



# Charity-care hospital regulations scrutinized

State's tax-exemption rules aren't well-defined.

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Georgia's not-for-profit hospitals receive millions of dollars a year in federal, state and local tax breaks.

Residents pay more in taxes because these hospitals are exempt. In exchange, taxpayer-subsidized hospitals are expected to provide charitable services — “a community benefit.”

But Georgia, like 35 other states, has no specific requirements hospitals must meet to justify these tax breaks.

And an Atlanta Journal-Constitution analysis of hospital data reveals that some not-for-profit hospitals provide less in community benefits — specifically, charity health care for the poor — than the tax-paying, for-profit hospitals they compete with.

Atlanta's Piedmont Hospital is an example. It is considered a charity, but this tax-exempt hospital consistently spent a smaller percentage of its adjusted gross revenue on uncompensated care than many of metro Atlanta's for-profit hospitals from 2007-09.

Piedmont is among 18 not-for-profit hospitals in Georgia and four in metro Atlanta that spent less than 3 percent of adjusted gross revenue on uncompensated charity care from 2006-09. Three percent is a meaningful metric. In the only instance where Georgia requires hospitals to provide a minimum level of charity care — when they apply for permission to expand facilities or services — it requires 3 percent.

Nina Day, vice president of corporate communications and community affairs for Piedmont, said the hospital provides other charitable benefits to the community: a monthly cardiology clinic, cancer wellness programs and free lab work for two clinics in low income areas.

What those services are worth compared to their tax exemption is unclear. Piedmont and other not-for-profit hospitals aren't required to disclose that.

Now, with tax revenues shrinking and the cost of public health care rising, policy makers across the country are starting to require not-for-profit hospitals to provide more evidence of tangible community benefits.

The Patient Protection and Affordable Care Act, adopted by congressional Democrats last year, requires not-for-profits to assess community health care needs and inform patients of their charity care policies. Across the political aisle, Sen. Chuck Grassley, R-Iowa, spearheaded a Senate investigation of the value of not-for-profit hospital community benefits.

“A lot of hospitals are doing a good job of building their communities by providing health services, but other facilities aren’t doing a good job and we need a level of transparency to differentiate between the two,” said Holly Lang, hospital accountability project director for Georgia Watch, a consumer advocacy group.

“The public has a stake in this because we’re forgoing needed tax revenue and we need to know what we’re getting,” she said.

Exactly how much in taxes not-for-profit hospitals are avoiding is unknown because neither state nor federal officials calculate the total value of the exemptions. But estimates run well into the millions of dollars.

By comparison, Tenet Healthcare Corp., a for-profit system of five Georgia hospitals, paid \$10.1 million last year in local, state and federal taxes.

John Parker, general counsel for the Georgia Alliance of Community Hospitals, an association of not-for-profit hospitals, said tax-exempt hospitals provide community services worth far more than their exemptions, including conducting medical research and operating unprofitable medical services.

“We have great facilities here and people should appreciate what they have instead of tearing it down,” he said.

### **Blurred lines**

For decades, being a hospital seemed sufficient justification for nonprofit status, but as medical services took on aspects of big business — aggressive bill collection tactics and six-figure pay for executives — the distinction between not-for-profit hospitals and their for-profit competitors blurred.

The only requirement Georgia not-for-profit hospitals must meet to obtain and maintain their tax-exempt status is set by the IRS and not the state. The IRS requires that hospitals, like all not-for-profits, provide a “community benefit.”

After his investigation, Sen. Grassley in 2008 described this standard as “weak.” The Government Accountability Office said in a report the same year that the standard allows hospitals broad latitude in defining and quantifying community benefits.

Even the IRS acknowledges it has difficulty administering the standard.

Georgia House Majority Leader Larry O’Neal, R-Bonaire, said the state needs more information about the community benefits these hospitals provide.

“There is very little accountability ... to determine whether or not the state is receiving the benefits expected from exempting [hospitals] from the taxes other businesses pay,” O’Neal said.

The only data available for all hospitals is the amount of uncompensated care they provide, and some critics find the numbers discouraging.

Uncompensated care is free or discounted services for low-income patients who do not have public or private insurance or who don't have enough insurance. Each hospital sets its own standards.

From 2006 to 2009, 28 Georgia hospitals spent less than 3 percent of adjusted gross revenue on uncompensated care, according to data collected by the Georgia Department of Community Health.

Seven of the 28 are in the metro area: Piedmont, Emory University Hospital, Emory University Hospital Midtown, Emory Johns Creek Hospital, North Fulton Regional, South Fulton Medical Center and Saint Joseph's Hospital.

Four of those, Piedmont, Emory University, Emory Midtown and Saint Joseph's, are tax exempt.

Lang, of Georgia Watch, said the numbers are disappointing.

"You'd like to think that it's because there are not enough people out there who need these services, but with how hard the recession hit Georgia, there's no way that's the case."

Some Georgia hospitals, including not-for-profit Union General in Blairsville, spent less than 1 percent of adjusted gross revenue on uncompensated charity care in 2009. That's the latest financial disclosure data available.

In contrast, Grady Memorial Hospital, a facility that has historically served low-income people, spent 28 percent of adjusted gross revenue on uncompensated care in 2009; Emory-Adventist in Smyrna 13 percent, and Piedmont Mountainside Hospital in Jasper 9.5 percent.

In the past, hospitals with a requirement that did not spend 3 percent would be assessed the difference for the state's Indigent Care Trust Fund. The assessment was repealed last year.

Some policy makers believe 3 percent is too low. In 2007, Grassley proposed requiring tax-exempt hospitals to spend 5 percent of patient revenue on uncompensated charity care. The proposal died in committee.

O'Neal, the Georgia House leader, said the state's approval of a bed tax last year was the first step toward quantifying the indigent care hospitals provide — and mitigating costs to hospitals with many indigent patients. The law requires hospitals to pay 1.6 percent of patient revenue to the state while it increases Medicaid reimbursements to hospitals.

The idea is to reward hospitals that serve many indigent patients. But the bill makes no distinction between not-for-profit and for-profit facilities.

### **Comparison disputed**

Joseph Parker, president of the Georgia Hospital Association, said low uncompensated care figures for hospitals like Piedmont are not relevant.

“It’s not a good comparison,” Parker said. “The amount of indigent or charitable care you provide is based on the number of [indigent] patients you have walk in the door.”

Countered Lang: If a hospital cannot find enough patients who need charity care, it may not need a tax exemption.

Charity care should at least replace what tax-exempt hospitals aren’t contributing: revenues which, along with paying for municipal services like police, also fund state and federal public health programs Medicare and Medicaid, which insure some people who can’t pay.

Some health policy experts say uncompensated care numbers deserve consideration, but the numbers alone do not accurately reflect a hospital’s benefit to the public.

Saint Joseph’s, for example, provides little uncompensated care, spending only 3.4 percent of its adjusted gross revenue in 2009, according to the financial survey data.

But Mercy Care Services, a subsidiary of Saint Joseph’s, operates 11 primary care clinics for the homeless and other under-served populations, an HIV screening and education program and other charity programs. Mercy Care Services raises its own funds, but also receives about \$2.8 million a year from Saint Joseph’s, plus in-kind services such as legal counseling.

Lang agreed that Saint Joseph’s support of Mercy Care is a serious commitment. But it’s not clear how it compares to other metro area hospitals because few provide details of their “community benefit” programs on IRS reporting forms.

Regardless of their merits, these programs do not replace uncompensated care, said Mark Rukavina, executive director of the Access Project, a Boston patient advocacy organization.

“There’s still going to be out-of-pocket expenses patients will struggle to pay, so charity care will always be the most important benefit a hospital can provide,” he said.

### **Firm but flexible standards**

John Parker, of the Alliance of Community Hospitals, said requirements in the Affordable Care Act and IRS requirements provide enough information about hospitals’ community benefits.

But those regulations are optional and patient advocates believe more detailed reporting requirements would provide policy makers the information they need to create firm but flexible standards.

Other elements of the act may encourage the development of new community benefits requirements.

The act is designed to reduce the number of uninsured. If not-for-profit hospitals have fewer uninsured patients, the amount of uncompensated care they provide should decrease, at least theoretically.

If hospitals spend less on uncompensated care, quantifying other benefits they provide will become more important.

Failure to document community services could result in radical changes to state tax codes, said Daphne Kenyon, former senior economist with the Office of Tax Analysis, U.S. Department of the Treasury.

“I think the working hypothesis is, if hospitals are spending less in charitable care, they should receive less in tax benefits,” Kenyon said.

In some areas, local governments’ budget pressures have already forced this step.

Boston now charges not-for-profits, including hospitals, a payment in lieu of taxes. Hospitals have been asked to pay \$7.3 million this year and \$17.3 million by 2016 while still performing their social mission, said Stephen J. Murphy, president of the Boston City Council.

“We said, ‘Hey, we don’t mind having you here, but you have to step up and be a partner,’” Murphy said.