



**American Hospital
Association**

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June 3, 2013

Office of Management and Budget
Attn: Desk Officer for the Department of the Treasury
Office of Information and Regulatory Affairs
Washington, DC 20503

Internal Revenue Service
Attn: IRS Reports Clearance Officer
SE:W:CAR:MP:T:T:SP
Washington, DC 20224

RE: OMB Control Number 1545-0047

Dear Sir/Madam:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, the American Hospital Association (AHA) is pleased to respond to the request for comments in the April 5 notice of proposed rulemaking (NPRM) from the Department of the Treasury and the Internal Revenue Service (IRS). The NPRM includes a collection of information (COI) that is subject to review by the Office of Management and Budget (OMB) pursuant to the *Paperwork Reduction Act (PRA)*. To assist OMB in evaluating the proposed COI, the preamble to the proposed regulation includes a request for comments regarding the necessity of the COI for the proper performance of the IRS's functions, the accuracy of the IRS's estimated burden associated with the COI, and ways in which the burden may be minimized.

Section 501(r) was added to the Internal Revenue Code (Code) by the *Patient Protection and Affordable Care Act of 2010 (ACA)*, and contains new requirements for tax-exempt status that must be met for each hospital facility (hospital) that an organization operates. The NPRM was issued by the Department of the Treasury and the IRS to implement Section 501(r)(3) of the Code. That section requires a hospital to conduct a community health needs assessment (CHNA) at least once every three years and adopt an implementation strategy to meet the community health needs identified through the CHNA. The NPRM also implements an amendment to Section 6033(b)(15) of the Code, which requires that the organization to report on its annual information return how it is meeting the needs identified through the CHNA, and attach to its annual information return a copy of its audited financial statements. In addition, the NPRM provides guidance on the consequences for a hospital failing to satisfy any of the Section 501(r) requirements.



We appreciate the important improvements the agencies made in this NPRM to the prior guidance regarding Section 501(r)(3) issued in Notice 2011-52. However, many of the requirements continue to be extremely detailed and in some instances very prescriptive. We believe that the commitment of time required to comply with the COI in the proposed regulations will vastly exceed the 80 hours estimated, and that the specifics of the proposed regulations will require a commitment of more time and resources than necessary to comply with Section 501(r)(3). Input from AHA members indicates that the time required to comply with the proposed regulations can be more than 1,000 hours. These estimates appear entirely commensurate with the procedures detailed in the proposed regulations. To illustrate the congruity, we have attached a chart that summarizes the procedures that each hospital would have to implement and follow. (We note that, with respect to the consequences for failing to satisfy a 501(r) requirement, the NPRM includes only some of the guidance the agencies intend to issue. Any future guidance will impose additional COI requirements on hospitals.)

As requested by the NPRM, the AHA will provide comments to the agencies. We will advocate for flexibility in complying with 501(r), which will reduce the time commitment and, as a result, the costs borne by hospitals under this COI. According to the PRA, before OMB approves a COI, an agency must demonstrate that it has taken “every reasonable step” to ensure that the proposed COI is the least burdensome necessary for the proper performance of the agency’s functions to comply with legal requirements and achieve program objectives. **Prior to approving this COI, the AHA urges OMB to evaluate the time commitment and commensurate costs imposed on hospitals and to review the comments that AHA will submit to the IRS (and forward to this office) as evidence of improvements that can be made to reduce the burden while achieving the goals of Section 501(r)(3), to which the AHA remains fully committed.**

The AHA welcomes an opportunity to meet with OMB representatives to discuss our comments. Please feel free to contact me at mmhatton@aha.org or (202) 626-2336 with any questions or comments.

Sincerely,

/s/

Melinda Reid Hatton
Senior Vice President and General Counsel

Attachment

**PROCEDURES REQUIRED TO COMPLY WITH THE PROPOSED REGULATIONS
UNDER SECTION 501(r)(3) AND OTHER REPORTING REQUIREMENTS**

Community Health Needs Assessment (CHNA)	
Tasks	<p align="center">Conduct a CHNA and prepare a CHNA report every three years.</p> <ul style="list-style-type: none"> • Define the community served by the hospital and describe how the community was determined
	<ul style="list-style-type: none"> • Assess the needs of the community <ul style="list-style-type: none"> ○ Identify which health needs are significant <ul style="list-style-type: none"> ▪ Describe the process and criteria used to identify which needs were significant ○ Prioritize the significant health needs <ul style="list-style-type: none"> ▪ Describe the process and criteria used to prioritize the significant health needs ○ Identify and describe potential measures and resources to address the significant health needs
	<ul style="list-style-type: none"> • Take into account input from persons representing the broad interests of the community served by the hospital <ul style="list-style-type: none"> ○ Consult with a public health department ○ Consult with members of the medically underserved population or organizations that serve or representative them ○ Consult with members of the low-income population or organizations that serve or represent them ○ Consult with members of minority populations or organizations that serve or represent them
	<ul style="list-style-type: none"> • Describe how the hospital took into account input from those representing the broad interests of the community served <ul style="list-style-type: none"> ○ Summarize, in general terms, how and over what time period input was provided (for example, whether through meetings, surveys, or written comments and between what dates) ○ Provide the names of organizations providing input and summarize the nature and extent of the organization's input ○ Describe the medically underserved, low-income, or minority populations being represented by organizations or individuals that provided input
	<ul style="list-style-type: none"> • Describe the process and methods used to conduct the CHNA <ul style="list-style-type: none"> ○ Data and other information used in the assessment ○ Methods of collecting and analyzing the data and information ○ Any parties with whom the hospital collaborated ○ Any party with whom the hospital contracted for assistance
	<ul style="list-style-type: none"> • Adoption of the CHNA by an authorized body of the hospital
	<ul style="list-style-type: none"> • Widely publicize the CHNA <ul style="list-style-type: none"> ○ Conspicuously post the CHNA report on the hospital website or link to another site where it is posted ○ Make a paper copy available for public inspection at the hospital
Implementation Strategy	
Tasks	<p align="center">Develop a written Implementation Strategy every three years.</p> <ul style="list-style-type: none"> • For each significant health need identified through the CHNA <ul style="list-style-type: none"> ○ Describe the actions the hospital facility intends to take to address the health need ○ Describe the anticipated impact of these actions

<ul style="list-style-type: none"> ○ Develop a plan to evaluate such impact ○ Identify the programs and resources the hospital facility plans to commit to address the health need ○ Describe any planned collaboration between the hospital facility and other facilities or organizations in addressing the health needs – OR, <ul style="list-style-type: none"> ▪ For any health need the hospital does not plan to address, provide a brief description of the reason
<ul style="list-style-type: none"> • Adoption of the implementation strategy by an authorized body of the hospital
<ul style="list-style-type: none"> • Attach the Implementation strategy to the hospital’s Form 990 –OR, <ul style="list-style-type: none"> ○ Make it widely available on a website and include the address (URL) for the site where the strategy is located • Report on the hospital’s Form 990 for each of the subsequent two years, 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 reasons why no actions were taken
Failure to Satisfy Section 501(r) Requirements
<u>Tasks</u>
<ul style="list-style-type: none"> • Report on the hospital’s Form 990 the amount of an excise tax imposed for failure to meet the CHNA requirements during the taxable year • Disclose (pursuant to future guidance to be issued separately) failure to comply with a requirement that is more than minor or inadvertent and not willful or egregious • Calculate (pursuant to detailed instructions) and report on the organization’s Form 990-T the tax due for any willful or egregious noncompliance of a hospital facility within a multi-hospital organization