Committee On Finance
Max Baucus, Ranking Member
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Opening Statement of U.S. Senator Max Baucus (D-Mont.)
Taking the Pulse of Charitable Care and Community Benefits
at Nonprofit Hospitals
Hearing before the Senate Finance Committee

The Book of Ezekiel admonishes that we operate through the hand of Providence when we "bind up the injured" and "strengthen the weak."

The prophet makes this admonition to the community — as a shared responsibility.

Many tax-exempt hospitals nobly carry out Ezekiel's instruction. They work to improve neighborhoods. They provide scholarships for students seeking health-career careers. And most importantly, they serve the health-care needs of their communities.

In Montana, most non-profit hospitals are "Critical Access Hospitals." They serve rural, often low-income, populations. Critical Access Hospitals play a key role in rural America's health-care safety net. And I was proud to write the legislation that established the category in 1997. More than four out of five Montana hospitals are Critical Access facilities. They are located in some of this country's most isolated communities.

Indeed, one thing that often distinguishes non-profit hospitals — like those in Montana — is that they operate where for-profit hospitals do not. For one thing, they show up in small, rural areas.

And they do more than just show up. Non-profit hospitals are more likely than for-profit hospitals to offer services that are unprofitable.

For example, tax-exempt hospitals are more likely to offer psychiatric emergency services. Those services are typically money-losers for hospitals. And tax-exempt hospitals are five times more likely than for-profit hospitals to continue offering services when doing so becomes unprofitable.

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Those statistics should not come as a huge surprise. And that's not necessarily a criticism of for-profit hospitals. After all, for-profit hospitals have shareholders, and non-profit hospitals don't. Tax-exempt hospitals can continue to offer unprofitable services on Main Street, without regard to what they think on Wall Street.

Thus many tax-exempt hospitals do good work, in Montana and across the country. But there are also significant examples where non-profit hospitals have not provided a benefit to the public commensurate with the tax benefits that those hospitals receive.

Today we will hear about cases where non-profit hospitals aggressively billed patients of limited means after they received vital care that they could not afford.

We will hear of aggressive hospital bill collectors that act like credit card companies. We will hear of hospitals taking legal action against patients with incomes near the poverty line.

This kind of behavior by tax-exempt hospitals is not in keeping with the spirit of our laws governing tax exemption. I say spirit, because admittedly, the standards that govern tax-exempt status are vague.

As a general matter, in order for a hospital to maintain its tax exemption, the hospital must provide "a community benefit." In the past, if a hospital simply had an open emergency room, had a board that was representative of the community, and accepted Medicare and Medicaid, then it qualified as providing a community benefit.

But recently, the IRS and federal courts have taken a more skeptical view toward the community benefit standard.

The IRS now looks for a "plus factor" in addition to a policy of open admittance. For example, a tax-exempt hospital must also have a charity care, medical research, or health education program. But the IRS has not made clear how much of this a hospital has to do.

To some extent, this flexible standard makes sense. The community needs in Manhattan, Montana, differ from those in Manhattan, New York.

Unfortunately, some health providers take advantage of these loose standards. For example, some providers classify their community benefit based only on their open admission policy, while writing off bad debt as charitable care.

Not surprisingly, some of today's witnesses will argue that the provision of free care should be the paramount consideration in granting tax-exempt status.

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I am interested in hearing what this standard might mean for rural providers, like those in Montana which often operate with thin — or negative — margins.

The provision of charity care by tax-exempt hospitals is an important subject. It has significant implications for both hospitals and the federal treasury.

But it is also important because it raises one of the most pressing problems facing our nation — that 46 million Americans have no health insurance. Arguably, if all Americans had health insurance, we would not be having this discussion.

Nearly one in five Montanans is uninsured. That's one of the highest rates in the nation. And the uninsured are four times as likely not to seek a physician's care when they have a medical problem, compared to those who have insurance. Not surprisingly, the uninsured tend to get sicker. And they tend to die sooner.

I realize that universal health care is not just around the corner. This Congress would not even cover the victims of Hurricane Katrina, one of this nation's worst natural disasters.

But until providers and insurers have an incentive to treat sick and uninsured patients, we're going to struggle with the problem of charity care. I hope that this hearing will encourage more folks in Congress and the administration to think about how we can work together to solve the problem of the uninsured.

It has been over a decade since Congress took a comprehensive look at how to tackle this problem. We are long overdue.

Finally, I am proud that Scott Duke is one of our witnesses today. Scott is the CEO of Glendive Medical Center in Glendive, Montana. He is currently the Chair of the Montana Hospital Association's Board of Trustees. And Scott will be able to give us the perspective of rural hospitals.

I look forward to the witnesses' testimony. I look forward to hearing where hospitals succeed — and where they fail — to serve the community. And I look forward to learning how we all might better "bind up the injured" and "strengthen the weak."

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