

# **Opening Statement of ACA International Senate Finance Committee Roundtable Minority Staff Discussion Draft on Tax-Exempt Hospitals**

My name is Chris Wunder and I am the President of ACA International, the Association of Credit and Collection Professionals. Additionally, I have owned and operated a hospital oriented collection agency for twenty-six years and currently serve on the foundation board of a hospital in Baltimore, which is part of a \$3 billion health system. On behalf of ACA's 5,500 members, I would like to express our appreciation for being included in this very important discussion.

ACA members are involved in providing a wide variety of services to the healthcare industry, including but not limited to collection of past due receivables, admitting and registration support, screening for charity care applicants, medical coding and billing, clearinghouse services, insurance billing and follow up, collection of co-pays, training of healthcare personnel and credit reporting. Additionally, many ACA members serve as the entire accounts receivable department for some healthcare facilities. As you might imagine, the topic being considered by this committee is of significant interest to our trade association. As such, our comments are as follows:

First, it is critical that healthcare providers continue to be permitted to utilize the services of third party billing and collection professionals. Hospitals are in the business of providing healthcare and their expertise does not extend to collecting debts. The ability of providers to engage the services and expertise of collection agencies is imperative to the success and viability of the healthcare industry. More and more hospitals operate on razor thin margins, and the recoveries facilitated by the collection industry, as well as the other cost effective support referenced above, are important components of many hospitals' ability to continue providing quality healthcare services so important to the communities within which they operate.

Second, it would be counterproductive to tie the hands of a healthcare provider when it comes to collecting hospital bills by restricting the collection remedies available to them by law. Any notion that retention of a collection agency or implementing legally prescribed debt collection remedies is "aggressive" is fundamentally flawed. Most patients need little or no incentive to pay debts they owe, however some patients are only motivated to pay by expectations placed on them by the court system. In short, the reality is that some patients will only pay a valid medical debt when forced to do so.

The minority staff discussion draft expressed concern over post-judicial remedies such as wage garnishment and bank account seizure. It is important to understand that these are remedies of last resort. The payment process is a communication between the healthcare provider and the patient, often mediated by a third-party debt collector. Judicial remedies are only pursued after those lines of communication break down or prove ineffective. Litigation is only pursued when it appears that the patient has the

means to pay, but refuses to do so, or has not responded to previous attempts from the provider or the collection agency to resolve the account. It is in no party's interest to pursue legal judgment against a patient who does not have the means to pay the debt, and in fact, would be an extremely bad business practice.

Restrictions on collection remedies would only exacerbate the unpaid medical debt problem, potentially leading to operating deficits for many healthcare providers and ultimately impacting the level of care they are able to provide while increasing costs for patients who in fact do pay their bills.

Third, ACA International feels strongly that the Fair Debt Collection Practices Act should not be applied to hospitals when they pursue payment from their patients. In practice, this is already in effect, as almost without exception, post charge off collection activities are handled by collection agencies or attorneys, both of whom are governed by the FDCPA. As such, the requirement for hospitals to adhere to the FDCPA would provide little in the way of additional protection to patients, and to the contrary, potentially damage the important relationship of trust between patients and hospitals.

As an example, imagine if you received services at a community hospital and upon calling to inquire about your bill, were first told, as dictated by the FDCPA, "this is an attempt to collect a debt and any information obtained will be used for that purpose." Many patients, at best, would find this off putting, while others would rightfully take offense to being treated in this manner. In addition, many written communications to patients would require similar language.

Furthermore, in § 805(c), when a consumer notifies a debt collector in writing that he/she refuses to pay a debt or wishes no further communication with the debt collector, the collector must cease communication (with limited exceptions). Extended to the patient/hospital relationship, a patient motivated by nothing more than the often emotionally charged post hospital stay period, could refuse to pay, thus the hospital could no longer attempt contact, which extends to both telephone and written communication.

Without the ability to later interact with a patient at a more tranquil time, either verbally or through the mail, a hospital may have no alternative but to pursue legal judgment if it wishes to recover the valid amounts owed by the patient. This scenario does a disservice to both the hospital and the patient.

In summary, ACA International submits that:

1. The impairment of hospitals' ability to utilize third party debt collection companies would have a detrimental affect on the capability of many hospitals to remain financially viable.
2. Healthcare is an industry where literally hundred of millions of transactions occur each year. With that volume of activity, anomalies are bound to surface that unfairly raise concerns regarding the behavior of a majority of the nation's

hospitals. However, this anecdotal information should not rise to the level of seeking to limit the legal remedies available to hospitals that are otherwise afforded every other business in the country, including not for profit organizations.

3. Because virtually all hospital post charge off collection activity is already administered by companies that are governed by the FDCPA, requiring hospitals to adhere to its requirements, in the end, will do little to nothing to improve the environment for patients, and in fact, could operate to their detriment.

With that said, ACA would offer that the best chance to assist patients in better understanding their rights and responsibilities regarding their hospital payment obligations would be to require any organization seeking payment from a patient to provide access to information advising them on not only the Fair Debt Collections Practices Act, but also the availability of charity care relief for which they might qualify.