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By [Christopher Brown](#)

June 9 — Sen. Charles Grassley (R-Iowa) is asking the IRS about its oversight of nonprofit hospitals in the wake of an investigation the lawmaker conducted into aggressive collection practices by a Missouri hospital.

An aide to Grassley told Bloomberg BNA June 9 that the senator sent a letter that day to Internal Revenue Service Commissioner John Koskinen, asking the agency to identify hospitals it has found to be violating regulations concerning required financial assistance plans for low-income patients, and violating regulations restricting billing and collection practices.

The letter also request information on the status of an IRS report to Congress on nonprofit hospitals, which was expected in January.

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“[W]e can both agree that many charitable hospitals perform good work on behalf of the communities that they service,” Grassley said. “However, some charitable hospitals get as close to the line as possible, while others callously breach it. It is important that Congress, via its oversight role, and the IRS ensure that charitable hospitals are functioning as intended.”

The charitable activities have long been a focus of Sen. Grassley, who was a driving force behind Affordable Care Act provisions that established the annual reporting requirement and resulted in the charitable hospital compliance requirements in Internal Revenue Code Section 501(r).

One of Sen. Grassley's aides, at the time of passage, said the provisions were designed to help nonprofit hospitals distinguish themselves from their for-profit counterparts (78 HCDR, 4/26/10).

Mosaic Life Care

Grassley's letter, which asks for answers from the IRS by June 23, follows closely on the heels of his recent announcement that a Missouri nonprofit hospital has agreed to forgive \$17 million in debt for around 3,340 patients, and focuses new attention on the community-benefit obligations that nonprofit hospitals must fulfill in return for their tax-advantaged status. It also highlights the uncertain enforcement framework surrounding nonprofit hospitals, which face federal oversight as to their community service obligations primarily from an overextended IRS, and which are subject to little or no scrutiny in many states.

The Missouri hospital, Mosaic Life Care in St. Joseph, Mo., had been the subject of a Senate Judiciary Committee investigation since December 2014, when Grassley, chairman of the committee, read a news report concerning the hospital's debt-collection practices that was published by ProPublica, an independent nonprofit news service.

Grassley's investigation found that many of the patients whose accounts had ended up in collection should have qualified for the hospital's financial assistance program or for Medicaid or private insurance. The hospital denied that its conduct had been improper, but agreed to implement the loan-forgiveness program, and to make greater efforts to help identify patients who qualify for financial assistance. It also agreed to stop charging interest on accounts until a final judgment has been entered, and to extend the period before accounts are sent to collections, during which patients are reminded of the hospital's financial-assistance program, from four billing cycles to six.

“Tax-exempt hospitals cannot be in business to profit off of poor people who may not know

what form to file,” Grassley said in a May 24 speech on the Senate floor in announcing the results of the investigation. “That is not what Congress intended to happen when we created the tax exemption. Now, thousands of people have a new lease on life, thanks to Mosaic’s meeting its tax-exempt responsibilities.”

In a statement, Pat Dillon, vice president of advocacy and outreach for Mosaic Life Care, said, “We appreciate Senator Grassley’s compliment regarding the efforts Mosaic Life Care has put forth surrounding our financial assistance policies and processes. Even though Mosaic Life Care has always been compliant with all current 501(r) requirements for nonprofit hospitals, the organization’s community-led, volunteer Board of Trustees directed leadership to work toward industry-leading innovation. These efforts are congruent with not only the mission and vision of Mosaic Life Care, but also follows the organization’s commitment toward community benefit and population health.”

Enforcement

The agreement that Grassley reached with Mosaic suggests that nonprofit hospitals are sensitive to charges that they have shirked their community obligations, or engaged in aggressive or abusive practices towards low-income patients. But the manner in which it was reached raises questions about the effectiveness of the enforcement framework for nonprofit hospitals.

In the case of Mosaic, the investigation was entirely the work of the Judiciary Committee, and appears not to have involved the IRS. Grassley has a history dating back more than a decade of active involvement in oversight of nonprofit organizations as chairman of the Senate Finance Committee, which has Senate jurisdiction over the tax code. He even issued a memo the day after President Obama signed the Affordable Care Act, a bill which Grassley voted against, taking credit for authoring ACA’s provisions imposing new standards on nonprofit hospitals.

According to Jill Gerber, a Grassley spokeswoman, his investigation into Mosaic was just the latest example of his interest in ensuring that nonprofit organizations meet their obligations to provide a community benefit in return for their tax-exempt status. Gerber told Bloomberg BNA that Grassley did not communicate with the IRS during the Judiciary Committee investigation.

An IRS spokeswoman declined to say whether the agency has conducted its own investigation of Mosaic.

In a statement about the June 9 letter to the IRS, Grassley also cited an Indiana nonprofit hospital, Deaconess, that also agreed to help low-income patients after being in the news for

patient collection lawsuits.

Missouri Inaction

Although the ProPublica report about Mosaic caught the attention of Congress, it appears to have produced little or no reaction among policy makers in Missouri, one of many states that have not passed their own legislation imposing state-level obligations on nonprofit hospitals.

Nanci Gonder, a spokeswoman for Missouri Attorney General Chris Koster (D), told Bloomberg BNA June 6 that Koster has been active in developing new rules aimed at abusive debt collection lawsuits, and that Koster's office is currently mediating seven complaints about Mosaic Life Care. But Koster's office appears not to have conducted its own investigation into the Mosaic practices outlined in the ProPublica story. Gonder didn't respond to a later e-mail message asking whether the office has investigated Mosaic.

Missouri Gov. Jay Nixon (D) has been similarly silent in response to the story. There were no public statements from Nixon's office regarding Mosaic at the time the story was published, and interviews with lawmakers suggest that Nixon's office has not proposed any legislation related to the community benefit obligations of nonprofit hospitals. A spokeswoman for Nixon didn't respond to several requests for comment.

Dave Dillon, a spokesman for the Missouri Hospital Association, told Bloomberg BNA that there have been few if any bills filed in recent legislative sessions related to the community benefit obligations of nonprofit hospitals in the state. Interviews with lawmakers, including state Rep. Keith Frederick (R), chairman of the House Health and Mental Health Policy Committee, confirm this lack of legislative activity.

Sidney D. Watson, a professor of law at St. Louis University, and a board member of Missouri Health Care for All, a health policy advocacy group, told Bloomberg BNA June 7 that she was not surprised at the lack of state-level interest in the Mosaic story among policy makers. "This is not a story about needing more state law, but a story about an important new federal consumer protection law, and the need to make sure it is enforced," she said. "This is a case where Sen. Grassley made sure that the hospital complied with the new IRS rules."

States Should Have Role

But Chi Chi Wu, a staff attorney with the National Consumer Law Center, who focuses on consumer debt and medical debt, told Bloomberg BNA June 6 that the states should not leave oversight of nonprofit hospitals entirely to the federal government. "A big issue with the IRS regulations is enforceability," she said. "The IRS, as well all know, is besieged and incredibly under-resourced, and it's very tough for them to deal with thousands of nonprofit

hospitals. The law is out there, but enforceability is an issue.”

And beyond the question of enforcement, there are gaps in the IRS regulations on community benefit that could be filled by state-level laws and regulations, she said, noting that the IRS regulations require nonprofit hospitals to develop a financial-assistance plan, but don't specify an income-threshold for the plans. “The regulations don't set a minimum level for financial assistance, and that's something we think that the states can and ought to address,” she said. “Otherwise, you could have hospitals with financial assistance policies saying that you have to be at 50 percent of the poverty level, which would be ridiculous.”

The states also could attack the problem of medical debt at the root by expanding Medicaid coverage, Wu said. “The more coverage you have, the less medical debt you will have,” she said.

But that may be a tough sell in the Republican-dominated Missouri Legislature, which has declined to expand Medicaid under the Affordable Care Act thus far, and where any health-care related proposals that can plausibly be associated with the ACA have been pronounced dead on arrival.

Rep. Frederick's disinterest in the ACA community-benefit provisions provides at least some evidence in support of this inference, and perhaps an additional explanation for the Legislature's inaction in this area. “I'm no supporter of the Affordable Care Act, and I don't see any reason why the states should concern themselves with enforcing it,” he said. “If there are provisions of that kind in ACA, the feds don't need to look to the states to enforce them, they can do it themselves. And if it's covered in federal legislation, there's no need for any duplicative state requirements on top of that. It's the feds' problem, and I'm not going to clean up for them.”

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For More Information

Grassley's letter to the IRS can be found at <http://src.bna.com/fKs>.

Grassley's May 24 memo to members of the Senate Judiciary and Finance Committees on the results of the Mosaic investigation can be found at <http://src.bna.com/fJO>.



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