitals. In order to understand the reasons for this increasing scrutiny and regulation, it is important to have an understanding of the relevant IRS guidance providing authority for certain nonprofit hospitals to be recognized as tax-exempt.

2.1 Development of IRS Community Benefit Concept

The permitted IRC Section 501(c)(3) purposes for tax-emption are: (i) charitable; (ii) religious; (iii) educational; and (iv) scientific purposes. Although exempt purposes for religious, educational and scientific purposes may have some application to a nonprofit hospital, the exemption for charity is the broadest and most common exempt purpose applicable to nonprofit hospitals, which has been recognized to include the promotion of health. Revenue Ruling 69-545, 1969-2 C.B. 117; Revenue Ruling 83-157, 1983-2 C.B. 94. It is with Revenue Ruling 69-545, issued by the IRS in 1969, that the concept of the importance of community benefit first gained import. In Revenue Ruling 69-545 the IRS recognized that "The promotion of health, like the relief of poverty and the advancement of education and religion, is one of the purposes in the general law of charity that is deemed beneficial to the community as a whole…"

In 1983, with Revenue Ruling 83-157, the IRS built upon this foundation and better defined what was entailed by community benefit. In particular, in Revenue Ruling 83-157 the IRS indicated that the following factors helped to illustrate that a nonprofit hospital was providing community benefit:

- including a board of directors drawn from the community;
- having an open medical staff policy;
- treating of persons eligible for public programs such as Medicare and Medicaid; and
- the application of any surplus to improving facilities, equipment, patient care, and medical training, education, and research.

The IRS has continued to hone and refine this guidance through additional commentary, regulations, audit guidelines and development of forms and reporting obligations. Most recently, through the enactment of ACA and codification of IRC Section 501(r), the operations of tax-exempt hospitals have been further regulated to assist with ensuring that tax-exempt hospitals are operating in a manner consistent with their charitable status.

2.2 SB 697 and the California Community Benefit Law

In reaction to the increasing scrutiny of tax-exempt hospitals within this environment, California nonprofit hospitals sought legislation at the State level that would assist them in proactively demonstrating the tangible benefits that they were providing to their communities. In addition, the California Hospital Association sought a mechanism for assisting in the identification of community needs and mechanisms to address implementation of strategies to address such needs. For this reason, SB 697 included the following recognitions:

- Private not-for-profit hospitals meet certain needs of their communities through the provision of essential health care and other services. Public recognition of their unique status has led to favorable tax treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide community benefits in the public interest. Health and Safety Code Section 127340(a)

- California's private not-for-profit hospitals provide a wide range of benefits to their communities in addition to those reflected in the financial data reported to the state. Health and Safety Code Section 127340(c)

- Unreported community benefits that are often provided but not otherwise reported include, but are not limited to, all of the following: (1) Community-oriented wellness and health promotion. (2) Prevention services, including, but not limited to, health screening, immunizations, school examinations, and disease counseling and education. (3) Adult day care. (4) Child care. (5) Medical research. (6) Medical education. (7) Nursing and other professional training. (8) Home-delivered meals to the homebound. (9) Sponsorship of free food, shelter, and clothing to the homeless. (10) Outreach clinics in socioeconomically depressed areas. Health and Safety Code Section 127340(d)

2.3 AB 774 California Hospital Fair Pricing Act

AB 774 similarly is focused, albeit less directly, on ensuring that hospitals[6] operate in a manner not inconsistent with providing community benefit. AB 774 established the Hospital Fair Pricing Act ("**HFPA**"), which was characterized by its author as a means to create fair pricing arrangements by hospitals. It does this indirectly through statutory structuring of hospital charity care and debt collection practices.[7]

[6] AB 774 generally applies to all hospitals (not only nonprofit or tax-exempt hospitals), but provides an exception for hospitals operated by the California Departments of Mental Health and Corrections.

[7] In September 2010, AB 1503 was passed which implemented similar fair pricing and debt collection requirements on emergency room physicians. AB 1503 was effective January 1, 2011. (footnote continued)

2.4 ACA and IRC Section 501(r) and IRS Proposed Regulations.[8]

As described above, ACA enacted Section 501(r) of the IRC. Section 501(r) imposes a number of additional requirements on tax-exempt hospitals. Section 501(r)(1) provides that a hospital described in Section 501(r)(2) will not be treated as a 501(c)(3) tax-exempt organization unless the hospital meets the requirements of Section 501(r)(3) through 501(r)(6) of the IRC. Section 501(r)(2)(A) of ACA defines a hospital organization[9] as: (i) An organization that operates a facility required by a state to be licensed, registered, or similarly recognized as a hospital; and (ii) any other organization that the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under Section 501(c)(3). Section 501(r)(2)(B)(i) of the IRC provides that a hospital organization that operates more than one hospital must meet the requirements of Section 501(r) of the IRC separately with respect to each hospital facility.

Section 501(r)(3) of the IRC requires hospitals to conduct a Community Health Needs Assessment ("**CHNA**") at least once every three (3) years and to adopt an implementation strategy to meet the community health needs identified through the CHNA. The CHNA must take into account input from persons who represent the broad interests of the community served by the hospital, including those with special knowledge of or expertise in public health. The CHNA must also be made widely available to the public.

Section 501(r)(4) of the IRC requires a hospital organization to establish a written financial assistance policy ("**FAP**") and a written policy relating to emergency medical care. The FAP must include: (1) eligibility criteria for financial assistance, and whether such assistance includes free or discounted care; (2) the basis for calculating amounts charged to patients; (3) the method for applying for financial assistance; (4) in the case of a hospital that does not have a separate billing and collections policy, the actions the hospital may take in the event of nonpayment; and (5) measures to widely publicize the FAP within the community to be served by the hospital. The emergency medical care policy must include requirements for the hospital to provide, without discrimination, care for emergency medical conditions (within the meaning of the Emergency Medical Treatment and Labor Act ("**EMTALA**"), Section 1867 of the Social Security Act (42 U.S.C. Section 1395dd)) to individuals regardless of their eligibility under the organization's FAP.

AB 1503 and the Emergency Physician Fair Pricing Policies laws are beyond the scope of this White Paper. AB 1503 was codified at Health and Safety Code Sections 127450-127462.

[8] Much of the following summary of IRS developments is sourced from the IRS's proposed rulemaking found in 78 Fed. Reg. 66, 20523 (April 5, 2013).

[9] Although the IRC often distinguish between hospital organizations and hospital facilities, in order to simplify this white paper and address the comparisons with California state law, in the white paper "hospital" is referred to generically, which could mean either hospital facility or hospital organization. In general terms, hospital organization would refer to the entity that owns and/or operates the hospital facility and hospital facility would refer to the actual licensed hospital.

Section 501(r)(5)(A) of the IRC requires a hospital to limit amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the organization's FAP (FAP-eligible individuals) to not more than the amounts generally billed to individuals who have insurance covering such care. Section 501(r)(5)(B) of the IRC prohibits the use of gross charges.

Section 501(r)(6) of the IRC requires hospitals to make reasonable efforts to determine whether an individual is eligible under the FAP before engaging in extraordinary collection actions ("**ECAs**") against the individual.

2.5 IRS Notice 2010–39

In reaction to the new requirements under Section 501(r) of the IRC under ACA, the Department of the Treasury ("**Treasury Department**") and the IRS issued Notice 2010–39 (2010–24 IRB 756 (May 27, 2010)). Notice 2010-39 solicited public comments regarding the application of the new requirements under Section 501(r) of the IRC. The Treasury Department and the IRS received more than one hundred (100) comments in response to Notice 2010–39 and considered the comments in drafting its proposed regulations discussed below.

2.6 IRS Notice 2011–52

Following receipt of the initial comments, the Treasury Department and the IRS issued Notice 2011–52 (2011–30 IRB 60 (July 8, 2011)). Notice 2011-52 considered the CHNA requirements of IRC Section 501(r)(3). Notice 2011–52 described provisions related to the CHNA requirements that the Treasury Department and the IRS anticipated would be included in these proposed regulations and solicited comments from the public. In particular, Notice 2011–52 provided information regarding anticipated regulatory provisions concerning the documentation of a CHNA, when and the manner in which the CHNA should be conducted, the community served by a hospital facility, persons representing the broad interests of the community, making the CHNA widely available to the public, the implementation strategy, excise taxes on failures to meet the CHNA requirements, reporting requirements related to CHNAs, and the effective dates of the CHNA provisions. The Treasury Department and the IRS received more than eighty (80) comments in response to Notice 2011–52.

Notice 2011–52 provided that hospital organizations could rely on the anticipated regulatory provisions described in the notice for any CHNA made widely available to the public, and any implementation strategy adopted, on or before the date that was six (6) months after the date further guidance regarding the CHNA requirements is issued. As described below, the Treasury Department and the IRS issued proposed regulations (REG-106499-12, 78 Fed. Reg. 20523 (April 5, 2013) (the "**2013 Proposed Regulations**")) addressing the CHNA requirements, among other things. Thus, hospitals were able to continue to rely on the interim guidance described in Notice 2011–52 for any CHNA made widely available to the public, and any implementation strategy adopted, prior to October 5, 2013. For any future CHNA's or implementation strategy adopted now and until six (6) months after final regulations covering CHNA and implementation strategies, hospitals should rely on the 2013 Proposed Regulations.

2.7 Notice of Proposed Rulemaking on Sections 501(r)(4) Through 501(r)(6)

The Treasury Department and the IRS published a notice of proposed rulemaking in the Federal Register (REG–130266–11; 77 Fed. Reg. 38148 (June 26, 2012)) ("**2012 Proposed Regulations**")[10], which contains proposed regulations regarding the requirements of Section 501(r)(4) of the IRC (regarding establishing financial assistance and emergency medical care policies), Section 501(r)(5) of the IRC (regarding limits on the amount hospitals can charge for certain care provided to individuals eligible for financial assistance), and Section 501(r)(6) (which prohibits a hospital from engaging in extraordinary collection actions before making reasonable efforts to determine whether an individual is eligible for financial assistance).

The 2012 Proposed Regulations also provide guidance on the hospitals that must meet the IRC Section 501(r) requirements. In particular, the 2012 Proposed Regulations contain a definitions section that defines "hospital organization," "hospital facility," and other key terms used in the regulations.

The comment period for the 2012 Proposed Regulations closed on September 24, 2012. The Treasury Department and the IRS received more than 200 comments in response to the 2012 Proposed Regulations.

2.8 Notice of Proposed Rulemaking on Sections 501(r)(2) and 501(r)(3)

The Treasury Department and the IRS published the 2013 Proposed Regulations through a notice of proposed rulemaking in the Federal Register (REG-106499-12; 78 Fed. Reg. 20523 (April 5, 2013)), which contains proposed regulations regarding the CHNA requirements of Section 501(r)(3) of the IRC, and the penalties under 501(r)(2) for failing to satisfy the requirements of Section 501(r) of the IRC. The 2013 Proposed Regulations also include additional guidance regarding the meaning of certain defined terms and certain requirements relating to the Form 990 (Return for Organization Exempt from Income Tax).

The comment period for the 2013 Proposed Regulations closed on July 5, 2013. As of January 2014, the Treasury Department and the IRS were still working on evaluating comments and preparing the final regulations or additional proposed rulemaking. The contents of the Proposed Regulations, including the 2013 Proposed Regulations and 2012 Proposed Regulations are discussed in more detail below.

2.9 IRS Notice 2014-2 and IRS Notice 2014-3

In January 2014, the IRS issued two additional notices pertaining to the requirements under IRC Section 501(r). The first, Notice 2014-2, confirmed that hospital organizations may continue to rely on the Proposed Regulations under Section 501(r) of the IRC that were previously published

[10] The 2013 Proposed Regulations and 2012 Proposed Regulations are sometimes referred to in this white paper as the "**Proposed Regulations**", where the context does not require distinguishing between the two sets of regulations.

on June 26, 2012 and April 5, 2013, pending the publication of final regulations or other applicable guidance.

The second, Notice 2014-3, contains a proposed revenue procedure that provides correction and disclosure procedures under which certain failures to meet the requirements of Section 501(r) of the IRC will be excused so long as they are made prior to the IRS contacting the organization concerning an examination of the organization (an audit). Notice 2014-3 also provides further clarification of what types of failures would be considered to be willful and egregious, and not subject to excuse upon correction and disclosure. In addition, Notice 2014-3 provides examples of appropriate corrective action, and provides proposed requirements for appropriate disclosure, including disclosure of the following information on Schedule H of a hospital's Form 990 (Return for Organization Exempt from Income Tax): (1) a description of the failure, (2) a description of the discovery, (3) a description of the correction made, and (4) a description of any new or revised practices and procedures or, if none were needed, an explanation of why none were needed. The IRS has requested that comments regarding the Revenue Procedures described in Notice 2014-3 be submitted by March 14, 2014.

III. DISCUSSION

3.1 Summary of Obligations, Important Dates, and Deadlines under California and Federal Law

Before providing an in depth discussion of the specific provisions and comparison of the relevant provisions of California and Federal law, we provide a summary of the key obligations under these laws.

A. Adoption of FAP/Charity Care, Discount, and Emergency Medical Care Policy

- Every hospital in California should now adopt or have adopted written policies that address charity care, discounts, and eligibility for discounts. *See* Health and Safety Code Section 127405(a)(1). Every Section 501(r) hospital[11] should have adopted a FAP that also complies with Section 501(r). *See* Section 1.501(r)-4(a) of the Proposed Regulations. It is likely that the FAP and the charity and discounted care policy will be contained in a single policy that satisfies both State and Federal law.

- Every Section 501(r) hospital must now adopt or have adopted a written Emergency Medical Care Policy. Section 1.501(r)-4(a) of the Proposed Regulations.

[11] "Section 501(r) hospital" refers to a hospital that is subject to Section 501(r), *i.e.*, a hospital that is tax-exempt under Section 501(c)(3).

B. Eligibility under Policies

- All uninsured hospital patients or patients with high medical costs who are at or below 350 percent of the Federal poverty level[12], shall be eligible to participate under a hospital's charity care or discount payment policy. Health and Safety Code Section 127405(a)(1)(A).

- Section 501(r) hospitals must make reasonable efforts to determine whether patients are eligible under their FAP. Health and Safety Code Section 127420 and Section 1.501(r)-6(a) of the Proposed Regulations.

C. Restrictions on ECAs/Aggressive Collection Activities

- Section 501(r) hospitals may not, directly or indirectly through a subsidiary, affiliate, purchaser or collection agent, engage in aggressive collection activities or ECAs of patients eligible under the FAP. Health and Safety Code Section 127425 (as to all hospitals) and Section 1.501(r)-6(a)(2) of the Proposed Regulations (as to Section 501(r) hospitals).

- Each hospital should have a written policy or policies regarding Debt Collection Practices, which should address under whose authority patient debt is collected, whether through the hospital, an affiliate or subsidiary or a collection agency, and defining the standards and practices for debt collection. Health and Safety Code Section 127425(a)-(b).

- If the hospital uses a debt collection agency, it must obtain written agreement that the debt collection agency will abide by the hospital's standards and scope of practice. Health and Safety Code Section 127425(b).

- For a patient that lacks coverage or has high medical costs, the hospital or its agent shall not report adverse information to a credit reporting agency or commence civil action against the patient for nonpayment at any time prior to 150 days after initial billing. Health and Safety Code Section 127425(d).

- Extended payment plans offered by a hospital to assist patients eligible under the hospital's charity care policy, discount payment policy, or any other policy adopted by the hospital for assisting low-income patients with no insurance or high medical costs, shall be interest free. Health and Safety Code Section 127425(g).

- Prior to commencing collections activities, the hospital or the party seeking to collect the debt shall provide the patient with a clear and conspicuous written notice containing

[12] Rural hospitals may set the eligibility levels for financial assistance below 350 percent of the Federal poverty level as appropriate. Health and Safety Code Section 127405(a)(2).

information regarding the patient's rights under applicable laws, certain patient rights and related information, and that nonprofit credit counseling information services may be available.[13] Health and Safety Code Section 127430.

D. Limitations on Charges

- Hospitals are required to limit charges to patients at or below 350 percent of the Federal poverty level and eligible under its FAP/discount payment policy. The charges must be limited to the amount of payment the hospital would expect to receive for providing services from Medicare, Medi-Cal, the Healthy Families Program, or another government-sponsored health program of health benefits in which the hospital participates (the "**Programs**"), whichever is greater. In addition, Section 501(r) hospitals may not charge more than the amount generally billed ("**AGB**") by the hospital (as defined per a methodology under the Proposed Regulations) for any emergency or medically necessary services. Significantly, one permissible method under the Proposed Regulations to determine the AGB is to use Medicare fee-for-service payment rates. Since Medicare fee-for-service rates may be used under hospital discounted payment policies pursuant to the HFPA, it would appear that using Medicare fee-for-service rates would satisfy both California and Federal requirements.[14] Health and Safety Code Section 127405(d) and Section 1.501(r)-5 of the Proposed Regulations.

E. Refund of Charges

- Section 501(r) hospitals are required to refund any payments made by patients over and above what is owed under the FAP. Section 1.501(r)-6(c)(4)(i)(D)(2) of the Proposed Regulations. Although there is an exception under the HFPA that allows hospitals to provide a credit to patients for an amount less than five dollars ($5.00), there is no such exception under the IRS rules. Health and Safety Code Section 127440.

F. Notice of FAP/Charity Care, and Discount Policies

- The FAP, FAP application form, and a plain language summary of the FAP must be made widely available on a website. Section 1.501(r)–4(b)(5)(i)(A) of the Proposed Regulations.

- Paper copies of the FAP, FAP application form, and a plain language summary of the FAP must be made available upon request and without charge, both in public locations in the hospital facility and by mail. Section 1.501(r)–4(b)(5)(i)(B) of the Proposed Regulations.

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[13] For more detailed information regarding the contents required in this notice, see comparison of California and Federal Law below at Section 3.2.

[14] For more detailed information regarding how AGB is defined and determined under the Proposed Regulations, see comparison of California and Federal Law below at Section 3.2.

- Each hospital must provide patients with a written notice containing information about the availability of the hospital's FAP, including information about eligibility, as well as contact information for a hospital employee or office from which the person may obtain further information about these policies. Health and Safety Code Section 127410(a).

- Notice of the hospital's policy for financially qualified and self-pay patients must be clearly and conspicuously posted in a manner reasonably calculated to attract visitors' attention in locations that are visible to the public, including, but not limited to, all of the following: (1) Emergency department, if any; (2) Billing office; (3) Admissions office; and (4) Other outpatient settings. *See* Health and Safety Code Section 127410(b) and Section 1.501(r)-4(b)(5)(i)(C) of the Proposed Regulations.

- Each Section 501(r) hospital must inform and notify residents of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance. Section 1.501(r)–4(b)(5)(i)(D) of the Proposed Regulations.[15]

G. Language of Notices

- All notices shall be provided in English, any language which is the primary language of 5 percent or more of the hospital's patients (California law), and the language or languages spoken by a substantial number of persons served by the hospital and/or for any populations with limited proficiency in English that constitute more than 10 percent of the residents of the community served by the hospital facility (proposed federal regulations). *See* Health and Safety Code Section 127410(a) and Section 1.501(r)-4(b)(i) of the Proposed Regulations.

H. Adoption of FAP

- For a Section 501(r) hospital, the FAP must be adopted by an authorized body of the hospital (such as the Board of Directors) and must be implemented and consistently carried out. Section 1.501(r)–4(d)(1)-(3) of the Proposed Regulations.

I. Submission of Policies and Related Information to OSHPD

- Each hospital must provide to OSHPD copies of its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and the application for charity care or discounted payment programs. This information must be provided at least

[15] The IRS does not define how this should be accomplished, but it provides the following example: "Such measures could include, for example, the distribution of information sheets summarizing the FAP to local public agencies and nonprofit organizations that address the health needs of the community's low-income populations." 2012 Proposed Regulations, 77 Fed. Reg. 38152.

biennially on or before January 1, or when a significant change is made. If no significant change has been made by the hospital since the information was previously provided, notifying the OSHPD of the lack of change is sufficient. Health and Safety Code Section 127435.

J. Community Health Needs Assessments and Community Benefit/Implementation Strategy

- Each Section 501(r) hospital[16] should adopt and conduct a CHNA[17] at least once every three years. *See* Health and Safety Code Section 127350(b) and Section 1.501(r)-3(a)(1) of the Proposed Regulations. The CHNA should include an implementation strategy. Section 1.501(r)–3(c)(1) of the Proposed Regulations. Section 501(r) hospitals that are exempt under the California Community Benefits Law, and therefore have not conducted a needs assessment under California law, likely need to conduct a CHNA under Section 501(r)(3) and the Proposed Regulations before the end of the first taxable year after March 23, 2012.[18]

- Each hospital should adopt a community benefit plan[19] on an annual basis. *See* Health and Safety Code Section 127350(c).

- The CHNA and implementation strategy must be adopted by an authorized body of each Section 501(r) hospital (such as the Board of Directors). Sections 1.501(r)–3(a)(2) and 1.501(r)–3(b)(1)(iv) of the Proposed Regulations.

K. Public and Agency Reporting of CHNA and Community Benefit Plan

- A Section 501(r) hospital shall make its CHNA report widely available on a website, that meets certain specifications, at least until the date the hospital facility has made widely

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[16] Note that certain tax-exempt hospitals are excepted from the requirements of the California Community Benefits Law, such as rural hospital, and children's hospitals that do not provide direct care to patients for a charge. *See* discussion below regarding comparison of California and Federal Law at Section 3.2. However, since the Federal law applies to all 501(c)(3) hospitals, all hospitals tax-exempt under IRC Section 501(c)(3), should generally comply with the requirements to conduct a CHNA under IRC Section 501(r)(3) and the Proposed Regulations.

[17] For a detailed description of what should be included in the CHNA please see discussion below regarding comparison of California and Federal Law at Section 3.2. It appears a single plan could satisfy both California and Federal law, which we refer to as a CHNA.

[18] For example, a rural California Hospital that was exempt under the California Community Benefits Law and had a tax year that ended in December is required to have completed a CHNA before December 31, 2013.

[19] For a detailed description of what is required of a community benefit plan, see discussion below regarding comparison of California and Federal Law at Section 3.2.

available on a website its two subsequent CHNA reports; and make a paper copy of the CHNA report available for public inspection without charge at the hospital for the same timeframe. Section 1.501(r)–3(b)(8) of the Proposed Regulations.

- The community benefit plan must be filed with OSHPD within 150 days after the end of the hospital's fiscal year. *See* Health and Safety Code Section 127350(d).

- With respect to the Form 990 (Return for Organization Exempt from Income Tax), each Section 501(r) hospital shall include either a copy of the most recently adopted implementation strategy for each hospital facility it operates or the URL of each Web page on which it has made each such implementation strategy widely available on a Web site along with or as part of the CHNA to which the implementation strategy relates; and a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, or, if no actions were taken with respect to one or more of these health needs, the reason(s) why no actions were taken. Section 1.6033–2(a)(2)(ii)(I)(2)-(3) of the Proposed Regulations.

L. Correction of Policies that Fail to Satisfy the IRC Section 501(r) Requirements

- Under the Proposed Revenue Procedure, published in IRS Notice 2014-3, a hospital may correct and disclose any failure to meet a requirement of IRC Section 501(r) that is not willful or egregious, provided that the hospital has begun correcting the failure and has disclosed the failure before the hospital is first contacted by the IRS concerning an examination of the organization and prior to the due date of the hospital's next annual return Form 990 (with any extensions).

- Corrections should be made in accordance with the following principles: (1) the correction should restore the affected person(s) to the position they would have been in had the failure not occurred; (2) the correction should be reasonable and appropriate for the failure; (3) the correction should be made as promptly after discovery as is reasonable given the nature of the failure; and (4) the hospital should establish or appropriately modify its practices and procedures (whether informal or formal) that are reasonably designed to achieve compliance with the requirements of IRC Section 501(r). IRS Notice 2014-3.

- Disclosure of the following information on Schedule H of a hospital's next Form 990 (Return for Organization Exempt from Income Tax) should also be included: (1) a description of the failure; (2) a description of the discovery; (3) a description of the correction made; and (4) a description of any new or revised practices and procedures or, if none were needed, an explanation of why none were needed. IRS Notice 2014-3.

3.2 Comparison of California and Federal Law

Below is a side by side analysis and comparison of certain questions and issues under existing California law and the new similar laws under Section 501(r) of the IRC.

A. Comparison of California and Federal Law Regarding Charity Care, Discount Policies, FAP and Collection Activities

(1) What type of policy is required under each applicable law?

California	IRS
Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. *See* Health and Safety Code Section 127405(a)(1).	Under IRC Section 501(r)(4), a hospital facility must establish a written FAP and a written emergency medical care policy. *See* 77 Fed. Reg. 123, 38148, 38161 (June 26, 2012) (to be codified at 26 CFR Section 1.501(r)-4(a)) (the Proposed Regulations).

(2) What type of hospitals are covered by each applicable law?

California	IRS
Each hospital licensed under Health and Safety Code Section 1250 (a), (b), and (f). This includes each hospital licensed as a general acute care hospital, acute psychiatric hospital, and specialty hospital. For general acute care hospitals licensed under Section 1250 (a), compliance with AB 774 is a condition of licensure enforceable by the State Department of Public Health. Exempt hospitals include those operated by the California Departments of Corrections and Mental Health. Rural hospitals as defined under Health and Safety Code 124840 may have less generous eligibility requirements (as discussed below). Even if separately licensed hospitals are owned by one entity, each separately licensed hospital must comply individually with the requirements.	A facility that is owned by an organization that is tax-exempt under Section 501(c)(3) and is required by a state to be licensed, registered, or similarly recognized as a hospital must comply with the requirements. Section 1.501(r)-1(b)(15) of the Proposed Regulations. Even if separately licensed hospitals are owned by one entity, each separately licensed hospital must comply individually with the requirements.

(3) What type of care must be covered by the applicable policy?

California	IRS
Not specifically addressed. Probably applies to all hospital services.	The FAP must apply to all emergency and other medically necessary care provided by the hospital. Section 1.501(r)-4(b) of the Proposed Regulations.

(4) What is required to be included in the policy?

California	IRS
A hospital's discount payment policy must clearly state eligibility criteria based upon income consistent with the application of the Federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan. Health and Safety Code Section 127405(b). The charity care policy must state clearly the eligibility criteria for charity care. Assets if considered may not include retirement or deferred compensation plans qualified under the IRC, or nonqualified deferred compensation plans. The first ten thousand dollars ($10,000) of a patient's monetary assets and 50 percent of a patient's monetary assets over the first ten thousand dollars ($10,000) may not be counted in determining eligibility. Health and Safety Code Section 127405(c). The written policy regarding discount payments must include a statement that an emergency physician, as defined in Section 127450, who provides emergency medical services in a hospital that provides emergency care is required by law to provide discounts to uninsured patients or patients with high medical costs who are at or below 350 percent of the Federal poverty level. Health and Safety Code Section 127405(a)(1)(B)	Eligibility criteria under the FAP shall include: • Whether such assistance includes free or discounted care; • The basis for calculating amounts charged to patients; • The method for applying for financial assistance; and • In the case of a hospital facility that does not have a separate billing and collections policy, the actions that may be taken in the event of nonpayment. Section 1.501(r)-4(b)(1) of the Proposed Regulations. The FAP shall: • Specify all financial assistance available under the FAP, including all discount(s) and free care and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages will be applied; • Specify all of the eligibility criteria that an individual must satisfy to receive each such discount, free care, or other level of assistance; • State that following a determination of FAP-eligibility, a FAP-eligible individual will not be charged more for emergency or other medically necessary care than the amounts generally billed to individuals who have insurance covering such care (AGB); • Describe the methodology the hospital facility uses to determine AGB; and • If the hospital facility uses the look-back method to determine AGB, either state the hospital facility's AGB percentage(s) and

California	IRS
	describe how the hospital facility calculated such percentage(s) or explain how members of the public may readily obtain this information in writing and free of charge. Section 1.501(r)-4(b)(2)(i) of the Proposed Regulations. The FAP must include, or explain how members of the public may readily obtain a free written description of, measures taken by the hospital facility to make the FAP available to the public. Section 1.501(r)–4(b)(5) of the Proposed Regulations. A hospital facility must establish a written policy that requires the hospital facility to provide, without discrimination, care for emergency medical conditions to individuals regardless of whether they are FAP-eligible. Section 1.501(r)–4(c)(1) of the Proposed Regulations. A hospital facility's emergency medical care policy must prohibit the hospital facility from engaging in actions that discourage individuals from seeking emergency medical care. Such prohibited activities include demanding that emergency department patients pay before receiving treatment for emergency medical conditions and permitting debt collection activities in the emergency department or in other areas of the hospital facility where such activities could interfere with the provision, without discrimination, of emergency medical care. Section 1.501(r)–4(c)(2) of the Proposed Regulations.

(5) Are there specific requirements regarding eligibility for charity care and discount care?

California	IRS
Yes. Uninsured patients or patients with high medical costs who are at or below 350 percent of the Federal poverty level, shall be eligible to	No. The Proposed Regulations allow hospitals to develop appropriate eligibility criteria. The IRS specifically indicated that

California	IRS
apply for participation under a hospital's charity care policy or discount payment policy. Health and Safety Code 127405(a)(1)(A). Rural hospitals may establish eligibility levels for financial assistance and charity care at less than 350 percent of the Federal poverty level, as appropriate, to maintain their financial and operational integrity. Health and Safety Code 127405(a)(2). For purposes of determining eligibility for discounted payment, documentation of income is limited to recent pay stubs or income tax returns and documentation of assets may include information on all monetary assets, but may not include statements on retirement or deferred compensation plans. Health and Safety Code 127405(e)(1)-(2).	neither the statute nor the Proposed Regulations establish specific eligibility criteria that a FAP must contain. *See* 77 Fed. Reg. at 38149. In examples of appropriate eligibility criteria, the IRS indicated that eligibility based on household income could be appropriate. See 77 Fed. Reg. at 38162.

(6) What are the requirements and restrictions relating to billing and collections activity?

California	IRS
Each hospital must make all reasonable efforts to obtain from the patient or his or her representative information about whether private or public health insurance or sponsorship may fully or partially cover the charges for care rendered by the hospital to a patient, including: • Private health insurance. • Medicare. •Medi-Cal, the Healthy Families, the California Children's Services Program, or other state-funded programs designed to provide health coverage. Health and Safety Code 127420(a). If a hospital bills a patient who has not provided proof of third party coverage, as a part of that billing, the hospital shall provide the patient with a clear and conspicuous notice that includes all of the following:	In general, hospitals must make reasonable efforts to determine whether an individual is eligible under a hospital's FAP. Section 1.501(r)-6(a) of the Proposed Regulations. Hospitals are also prohibited from engaging in extraordinary collection activities (ECAs), either directly or indirectly through any purchaser of debt, collection agency or other party to which the hospital facility has referred the individual debt. Section 1.501(r)-6(a)(2) of the Proposed Regulations. ECAs include actions relating to seeking payment for care covered by the hospital's FAP that require legal or judicial process or involve selling an individual's debt to another party or reporting adverse information about the individual to consumer credit reporting. Section 1.501(r)-6(b) of the Proposed Regulations.

California	IRS
• A statement of charges for services rendered by the hospital. • A request that the patient inform the hospital if the patient has health insurance coverage, Medicare, Healthy Families, Medi-Cal, or other coverage. • A statement that if the consumer does not have health insurance coverage, the consumer may be eligible for Medicare, Healthy Families, Medi-Cal, California Children's Services Program, or charity care. • A statement indicating how patients may obtain applications for the Medi-Cal and the Healthy Families and that the hospital will provide these applications. If the patient does not indicate third-party payer coverage, or requests a discounted price or charity care, the hospital must provide an application for Medi-Cal, Healthy Families, or other governmental program to the patient. This application shall be provided prior to discharge if the patient has been admitted or to patients receiving emergency or outpatient care. • Information regarding the financially qualified patient and charity care application, including the following: **(A)** A statement that indicates that if the patient lacks, or has inadequate, insurance, and meets certain low- and moderate-income requirements, the patient may qualify for discounted payment or charity care. **(B)** The name and telephone number of a hospital employee or office from whom or which the patient may obtain information about the hospital's discount payment and charity care policies, and how to apply for that assistance. Health and Safety Code Section 127420(b). Each hospital must have a written policy regarding under whose authority patient debt is collected, whether the collection activity is conducted by the hospital, an affiliate or	ECAs that are deemed to include legal or judicial process include, without limitation, the following: • placing a lien on an individual's property; • foreclosing on real property; • attaching or seizing an individual's bank account or other personal property; • commencing a civil action against an individual; • causing an individual's arrest or writ of body attachment for civil contempt; or • garnishing an individual's wages. Section 1.501(r)-6(b)(1)-(7) of the Proposed Regulations.

California	IRS
subsidiary of the hospital, or by an external collection agency. Health and Safety Code Section 127425(a). Each hospital is required to establish a written policy defining standards and practices for debt collection. Health and Safety Code Section 127425(b). Each hospital must obtain a written agreement from any collection agency used by the hospital that it will adhere to the hospital's standards and scope of practices. Health and Safety Code Section 127425(b). For a patient that lacks coverage or has high medical costs, the hospital or its agent shall not report adverse information to a credit reporting agency or commence civil action against the patient for nonpayment at any time prior to 150 days after initial billing. Health and Safety Code Section 127425(d). The timeline for reporting shall be extended if there is a pending appeal regarding the coverage for the services. Health and Safety Code Section 127426(a). For patients attempting to qualify for eligibility under a charity care or discount payment policy and attempting in good faith to settle an outstanding bill, the hospital may not send the unpaid bill to collections unless the collecting entity has agreed to comply with the HFPA. Health and Safety Code Section 127425(e). Any hospital, affiliate or subsidiary of the hospital, may not, in dealing with patients eligible under the hospital's charity care or discount payment policies, use wage garnishments or liens on primary residences as a means of collections. Health and Safety Code Section 127425(f)(1).	

California	IRS
A collection agency not affiliated with the hospital shall not, in dealing with patients qualified under the hospital's charity care or discount payment policies, use as a means of collecting unpaid hospital bills, any of the following: • A wage garnishment, except by order of the court under limited circumstances where the patient is determined to have the ability to pay taking into consideration potential future health conditions. • Notice or conduct a sale of the patient's primary residence during the life of the patient or certain family members of patient. Health and Safety Code Section 127425(f)(2). Extended payment plans offered by a hospital to patients eligible under the hospital's charity care policy, discount payment policy, or any other policy adopted by the hospital for assisting low-income patients with no insurance or high medical costs, shall be interest free. Health and Safety Code Section 127425(g). A hospital, collection agency, or assignee shall not report adverse information to a consumer credit reporting agency or commence a civil action against the patient or responsible party for nonpayment prior to the time the extended payment plan is declared to be no longer operative. Health and Safety Code Section 127425(g). Prior to commencing collections activities, the hospital or the party seeking to collect the debt must provide the patient with a clear and conspicuous written notice containing: • A plain language summary of the patient's rights pursuant to the HFPA, the California Rosenthal Fair Debt Collection Practices Act, and the Federal Fair Debt Collection Practices Act. The summary shall include a statement	

California	IRS
that the Federal Trade Commission enforces the Federal Fair Debt Collection Practices Act. • The summary shall be sufficient if it appears in substantially the following form: "State and Federal law require debt collectors to treat you fairly and prohibit debt collectors from making false statements or threats of violence, using obscene or profane language, and making improper communications with third parties, including your employer. Except under unusual circumstances, debt collectors may not contact you before 8:00 a.m. or after 9:00 p.m. In general, a debt collector may not give information about your debt to another person, other than your attorney or spouse. A debt collector may contact another person to confirm your location or to enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission by telephone at 1-877-FTC-HELP (382-4357) or online at www.ftc.gov." • A statement that nonprofit credit counseling services may be available in the area. Health and Safety Code Section 127430.	

(7) What types of limitation on charges does the law require?

California	IRS
Hospitals are required to limit charges to patients at or below 350 percent of the Federal poverty level and eligible under its discount payment policy to the amount of payment the hospital would expect to receive for providing services from Medicare, Medi-Cal, the Healthy Families Program, or another government-sponsored health program of health benefits in which the hospital participates, whichever is greater. Where there is no established payment by Medicare or any other government-sponsored program, the hospital shall establish an appropriate discounted payment. Health and Safety Code Section 127405(d).	Hospitals are restricted from billing patients eligible under its FAP for emergency or other medically necessary care to not more than the amounts generally billed to individuals who have insurance covering ("**AGB**"). Section 1.501(r)–5(a)(1) of the Proposed Regulations. For all other medical care, the charges shall be less than the gross charges for such care. Section 1.501(r)–5(a)(2) of the Proposed Regulations. The Proposed Regulations provide two methodologies for determining how AGB may

California	IRS
	be determined, but once a methodology has been chosen it may not be modified. After choosing a particular method, a hospital facility must continue to use that method. Section 1.501(r)–5(b) of the Proposed Regulations. • The first method is a "look-back" method based on actual past claims paid to the hospital facility by either Medicare fee-for-service only or Medicare fee-for-service together with all private health insurers paying claims to the hospital facility (including, in each case, any associated portions of these claims paid by Medicare beneficiaries or insured individuals). Section 1.501(r)–5(b)(1) of the Proposed Regulations. • The second method for determining AGB is "prospective," and requires the hospital facility to estimate the amount it would be paid by Medicare and a Medicare beneficiary for the emergency or other medically necessary care at issue if the FAP-eligible individual were a Medicare fee-for-service beneficiary. Section 1.501(r)–5(b)(2) of the Proposed Regulations. A hospital facility must charge a FAP-eligible individual less than the gross charges for any medical care provided to that individual. Section 1.501(r)–5(c) of the Proposed Regulations.

(8) What are a hospital's obligations to refund charges?

California	IRS
Hospitals are required to reimburse patients for payments above what is required by the FAP, including interest. However, a hospital is not required to reimburse the patient or pay interest if the amount due is less than five dollars ($5.00). The hospital shall give the patient a credit for the amount due at least 60 days from the date the amount is due. Health and Safety Code Section 127440.	All excess payments over and above what is owed under the FAP must be promptly refunded. *See* 77 Fed. Reg. at 38149 and Section 1.501(r)–6(c)(4)(i)(D)(2) of the Proposed Regulations.

(9) Description of the notification and publication requirements under each applicable law.

California	**IRS**
Each hospital shall provide patients with a written notice that contains information about availability of the hospital's discount payment and charity care policies, including information about eligibility, as well as contact information for a hospital employee or office from which the person may obtain further information about these policies. Health and Safety Code Section 127410(a). The notice shall also be provided to patients who receive emergency or outpatient care and who may be billed for that care, but who were not admitted. Health and Safety Code Section 127410(a). Notice of the hospital's policy for financially qualified and self-pay patients shall be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following: • Emergency department, if any. • Billing office. • Admissions office. • Other outpatient settings. Health and Safety Code Section 127410(b).	The FAP, FAP application form, and a plain language summary of the FAP must be made widely available on a website. Section 1.501(r)–4(b)(5)(i)(A) of the Proposed Regulations. Paper copies of the FAP, FAP application form, and a plain language summary of the FAP must be made available upon request and without charge, both in public locations in the hospital facility and by mail. Section 1.501(r)–4(b)(5)(i)(B) of the Proposed Regulations. Inform and notify visitors to the hospital facility about the FAP through conspicuous public displays or other measures reasonably calculated to attract visitors' attention. Section 1.501(r)–4(b)(5)(i)(C) of the Proposed Regulations. Inform and notify residents of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance. Section 1.501(r)–4(b)(5)(i)(D) of the Proposed Regulations. The hospital will be deemed to have made reasonable efforts to notify an individual of its FAP if it notifies the individual of the FAP within 120 days of the first billing statement to the individual (notification period). Sections 1.501(r)-1(b)(18) and 1.501(r)–6(c)(1)(i) of the Proposed Regulations. With respect to an individual patient, the hospital will be deemed to have notified the individual of the FAP only if the hospital:

California	IRS
	• distributes a plain language summary of the FAP to the patient prior to discharge; • includes a plain language summary of the FAP with all (and at least three) billing statements for the care and all written communications regarding the bill during the notification period; • informs the individual of the FAP in all oral communications regarding amounts due during the notification period; and • notifies the individual about the ECAs the hospital may take if the individual does not submit the FAP or pay the amount due by the deadline specified in the notice and provides the individual with notice at least 30 days before the deadline set in the notice. Section 1.501(r)–6(c)(2)(A)-(D) of the Proposed Regulations.

(10) What are the language requirements under each applicable law?

California	IRS
All notices related to the FAP shall be provided in any non-English language spoken by a substantial number (probably 5% or more) of persons served by the hospital. Health and Safety Code Section 127410(a).	All notices related to the FAP shall be provided in the language of any populations with limited proficiency in English that constitute more than 10 percent of the residents of the community served by the hospital facility. Section 1.501(r)–4(b)(5)(iv)(A) of the Proposed Regulations. A hospital facility may determine whether a language minority exists based on the latest data available from the U.S. Census Bureau or other similarly reliable data. Section 1.501(r)–4(b)(5)(v) of the Proposed Regulations.

(11) Authorization and implementation requirements under each applicable law?

California	IRS
No specific requirements, but is implicit in the statutory scheme.	A hospital organization has established a FAP, a billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital organization has adopted the policy

California	IRS
	for the hospital facility and the hospital facility has implemented the policy by consistently carrying it out. Section 1.501(r)–4(d)(1)-(3) of the Proposed Regulations.

(12) Agency reporting under each applicable law?

California	IRS
Each hospital must provide to OSHPD copies of its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and the application for charity care or discounted payment programs. This information must be provided at least biennially on or before January 1, or when a significant change is made. If no significant change has been made since the information was previously provided, notifying the office of the lack of change is sufficient. Health and Safety Code Section 127435.	Although Section 501(r) of the IRC and the Proposed Regulations do not include express reporting requirements, Schedule H to the Form 990 (Return for Organization Exempt from Income Tax) includes numerous questions that address a hospital's FAP. *See* www.irs.gov/pub/irs-pdf/i990sh.pdf.

(13) Penalties for failure to comply with each applicable law

California	IRS
Compliance with HFPA is a condition of licensure for hospitals. The California Department of Public Health, Licensing and Certification Division, enforces licensing rules.	Failure to meet the obligations under 501(r) of the IRC may result in revocation of tax exempt status or imposition of taxes on income for the taxable year or years when the hospital facility was a non-compliant facility. *See* 78 Fed. Reg. 20523, 20539 (April 5, 2013) (to be codified at 26 CFR Section 1.501(r)-2(a)-(d)) (2013 Proposed Regulations). In determining whether revocation of exemption is appropriate, the IRS is to consider all the relevant facts and circumstances, including, but not limited to the following: • whether the organization has previously failed to meet the requirements of Section 501(r), and, if so, whether the same type of failure previously occurred; • the size, scope, nature, and significance of the organization's failure(s);

California	IRS
	• in the case of an organization that operates more than one hospital facility, the number, size, and significance of the facilities that have failed to meet the applicable requirements relative to those that have complied with these requirements; • the reason for the failure(s); • whether the organization had, prior to the failure(s), established practices and procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the requirements; • whether the practices and procedures had been routinely followed and the failure(s) occurred through an oversight or mistake in applying them; • whether the organization has implemented safeguards that are reasonably calculated to prevent similar failures from occurring in the future; • whether the organization corrected the failure(s) as promptly after discovery as is reasonable given the nature of the failure(s); and • whether the organization took measures to implement safeguards to prevent similar failures and correct the failures promptly after discovery before the IRS discovered the failure(s). Section 1.501(r)–2(a)(1)-(9) of the 2013 Proposed Regulations. The 2013 Proposed Regulations also provide latitude for certain minor or inadvertent omissions and errors that are corrected prior to the IRS contacting the hospital for examination and allows certain failures to be excused if the hospital corrects and discloses the failures, provided the failures are not willful or egregious. Section 1.501(r)–2(b)-(c) of the 2013 Proposed Regulations; and IRS Notice 2014-3.

(14) Law and guidance that has implications regarding preemption analysis

California	IRS
The rights, remedies, and penalties established by the HFPA does not supersede the rights, remedies, or penalties established under other laws. Health and Safety Code Section 127443. Nothing in Section 127425 of the HFPA, which deals with billing and collection activities, diminishes or eliminates any protections consumers have under existing Federal and state debt collection laws, or any other consumer protections available under state or Federal law.	In its commentary to the Proposed Regulations, the IRS recognized that "a number of commenters recommended that in states that require specific discounts or otherwise control the amount that may be billed to patients with financial need, those requirements should establish AGB." The IRS rejected such a request, stating that "Given the wide variation among state laws and the advantage of uniformity in applying the Federal rules, the Treasury Department and the IRS are proposing to adopt a single Federal regulatory definition of AGB." *See* 77 Fed. Reg. at 38154.

(15) Effective dates for each applicable law

California	IRS
The HFPA became effective on January 1, 2007.	Consistent with the statutory effective date, the proposed regulations provide that, except for the requirements of Section 501(r)(3) (which requires CHNAs), Section 501(r) applies to taxable years beginning after March 23, 2010. The requirements of section 501(r)(3) apply to taxable years beginning after March 23, 2012. The regulations under Section 501(r)(4) through 501(r)(6) are proposed to apply for taxable years beginning on or after the date these rules are published in the Federal Register as final or temporary regulations. Taxpayers may rely on these proposed regulations until final or temporary regulations are issued. The Treasury Department and the IRS invite comments on whether, and what type of, transitional relief may be necessary.

B. Comparison of California and IRS Requirements for Community Health Needs Assessments and Plans

(1) What should be included in community benefit plans?

California	**IRS**
The community benefit plan report shall include, but shall not be limited to the following: • a description of the activities that the hospital has undertaken to in order to address the identified community needs within its mission and financial capacity; • the process by which the hospital developed the plan in consultation with the community. Health and Safety Code Section 127345(a) Community benefit means a hospital's activities that are intended to address community needs and priorities primarily through prevention and improvement of health status, including, without limitation, the following: • health care services, rendered to vulnerable populations, including, but not limited to, charity care and the unreimbursed cost of providing services to the uninsured, underinsured, and those eligible under state health programs, or county indigent programs. • unreimbursed cost for certain community health services. • financial or in-kind support of public health programs. • donation of funds, property, or other resources that contribute to a community priority. • health care cost containment. • enhancement of access to health care or related services that contribute to a healthier community. • services offered without regard to financial return because they meet a community need in the service area of the hospital, and other services including health promotion, health	IRC Section 501(r) does not have specific requirements regarding preparation of a community benefit plan. Although a specific community benefit plan is not required, the Proposed Treasury Regulations require the hospital to adopt a written implementation strategy to meet the community health needs identified in the CHNA. Section 1.501(r)–3(c) of the Proposed Regulations. *See* additional discussion below regarding implementation strategy at Section 3.2.B.(7).

California	IRS
education, prevention, and social services. • food, shelter, clothing, education, transportation, and other goods or services that help maintain a person's health. Health and Safety Code Section 127345(c)(1)-(8). Community benefit plans should include the following: "**(a)** Mechanisms to evaluate the plan's effectiveness including, but not limited to, a method for soliciting the views of the community served by the hospital and identification of community groups and local government officials consulted during the development of the plan. **(b)** Measurable objectives to be achieved within specified timeframes. **(c)** Community benefits categorized into the following framework: **(1)** Medical care services. **(2)** Other benefits for vulnerable populations. **(3)** Other benefits for the broader community. **(4)** Health research, education, and training programs. **(5)** Nonquantifiable benefits." Health and Safety Code Section 127355. The community benefit plan should, to the extent practicable, assign and report the economic value of community benefits provided in furtherance of its plan. Health and Safety Code Section 127350(d).	

(2) What is required of a community health needs assessment?

California	IRS
The community needs assessment is the process by which the hospital identifies, for its service area, unmet community needs for improvement and maintenance of health status of the community. Health and Safety Code Sections 127345(d)-(e).	In completing its CHNA, the hospital must complete the following steps: • define the community it serves; • assess the health needs of that community; • in assessing the health needs of the community, take into account input from

California	IRS
	persons who represent the broad interests of that community, including those with special knowledge of or expertise in public health; • document the CHNA in a written report ("**CHNA report**") that is adopted for the hospital facility by an authorized body of the hospital facility; and • make the CHNA report widely available to the public. Section 1.501(r)–3(b)(1)(i)-(v) of the Proposed Regulations. To assess the health needs of the community a hospital serves, a hospital must identify significant health needs of the community, prioritize those health needs, and identify potential measures and resources (such as programs, organizations, and facilities in the community) available to address the health needs. The health needs of a community should include methods for the improvement or maintenance of health status in both the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). In determining whether a health need is significant, the hospital facility may consider all of the facts and circumstances present in the community it serves. A hospital facility may use any criteria to prioritize the significant health needs it identifies, including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities associated with the need; or the importance the community places on addressing the need. Section 1.501(r)–3(b)(4) of the Proposed Regulations. In order to be considered to take in the broad interests of the community it serves (including those with special knowledge of or expertise in public health), the hospital must take into account input from the following:

California	IRS
	• at least one state, local, tribal, or regional governmental public health department (or equivalent department or agency) with knowledge, information, or expertise relevant to the health needs of that community; • members of medically underserved, low-income, and minority populations in the community served by the hospital facility, or individuals or organizations serving or representing the interests of such populations; and • written comments received regarding the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy. Section 1.501(r)–3(b)(5)(i)-(iii) of the Proposed Regulations. The CHNA must also include the following: • a definition of the community served by the hospital facility and a description of how it was determined; • a description of the process and methods used to conduct the CHNA; • a description of how input from persons who represent the broad interests of the community the hospital serves was taken into account; • a prioritized description of the significant identified health needs of the community, a description of the process and criteria used in identifying such health needs as significant, and prioritizing such health needs; and • a description of the potential measures and resources identified through the CHNA to address the significant health needs. Section 1.501(r)–3(b)(7)(i)(A)-(E) of the Proposed Regulations. If a hospital facility is not going to address an identified significant health need, it must address why it is not going to address the significant health need, and may include a brief

California	IRS
	explanation of its reason for not addressing the need, including, but not limited to, resource constraints, other facilities or organizations in the community that are addressing the need, lack of expertise or competency to address need, a relatively low priority assigned to the need, and/or lack identified effective interventions to address the need. Section 1.501(r)–3(c)(3) of the Proposed Regulations.

(3) How often must community benefit plans and community health needs assessments be updated?

California	IRS
Community benefit plans must be adopted and updated on an annual basis. Health and Safety Code Section 127350(c). The community needs assessment must be updated at least once every three years. Health and Safety Code Section 127350(b).	A CHNA will meet applicable timing requirements if it is conducted in such taxable year or in either of two taxable years immediately preceding such taxable year (i.e., the CHNA must be conducted once every three years). Section 1.501(r)–3(a)(1) of the Proposed Regulations.

(4) May the hospital complete its community health needs assessment in conjunction with other organizations?

California	IRS
Yes. A hospital may complete its community health needs assessment either alone, or in conjunction with other health care providers, or through other organizational arrangements. Health and Safety Code Section 127350(b).	Yes, under limited circumstances. • A hospital facility that collaborates with other hospital facilities in conducting its CHNA will satisfy the applicable requirements if an authorized body of the hospital facility adopts for the hospital facility a joint CHNA report produced for all of the collaborating hospital facilities, as long as all of the collaborating hospital facilities define their community to be the same and conduct a joint CHNA process, and the joint CHNA report is clearly identified as applying to each hospital facility. Section 1.501(r)–3(b)(7)(v) of the Proposed Regulations.

(5) Are updates of the community health needs assessment sufficient or is an entirely new community health needs assessment required?

California	IRS
Yes. Health and Safety Code Section 127350(b) provides that the "community needs assessment shall be updated at least once every three years." (emphasis added).	No. The Proposed Regulations do not provide for updated CHNAs.

(6) What are the requirements for approving the report?

California	IRS
There are no specific requirements for approving the reports.	An authorized body of the hospital must adopt the CHNA and the implementation strategy. Sections 1.501(r)–3(a)(2) and 1.501(r)–3(b)(1)(iv) of the Proposed Regulations. Authorized body is defined to include: • the governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization that operates the hospital facility, or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body; or • if the hospital facility has its own governing body and is recognized as an entity under state law but is a disregarded entity for Federal tax purposes, the governing body of that hospital facility, or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body. Section 1.501(r)–1(c)(1)(i)-(ii) of the Proposed Regulations.

(7) What are the implementation requirements?

California	IRS
There are no specific implementation requirements, but the community benefits plan should include mechanisms to evaluate the plans effectiveness and measurable objectives	The implementation strategy should identify how the hospital plans to address the health need or identify the health need as one that the hospital will not address and explain why.

California	IRS
within specific time frames. Health and Safety Code Section 127355(a)-(b). The community benefits plan must also include reporting on activities that the hospital has taken to meet community needs. Health and Safety Code Section 127350(d).	Section 1.501(r)–3(c)(1)(i)-(ii) of the Proposed Regulations. In describing how a hospital plans to address an identified significant health need identified, the implementation strategy must describe the actions the hospital intends to take to address the health need, the anticipated impact of these actions, and a plan to evaluate such impact. The implementation strategy must also identify the programs and resources the hospital plans to commit to address the health need and must describe any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need. Section 1.501(r)–3(c)(2) of the Proposed Regulations.

(8) How is the relevant community defined?

California	IRS
Community is not precisely defined and provides latitude to the hospital in setting the relevant community. In particular, under Health and Safety Code Section 127345(b) " 'Community' means the service areas or patient populations for which the hospital provides health care services."	The Proposed Regulations provide a somewhat complex, nuanced definition for community. • In defining the community a hospital serves, a hospital may take into account all of the relevant facts and circumstances, including the geographic area served by the hospital, target populations served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease). A hospital may define its community to include populations in addition to its patient populations and geographic areas outside of those in which its patient populations reside. However, a hospital facility may not define its community to exclude medically underserved, low-income, or minority populations who are part of its patient populations, live in geographic areas in which its patient populations reside (unless they are not part of the hospital facility's target populations or affected by its principal functions), or otherwise should be included based on the method the hospital facility uses

California	IRS
	to define its community. In addition, if a hospital facility's method of defining its community takes into account patient populations, the hospital facility must treat as patients all individuals who receive care from the hospital facility, without regard to whether (or how much) they or their insurers pay for the care received or whether they are eligible for assistance under the hospital facility's FAP. Section 1.501(r)–3(b)(3) of the Proposed Regulations.

(9) Are any tax-exempt private nonprofit hospitals exempt from the reporting requirements?

California	IRS
Yes. The following tax-exempt hospitals are exempt from the requirements: • hospitals that are dedicated to serving children and that do not receive direct payment for services to any patient. • certain small and rural hospitals. Health and Safety Code Section 127345(f)(1)-(2). Public hospitals, including county, health care districts and University of California hospitals are also exempt, as are chemical dependency recovery hospitals.	As a general matter, no. All hospitals exempt from taxation under 501(c)(3) that are required to be licensed by the state or similarly recognized must comply with the CHNA requirements. Multiple buildings operated under a single state license are considered to be a single hospital facility. Section 1.501(r)–1(b)(15) of the Proposed Regulations.

(10) Are system wide reports permitted?

California	IRS
Yes. Hospitals under common control of a single entity may file a consolidated report. Health and Safety Code Section 127350(d).	No. Each hospital facility must prepare its own report, provided joint reports are permitted for multiple hospitals that serve the same community. *See* response to question Section 3.2.B.(4) above.

(11) What are the requirements for making the reports and related information publicly available?

California	IRS
There are no specific requirements for hospitals to make the report publicly available other than through filing to OSHPD. However, OSHPD recommends that, ideally, hospitals will make community benefit plans publicly available. OSHPD also makes the reports available.	A hospital shall make its CHNA report widely available on a website that meets certain specifications, at least until the date the hospital facility has made widely available on a website its two subsequent CHNA reports; and make a paper copy of the CHNA report available for public inspection without charge at the hospital for the same timeframe. Section 1.501(r)–3(b)(8)(i)(A)-(B) of the Proposed Regulations.

(12) What are the requirements for reporting to an agency?

California	IRS
The community benefit plan must be filed with OSHPD within 150 days after the end of the hospital's fiscal year. Health and Safety Code Section 127350(d).	With respect to the hospital's Form 990 (Return for Organization Exempt from Income Tax), the hospital shall include either a copy of the most recently adopted implementation strategy, for each hospital facility it operates or the URL of each web page on which it has made each such implementation strategy widely available on a website along with or as part of the CHNA to which the implementation strategy relates; and a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, or, if no actions were taken with respect to one or more of these health needs, the reason(s) why no actions were taken. Section 1.6033–2(a)(2)(ii)(l)(2)-(3) of the Proposed Regulations.

(13) What are the penalties for failure to satisfy the requirements of each applicable law?

California	IRS
There are no specific statutory penalties under the law.	Failure to meet the obligations under 501(r) of the IRC may result in revocation of tax exempt status or imposition of taxes on income for the taxable year or years when the hospital facility was a non-compliant facility. *See* Section 1.501(r)-2(a)-(d)) of the Proposed Regulations.

California	IRS
	In determining whether revocation of exemption is appropriate, the IRS is to consider all the relevant facts and circumstances, including, but not limited to the following: • whether the organization has previously failed to meet the requirements of Section 501(r), and, if so, whether the same type of failure previously occurred; • the size, scope, nature, and significance of the organization's failure(s); • in the case of an organization that operates more than one hospital facility, the number, size, and significance of the facilities that have failed to meet the applicable requirements relative to those that have complied with these requirements; • the reason for the failure(s); • whether the organization had, prior to the failure(s), established practices and procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the requirements; • whether the practices and procedures had been routinely followed and the failure(s) occurred through an oversight or mistake in applying them; • whether the organization has implemented safeguards that are reasonably calculated to prevent similar failures from occurring in the future; • whether the organization corrected the failure(s) as promptly after discovery as is reasonable given the nature of the failure(s); and • whether the organization took measures to implement safeguards to prevent similar failures and correct the failures promptly after discovery before the IRS discovered the failure(s). Section 1.501(r)–2(a)(1)-(9) of the 2013 Proposed Regulations.

California	IRS
	The 2013 Proposed Regulations also provide latitude for certain minor or inadvertent omissions and errors that are corrected and allows certain failures to be excused if the hospital corrects and discloses the failures, provided the failures are not willful or egregious. Section 1.501(r)–2(b)-(c) of the 2013 Proposed Regulations. In addition to the penalties discussed above, if a hospital organization fails to meet the CHNA requirements with respect to a hospital facility it operates in any taxable year, there is imposed on the hospital organization a tax equal to $50,000. If a hospital organization operates multiple hospital facilities and fails to meet the CHNA with respect to more than one facility it operates, the $50,000 tax is imposed on the hospital organization separately for each hospital facility's failure. The tax may be imposed for each taxable year that a hospital facility fails to meet the requirements of section 501(r)(3). Section 53.4959–1(a) of the Proposed Regulations.

(14) Law and guidance regarding impact of state laws

California	IRS
	Although the IRS has recognized that similar state law analogs exist to which a hospital may wish to draw upon, the IRS provides no guidance that would lead to a conclusion that such state law analogs would abrogate a hospital from needing to comply with the Proposed Regulations. *See* 78 Fed. Reg. 66 at 20537.

(15) Effective dates for each applicable law

California	IRS
The law was effective January 1, 1995. Hospitals had to conduct a community needs assessment every three years, beginning in 1995, and develop and adopt a community benefits plan by April 1996.	Hospital organizations should note that the statutory effective date for the CHNA requirements is a hospital organization's first taxable year beginning after March 23, 2012. *See* 78 Fed. Reg. 20537. The Proposed Regulations also include transitional rules pertaining to the first adoption and implementation of the CHNA. • For a CHNA conducted in taxable year beginning before March 23, 2012, the hospital does not need to meet the requirements of section 501(r)(3) again until the third taxable year following the taxable year in which the hospital facility conducted that CHNA, provided that the hospital facility has adopted an implementation strategy to meet the community health needs identified through that CHNA on or before the 15th day of the fifth calendar month following the close of its first taxable year beginning after March 23, 2012. Section 1.501(r)-3(e)(1) of the Proposed Regulations. • For a CHNA conducted in the first taxable year beginning after March 23, 2012, the hospital will be deemed to satisfy requirements of section 501(r)(3) during that taxable year if an authorized body of the hospital facility adopts an implementation strategy to meet the community health needs identified through that CHNA on or before the 15th day of the fifth calendar month following the close of its first taxable year beginning after March 23, 2012. Section 1.501(r)-3(e)(2) of the Proposed Regulations.

3.3 Preemption

The Supremacy Clause of the United States Constitution provides that the Constitution and the laws of the United States "shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." Thus, state laws that are inconsistent with Federal law may be "preempted" by Federal law.

Accordingly, if Section 501(r) of the IRC preempts some or all of the similar California laws relating to Charity Care, Discount and Collection Policies and Community Benefit Plans and CHNA, California hospitals would be excused from complying with the preempted state laws. However, it is uncertain whether Section 501(r) would be found to preempt any of the California laws, and absent a judicial determination that certain California laws are preempted, it would be prudent for California Section 501(r) hospitals to comply with both the Federal and California requirements in view of the potential sanctions for noncompliance.

A Federal statute or regulation may preempt state law in three situations, which are commonly referred to as (1) express preemption, (2) field preemption, and (3) conflict preemption. *Olszewski v. Scripps Health*, 30 Cal.4th 798, 814 (2003). Express preemption arises where Congress has explicitly stated in a statute the extent to which a particular Federal law preempts state law. There is no such express preemption with respect to Section 501(r) of the IRC.

Field preemption arises where the state regulates conduct in a field that Congress intended the Federal government to occupy exclusively. *Id*. An example of field preemption is the case of *Congress of California Seniors v. California Healthcare West*, 87 Cal.App.4th 491 (2001). In that case, the plaintiff brought a claim against Catholic Healthcare West ("**CHW**") alleging that CHW included in its Medicare cost reports certain costs relating to anti-union activities in violation of Federal law. The court held that the field of Medicare provider cost reporting and reimbursement is so fully and completely occupied by Federal law that there remains no room for state action, so that the plaintiff's claim under state law was preempted.

Conflict preemption arises "where it is impossible for a private party to comply with both state and Federal requirements [citation], or where state law 'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" *English v. General Elec. Co.*, 496 U.S. 72 (1990). It would seem that the best argument that California law is preempted by Section 501(r) and the implementing federal regulations would be under the doctrine of field preemption, but it remains to be seen whether such arguments would ultimately be persuasive.

IV. CONCLUSION

Although the rollout of ACA requirements under Section 501(r) of the IRC will be somewhat easier for California hospitals to satisfy due to their historical familiarity and obligations with community benefit plans and the HFPA, California hospitals must ensure they address and comply with the requirements under Section 501(r). Although this white paper, the recommendations in Section 3.1, and the comparison of California and Federal Law in Section 3.2 may

be a helpful tools for California hospitals to use in assisting with the rollout of the Section 501(r) obligations, California hospitals should work closely with their officers, financial staff, accountants, attorneys and other advisors in preparing for this rollout and assuring continuing compliance with the HFPA and California Community Benefit Laws and the new Section 501(r) obligations. In particular, as noted above, there are a number of key differences between California law and the requirements of IRC Section 501(r) and it is important for hospitals and their officers to understand that they cannot assume that compliance with existing procedures developed under California law will ensure compliance with the Section 501(r) requirements. Thus, California hospitals, working with their advisors, should establish appropriate updated processes and procedures to ensure compliance with both sets of laws.

California hospitals should also be attuned to the likely future issuance of the final regulations by the Treasury Department and the IRS with respect to the Section 501(r) obligations. CHA submitted numerous comments in response to the Proposed Regulations, many of which may still be under review by the IRS. Thus, it remains possible that the final regulations will provide for more consistency between the requirements under California law and the Section 501(r) obligations.

V. RESOURCES

Helpful Websites[20]

OSHPD Hospital Fair Pricing Web links

http://www.oshpd.ca.gov/hid/products/hospitals/fairpricing/

http://www.oshpd.ca.gov/HID/Products/Hospitals/FairPricing/FAQGen.html

http://www.oshpd.ca.gov/HID/Products/Hospitals/FairPricing/FAQHospRptng.html

Link to the HFPA

http://www.oshpd.ca.gov/HID/Products/Hospitals/FairPricing/HSC127400_CharityCarePoliciesSB350.pdf

Link to the HFPA Regulations in the California Code of Regulations

http://www.oshpd.ca.gov/HID/Products/Hospitals/FairPricing/96000.pdf

OSHPD California Community Benefit Law Web links

http://www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/

http://www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/HCBPPlans2013.xls

http://www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/notforprofitlegislation.pdf

http://www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/HCBPPlannersGuide.pdf

http://www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/FAQ.html

Link to the *California Community Benefits Law*

http://www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/SB697CommBenefits.pdf

IRS Links and Proposed Regulations

IRS Notice 2010–39

http://www.irs.gov/irb/2010-24_IRB/ar08.html

IRS Notice 2011–52

http://www.irs.gov/irb/2011-30_IRB/ar08.html

[20] These Websites were confirmed as active as of January 21, 2014.

Proposed Regulations 2012

www.gpo.gov/fdsys/pkg/FR-2012-06-26/pdf/2012-15537.pdf

Proposed Regulations 2013

http://www.gpo.gov/fdsys/pkg/FR-2013-04-05/pdf/2013-07959.pdf

IRS Notice 2014-2

http://www.irs.gov/file_source/pub/irs-drop/n-14-02.pdf

IRS Notice 2014-3

http://www.irs.gov/file_source/pub/irs-drop/n-14-03.pdf

Revenue Ruling 69-545, 1969-2 C.B. 117

http://www.irs.gov/pub/irs-tege/rr69-545.pdf

Revenue Ruling 83-157, 1983-2 C.B. 94

http://www.irs.gov/file_source/pub/irs-tege/rr83-157.pdf

IRS Form 990 and Instructions

http://www.irs.gov/file_source/pub/irs-pdf/f990.pdf

http://www.irs.gov/file_source/pub/irs-pdf/i990.pdf

Schedule H to IRS Form 990 and Instructions

http://www.irs.gov/file_source/pub/irs-pdf/f990sh.pdf

http://www.irs.gov/file_source/pub/irs-pdf/i990sh.pdf