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FORM 990 ISSUED POLICY DEVELOPMENT—IT'S NOT TOO LATE

As you know, the IRS has significantly redesigned the 2008 Form 990, *Return of Organization Exempt from Income Tax*. Because the complex new form is designed to enhance transparency and promote tax compliance, filing it is expected to require greater public disclosure and more preparation time.

Health care providers that are exempt organizations generally are required to use the new Form 990 for fiscal years that end on or after December 31, 2008. Specifically, organizations that have either gross receipts greater than \$1 million or total assets greater than or equal to \$2.5 million at the end of the tax year must file the new Form 990 for the 2008 tax year. Smaller organizations will be allowed to phase into the new form over a one- to three-year period, depending on annual gross receipts and total assets, based on the following schedule:

May file 990-EZ for:	If gross receipts are:	And total assets are:
2008 tax year (filed in 2009)	< \$1 million	< \$2.5 million
2009 tax year (filed in 2010)	< \$500,000	< \$1.25 million
2010 and later tax years	< \$200,000	< \$500,000

The new Form 990 places an emphasis on corporate governance policies and compensation matters and the Form 990 instructions confirm that a nonprofit must potentially provide information on various policies and practices (see the list below) that it may have in place, or disclose to the IRS—and thus ultimately the public—that it has no policies or practices in these areas.

If any of the applicable policies are not in place or are not up-to-date, it is important that a health care provider develop or update them as soon as possible for reporting and compliance purposes. Note that the new Form 990 also requires tax-exempt organizations to disclose certain information relating to the composition of their respective Boards of Directors or governing bodies and any related-party transactions associated with current and former directors, trustees, officers and employees.

The following policies are mentioned or implied in the redesigned Form 990 (many references found in Parts VI and VII):

- Conflicts of Interest Policy and Annual Disclosure Process
- Whistleblower Policy
- Document Retention and Destruction Policy
- Policy regarding process for Management and the Board to Review Form 990
- Policies Governing Activities of Chapters, Affiliates and Branches to Ensure that Their Operations are Consistent with Those of the Organization
- Executive Compensation Policies
- Policies Related to Safeguarding Exempt Status with Respect to Investments and Participation in Joint Ventures with Taxable Parties
- Policy Regarding Tax-Exempt Bond Compliance
- Travel and Expense Reimbursement Policy
- Gift Acceptance Policy
- Grant-Making Policy

- Fundraising Policy
- Community Benefit Policy (Hospitals only)
- Charity Care Policy (Hospitals only)
- Billing and Collections Policy (Hospitals only)

Health care providers that would like more information or individualized consultation regarding developing or updating policies and practices in preparation for the new Form 990 filing may contact Robert Heath, Chair of the Health Care Practice (414-298-8205), or Tracey Klein (414-298-8156), Heather Fields (414-298-8166) or Brandon Graef (414-298-8739) in the Health Care practice at Reinhart Boerner Van Deuren s.c. Note that the Tax Exempt Organizations Group at Reinhart Boerner Van Deuren s.c. is also developing a toolkit containing model Board policies for exempt organizations.

<http://www.reinhartlaw.com/webpages/2/legalservices.aspx?lsaID=173>

This *Headlines in Health Law* is an electronic publication of the law firm of Reinhart Boerner Van Deuren s.c. and is prepared by lawyers in its Health Care Practice. This publication is intended to afford timely notice to our clients and friends of current events in health law and to provide general information about health law issues. It is not intended, nor should it be used, as a substitute for specific legal advice regarding particular factual situations.

