NEW JERSEY FOR-PROFIT HOSPITALS REQUIRED TO INCREASE TRANSPARENCY IN FINANCIAL REPORTING

On March 15, 2012, the Senate and General Assembly of the State of New Jersey passed the New Jersey Hospital Disclosure and Public Resource Protection Act ("Act") with a vote of 32 to 4. The Act requires for-profit hospitals in the state to increase the disclosure of their financial reporting so as to increase transparency and allow for a better comparison to tax-exempt hospitals. The Act takes effect on the 180th day after enactment, September 15, 2012, but authorizes the Commissioner of Health and Senior Services to take anticipatory administrative action in advance as necessary for its implementation. The Act specifically outlines twelve factors that a licensed general hospital that is owned or managed by a for-profit entity, including an entity that has a majority ownership interest in the hospital, is now required to report to the Department of Health and Senior Services and to post on its web site. The reporting requirements are as follows:

1. Audited financial statements for the past three years along with quarterly unaudited financial statements for the current year for the hospital and any related or affiliated entity that does business with or otherwise transfers assets to or from the hospital.
3. A list of all payments for goods and services, including leases and rentals, made to any entity owned or managed, in whole or in part, by any owner, board member or officer of the entity that owns or operates the hospital or a person related to such an individual.
4. A list of all compensation, including salaries, benefits, bonuses and deferred compensation paid to each board member and officer of the hospital.
5. A chart that identifies all legal entities related to or affiliated with the hospital, including the full name of the entity, location and its tax-exempt status.
6. Whether the owners or managers of the hospital maintain one or more offices, employees, or agents outside the United States that do business with the hospital, and any revenues and expenses of more than $5,000.

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transacted outside the United States.

7. A list of investors and joint ventures between the hospital owners and its investors, including the name of the joint venture entity, whether for-profit or nonprofit, a description of its primary activity, and the percent of profit or stock ownership of each of the officers, directors, physicians and key employees of the hospital or joint venture.

8. The name and address of any management company paid to provide services to the hospital, a description of the primary activity of the company, and the percent of profit or stock ownership of each of the officer, directors, physicians and key employees of the hospital in the management company.

9. The amounts paid to any affiliates for management or consulting services.

10. A list of any properties for which the hospital has claimed a tax abatement.

11. A description of major plant or facility expansion projects at the hospital, including the project location, scope, timeline for completion and estimated cost of and sources of funding for construction.

12. If the hospital had surplus revenues for the prior fiscal year, the total amount of any such surplus revenue used for each of the following: debt retirement, plant or facility expansion or a reserve for operating contingencies.

The new reporting requirements have been introduced to ensure that both for-profit and tax-exempt hospitals have to disclose similar type data for transparency and uniformity purposes. With the recent increase in the number of for-profit hospitals in the State (a number that is expected to grow), the new reporting requirements will allow for an easier comparison of for-profit and tax-exempt hospitals. This will require increased work, both internally and externally, on the part of the for-profit hospitals and their advisers in the coming year but is a beneficial step towards transparency amongst all hospitals and uniform reporting in the State of New Jersey.

A copy of the Act, Senate No. 782, can be accessed at the healthcare services section of our firm's website.

Please contact a member of WS+B's Healthcare Services Group for further questions or assistance.