



(Original Signature of Member)

119TH CONGRESS
2^D SESSION

H. R. 9504

To amend the Internal Revenue Code of 1986 to establish additional reporting requirements for hospital organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MURPHY introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to establish additional reporting requirements for hospital organizations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Tax Exempt Hospital
5 Transparency Act".

1 **SEC. 2. INFORMATION REPORTING BY HOSPITAL ORGANI-**
2 **ZATIONS.**

3 (a) IN GENERAL.—Subpart A of part III of sub-
4 chapter A of chapter 61 of the Internal Revenue Code of
5 1986 is amended by inserting after section 6033 the fol-
6 lowing new section:

7 **“SEC. 6033A. REPORTING BY TAX EXEMPT HOSPITAL ORGA-**
8 **NIZATIONS.**

9 “(a) REPORTING BY TAX EXEMPT HOSPITAL ORGA-
10 NIZATIONS.—

11 “(1) IN GENERAL.—Every tax exempt hospital
12 organization shall include on the return filed under
13 section 6033(a) for the taxable year—

14 “(A) a description of how the organization
15 is addressing the needs identified in the most
16 recent community health needs assessment con-
17 ducted under section 501(r)(3) and a descrip-
18 tion of any such needs that are not being ad-
19 dressed together with the reasons why such
20 needs are not being addressed,

21 “(B) the audited financial statements of
22 such organization (or, in the case of an organi-
23 zation the financial statements of which are in-
24 cluded in a consolidated financial statement
25 with other organizations, such consolidated fi-
26 nancial statement),

1 “(C) the Centers for Medicare & Medicaid
2 Services certification number of the organiza-
3 tion (or such other identifying information as
4 the Secretary may require),

5 “(D) the value, at cost, of the financial as-
6 sistance provided during such taxable year pur-
7 suant to the organization’s financial assistance
8 policy (as described in section 501(r)(4)), and

9 “(E) the numbers of completed financial
10 assistance applications received, granted, and
11 denied during the taxable year pursuant to the
12 organization’s financial assistance policy (as de-
13 scribed in section 501(r)(4)).

14 “(2) SEPARATE REPORTING WITH RESPECT TO
15 EACH FACILITY.—Except as otherwise provided by
16 the Secretary, in the case of any large tax exempt
17 hospital organization or any high revenue tax ex-
18 empt hospital organization, the information de-
19 scribed in subparagraphs (A), (C), (D), and (E) of
20 paragraph (1) shall be provided with respect to the
21 organization and separately stated with respect to
22 each hospital facility operated by such organization.

23 “(b) ADDITIONAL REPORTING BY LARGE TAX EX-
24 EMPT HOSPITAL ORGANIZATIONS.—

1 “(1) IN GENERAL.—Every large tax exempt
2 hospital organization shall include on the return
3 filed under section 6033(a) for the taxable year—

4 “(A) the 3 highest priority health needs
5 identified in the most recent community health
6 needs assessment conducted under section
7 501(r)(3), the amount of spending during the
8 taxable year on programs designed to address
9 each such need, and a description of actions
10 taken during the taxable year to meet each such
11 need and the impact of such actions on commu-
12 nity health, and

13 “(B) the amount of spending by the orga-
14 nization during the taxable year on—

15 “(i) quality improvement,

16 “(ii) nonclinical programming, and

17 “(iii) such other community benefits
18 as the Secretary may prescribe.

19 “(2) QUALITY IMPROVEMENT.—For purposes of
20 this subsection, the term ‘quality improvement’
21 means any program, initiative, or department, with
22 the primary purpose of improving health outcomes
23 for patients of the organization, which may in-
24 clude—

25 “(A) education,

1 “(B) training,

2 “(C) compliance with quality improvement
3 programs (such as quality improvement pro-
4 grams under the Medicare program under title
5 XVIII of the Social Security Act), and

6 “(D) technical assistance.

7 “(3) NONCLINICAL PROGRAMMING.—For pur-
8 poses of this subsection, the term ‘nonclinical pro-
9 gramming’ means any program, initiative, or depart-
10 ment, with a purpose other than the purpose of im-
11 proving health outcomes for patients of the organi-
12 zation and which is related to—

13 “(A) administrative support and manage-
14 ment,

15 “(B) information technology, hospital ad-
16 ministration, human resources, medical billing
17 and coding, public affairs and communications,
18 government affairs and lobbying, regulatory
19 compliance, or financial planning and budg-
20 eting,

21 “(C) operations and facilities management,

22 “(D) programming related to patient expe-
23 rience, patient education, family support, or fi-
24 nancial counseling, or

1 “(E) discharge planning and appointment
2 scheduling.

3 “(4) SEPARATE REPORTING WITH RESPECT TO
4 EACH FACILITY.—Except as otherwise provided by
5 the Secretary, the information described in para-
6 graph (1) shall be provided with respect to the orga-
7 nization and separately stated with respect to each
8 hospital facility operated by such organization.

9 “(c) ADDITIONAL REPORTING BY HIGH REVENUE
10 TAX EXEMPT HOSPITAL ORGANIZATIONS.—

11 “(1) IN GENERAL.—Every high revenue tax ex-
12 empt hospital organization shall include on the re-
13 turn filed under section 6033(a) for the taxable
14 year—

15 “(A) the specified advertising information,

16 “(B) the specified health service line infor-
17 mation, and

18 “(C) in the case of an organization which
19 is a covered entity described in section
20 340B(a)(4) of the Public Health Service Act,
21 the specified Federal 340B drug discount pro-
22 gram information.

23 “(2) SPECIFIED ADVERTISING INFORMATION.—

24 For purposes of this subsection, the term ‘specified
25 advertising information’ means—

1 “(A) the allowable advertising costs as re-
2 ported to the Centers for Medicare & Medicaid
3 Services for purposes of cost reimbursement,
4 and

5 “(B) the unallowable advertising costs (as
6 so reported).

7 “(3) SPECIFIED HEALTH SERVICE LINE INFOR-
8 MATION.—

9 “(A) IN GENERAL.—For purposes of this
10 subsection, the term ‘specified health service
11 line information’ means—

12 “(i) a description of each health serv-
13 ice line of the organization,

14 “(ii) the amount of gross receipts gen-
15 erated by each such health service line, and

16 “(iii) the costs of each such health
17 service line (and in the case of costs that
18 are shared by 1 or more health service
19 lines, an explanation of how such costs are
20 allocated).

21 “(B) HEALTH SERVICE LINE.—

22 “(i) IN GENERAL.—For purposes of
23 this paragraph, the term ‘health service
24 line’ means a discrete clinical program, de-

1 department, or care category operated by the
2 organization that—

3 “(I) serves a defined patient pop-
4 ulation grouped by disease category,
5 organ system, care setting, or clinical
6 specialty,

7 “(II) delivers a distinct set of
8 medical or health services through
9 dedicated or allocated staff, facilities,
10 or equipment, and

11 “(III) is separately tracked or
12 identifiable in the organization’s inter-
13 nal cost accounting, service line man-
14 agement, or operational reporting sys-
15 tems.

16 For purposes of this paragraph, any cost
17 center separately identified on the organi-
18 zation’s most recently filed cost report
19 under section 1815 of the Social Security
20 Act shall be presumptively treated as a
21 health service line. If the organization as-
22 serts that such a cost center does not con-
23 stitute a health service line, the organiza-
24 tion shall bear the burden of dem-
25 onstrating that such cost center does not

1 satisfy the requirements of subclauses (I)
2 and (II).

3 “(ii) STANDARDIZED HEALTH SERV-
4 ICE LINE TAXONOMY.—For purposes of
5 this paragraph—

6 “(I) IN GENERAL.—Not later
7 than the date that is 2 years after the
8 date of the enactment of this section,
9 the Secretary of Health and Human
10 Services, in consultation with the Sec-
11 retary, shall publish and maintain a
12 standardized health service line tax-
13 onomy to which high revenue tax ex-
14 empt hospital organizations shall map
15 their internally defined health service
16 lines on their returns under section
17 6033.

18 “(II) UPDATES.—The Secretary
19 of Health and Human Services, in
20 consultation with the Secretary, shall
21 update the taxonomy described in sub-
22 clause (I) no less frequently than
23 every 5 years to reflect changes in
24 clinical care delivery, hospital organi-
25 zation, and cost accounting practices.

1 “(III) COMPLIANCE OBLIGA-
2 TION.—A high revenue tax exempt
3 hospital organization’s compliance
4 with the reporting requirements of
5 this subsection with respect to a
6 health service line enumerated in the
7 taxonomy published, maintained, and
8 updated under this clause shall not be
9 conditioned on whether the organiza-
10 tion separately tracks such service line
11 under clause (i)(III). A high revenue
12 tax exempt hospital organization that
13 does not separately track such an enu-
14 merated health service line shall dis-
15 close that fact and provide an expla-
16 nation on their return under section
17 6033. The Secretary of Health and
18 Human Services, in consultation with
19 the Secretary, may, by regulation,
20 designate categories of clinical activity
21 that shall be treated as a single health
22 service line for reporting purposes
23 notwithstanding any difference in how
24 a high revenue tax exempt hospital or-

1 organization tracks such activity in its
2 internal systems.

3 “(4) SPECIFIED FEDERAL 340B DRUG DISCOUNT
4 PROGRAM INFORMATION.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection, the term ‘specified Federal 340B
7 drug discount program information’ means—

8 “(i) the total number of individuals,
9 by their type of insurance coverage, who
10 were dispensed or administered covered
11 outpatient drugs during the taxable year
12 that were subject to an agreement under
13 section 340B of the Public Health Service
14 Act,

15 “(ii) the aggregate net 340B payment
16 amount with respect to such drugs subject
17 to such an agreement dispensed or admin-
18 istered by the organization during such
19 taxable year, and

20 “(iii) the aggregate costs incurred by
21 the organization during such taxable year
22 that were necessary for such organization
23 to participate in the program under such
24 section and to comply with such program’s
25 requirements (including program-related

1 compliance, legal, educational, and admin-
2 istrative costs, and compensation paid to
3 independent contractors to carry out pro-
4 gram-related functions).

5 “(B) COVERED OUTPATIENT DRUG.—For
6 purposes of this paragraph, the term ‘covered
7 outpatient drug’ has the meaning given such
8 term in section 340B(b) of the Public Health
9 Service Act.

10 “(C) AGGREGATE NET 340B PAYMENT
11 AMOUNT.—For purposes of this paragraph, the
12 term ‘aggregate net 340B payment amount’
13 means, with respect to a covered outpatient
14 drug purchased by an organization under an
15 agreement under section 340B of the Public
16 Health Service Act and dispensed or adminis-
17 tered to an individual by such organization, the
18 excess (if any) of—

19 “(i) the total amount of payments re-
20 ceived from any payor by the organization
21 for such drug, over

22 “(ii) the ceiling price (as described in
23 subsection (a)(1) of such section) for such
24 drug (or, if less, the price at which such
25 organization acquired such drug).

1 “(5) SEPARATE REPORTING WITH RESPECT TO
2 EACH FACILITY.—Except as otherwise provided by
3 the Secretary, the information described in para-
4 graph (1) shall be provided with respect to the orga-
5 nization and separately stated with respect to each
6 hospital facility operated by such organization.

7 “(6) AGENCY COORDINATION.—The Secretary
8 shall coordinate with—

9 “(A) the Administrator of the Centers for
10 Medicare & Medicaid Services to carry out the
11 purposes of paragraphs (2) and (3), and

12 “(B) the Administrator of the Health Re-
13 sources and Services Administration to carry
14 out the purposes of paragraph (4).

15 “(d) DEFINITIONS.—For purposes of this section—

16 “(1) TAX EXEMPT HOSPITAL ORGANIZATION.—
17 The term ‘tax exempt hospital organization’ means,
18 with respect to any taxable year, any organization—

19 “(A) to which the requirements of section
20 501(r) apply for such taxable year, and

21 “(B) which is required to file a return
22 under section 6033(a) for such taxable year.

23 “(2) LARGE TAX EXEMPT HOSPITAL ORGANIZA-
24 TION.—The term ‘large tax exempt hospital organi-

1 zation' means, with respect to any taxable year, any
2 organization which—

3 “(A) is a tax exempt hospital organization
4 for such taxable year,

5 “(B) is not a critical access hospital (as
6 defined in section 1861(mm)(1) of the Social
7 Security Act) for such taxable year,

8 “(C) is not a rural emergency hospital (as
9 defined in section 1861(kkk)(2) of the Social
10 Security Act) for such taxable year, and

11 “(D) has more than 100 staffed inpatient
12 beds (as reported in any cost report under sec-
13 tion 1815 of the Social Security Act with re-
14 spect to any portion of such taxable year or any
15 portion of any of the 3 preceding taxable
16 years).

17 “(3) HIGH REVENUE TAX EXEMPT HOSPITAL
18 ORGANIZATION.—

19 “(A) IN GENERAL.—The term ‘high rev-
20 enue tax exempt hospital organization’ means,
21 with respect to any taxable year, any organiza-
22 tion which—

23 “(i) is a tax exempt hospital organiza-
24 tion for such taxable year,

1 “(ii) is not a critical access hospital
2 (as defined in section 1861(mm)(1) of the
3 Social Security Act) for such taxable year,

4 “(iii) is not a rural emergency hos-
5 pital (as defined in section 1861(kkk)(2) of
6 the Social Security Act) for such taxable
7 year, and

8 “(iv) has net patient revenue (deter-
9 mined in such manner as the Secretary
10 may provide) for such taxable year of more
11 than \$100,000,000.

12 “(B) INFLATION ADJUSTMENT.—

13 “(i) IN GENERAL.—In the case of any
14 taxable year beginning in a calendar year
15 after 2028, the \$100,000,000 amount in
16 subparagraph (A)(iv) shall be increased by
17 an amount equal to—

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section 1(f)(3)
22 for the calendar year in which the tax-
23 able year begins, determined by sub-
24 stituting ‘calendar year 2027’ for ‘cal-

1 endar year 2016' in subparagraph
2 (A)(ii) thereof.

3 “(ii) ROUNDING.—Any increase deter-
4 mined under clause (i) shall be rounded to
5 the nearest multiple of \$100,000.

6 “(e) TREATMENT AS PART OF ANNUAL RETURN.—
7 For purposes of this title, the information required to fur-
8 nished under this section shall be treated as information
9 required to be furnished under section 6033.

10 “(f) REGULATIONS.—The Secretary may issue such
11 regulations or other guidance as may be necessary or ap-
12 propriate to carry out the purposes of this section, includ-
13 ing regulations or other guidance providing a methodology
14 for allocating costs between the categories described in
15 subsections (a)(1)(A), (a)(1)(D), (b)(1)(A), (b)(1)(B)(i),
16 (b)(1)(B)(ii), and (b)(1)(B)(iii).”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 6033(b) of such Code is amended—

19 (A) by adding “and” at the end of para-
20 graph (14),

21 (B) by striking paragraph (15), and

22 (C) by redesignating paragraph (16) as
23 paragraph (15).

24 (2) The table of sections for subpart A of part
25 III of subchapter A of chapter 61 of such Code is

1 amended by inserting after the item relating to sec-
2 tion 6033 the following new item:

“Sec. 6033A. Reporting by tax exempt hospital organizations.”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 this subsection shall apply to taxable years begin-
6 ning after the date that is 1 year after the date of
7 the publication of the first standardized health serv-
8 ice line taxonomy under section
9 6033A(c)(3)(B)(ii)(I) of the Internal Revenue Code
10 of 1986 (as added by this section).

11 (2) EXCEPTION.—In the case of any tax exempt
12 hospital organization which is neither a large tax ex-
13 empt hospital organization nor a high revenue tax
14 exempt hospital organization, subparagraphs (D)
15 and (E) of section 6033A(a)(1) of the Internal Rev-
16 enue Code of 1986 (as added by this section) shall
17 (notwithstanding paragraph (1)) apply to taxable
18 years beginning after the date that is 3 years after
19 the date of the enactment of this Act. Terms used
20 in this paragraph which are also used in section
21 6033A of such Code (as so added) shall have the
22 same meaning as when used in such section.

23 (d) NO INFERENCE.—Nothing in this Act or the
24 amendments made by this Act shall be construed to create
25 any inference with respect to the proper application of sec-

1 tion 340B of the Public Health Service Act, of section
2 501(c)(3) or 501(r) of the Internal Revenue Code of 1986,
3 or of any operational test or the private benefit doctrine.

4 **SEC. 3. GAO REPORT.**

5 During the 1-year period beginning 3 years after the
6 date of the enactment of this Act, the Comptroller General
7 of the United States shall initiate a study and subse-
8 quently report to the Committee on Ways and Means of
9 the House of Representatives and the Committee on Fi-
10 nance of the Senate on the following:

11 (1) An estimate of the additional labor and re-
12 source costs of the Department of the Treasury to
13 administer, and of the additional costs of tax exempt
14 hospital organizations (as defined in section
15 6033A(d)(1) of the Internal Revenue Code of 1986,
16 as added by this Act) to comply with, the reporting
17 requirements added by the amendments made by
18 this Act.

19 (2) With respect to the 25 tax exempt hospital
20 organizations (as so defined) which have the highest
21 amount of gross revenue, the estimated amount of
22 tax which would be imposed under chapter 1 of such
23 Code with respect to each such organization if such
24 organization were not exempt from such tax.