April 18, 2014

The Honorable Ed Hernandez
Chair, Senate Health Committee
State Capitol, Room 2191
Sacramento, CA 95814

RE: AB 503 (Wieckowski/Bonta)–SPONSOR/SUPPORT

Dear Senator Hernandez:

The 86,000 registered nurses of the California Nurses Association (CNA) are proud to sponsor AB 503 (Wieckowski/Bonta) and write in strong support of the bill. AB 503 seeks to refine community benefit and further define charity care for nonprofit hospitals and multispecialty clinics. AB 503 only applies to private nonprofit hospitals and multispecialty clinics and exempts public hospitals such as district hospitals, the University of California hospitals, County health systems and facilities operated by the Veterans Administration. It does not apply to private for-profit hospitals and specifically exempts small rural hospitals and children's hospitals. AB 503 is needed to ensure that California's nonprofit hospitals are fulfilling their mission statements and providing community benefits in exchange for their tax benefited status.

In 2010 alone, California's cities and counties lost revenue and racked up expenses totaling more than $1 billion as a result of non-profit hospital tax exemptions and direct payments to hospitals in their geographic area for indigent care that are needed to compensate for the non-profit hospitals' inadequate provision of charity care.[1] Implementing AB 503 would be a first step in holding nonprofit hospitals accountable for the tremendous tax benefits they receive through their nonprofit status. CNA strongly believes that enacting AB 503 will ensure that that nonprofit hospitals are providing, and accurately reporting, the charity care and community benefits they provide, a benefit far exceeding any additional oversight costs to the Office of Statewide Health Planning and Development (OSHPD). AB 503 sets the implementation date to 2017, clarifies that OSPHD, would tally the value of charity care only once every two years (rather than annually) for each nonprofit hospital, and clarifies that multispecialty clinics operated by for-profit hospitals are not included in these reporting requirements.

According to the California Legislative Analyst's Office, there is currently no uniform definition of charity care in state or federal statutes.[2] Since the mid-1990s, state law has required private nonprofit hospitals in California to conduct a community needs assessment every three years and, in consultation with the community, develop a community benefit plan to be updated annually.[3] The law also requires these hospitals to annually submit a copy of their plan to OSHPD.[4] While the plan must assign economic values to the community benefits where possible, no standard methodology exists on which hospitals must base their calculations.[5] In addition, state law prohibits the use of a hospital's community benefit plan to justify its tax-

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[1] Benefiting from Charity Care: California Not-for-Profit Hospitals, Ver. 1.1, August 15, 2012, Institute for Health and Socio-Economic Policy.
[2] "2011 Initiative Analysis: Charity Care Act of 2012," California Legislative Analyst's Office, January 3, 2012, p. 2.
[3] Chapter 812, Statutes of 1994 (SB 697, Torres).
[4] Office of Statewide Health Planning and Development, "The Hospital Community Benefit Program," www.oshpd.ca.gov/HID/SubmitData/CommunityBenefit/.
[5] "Nonprofit Hospitals: Statute Prevents State Agencies From Considering Community Benefits When Granting Tax-Exempt Status, While the Effects of Purchases and Consolidations on Prices of Care Are Uncertain," California State Auditor, August 2012, p. 15.

exempt status.[6] OSHPD generally maintains these plans, but does not review them for consistency in reporting, nor does OSHPD have any authority to sanction hospitals that do not submit a plan.[7]

The need for AB 503 is paramount. In 2010, more than 7 million people in California lacked health insurance.[8] That's more than any other U.S. state. Yet, even with so many in need of healthcare, California's private, non-profit hospitals reaped $1.8 billion more in government subsidies and benefits from their tax exempt status than the estimated value of the charity care they provided.[9] Without a clear definition of charity care and a consistent methodology for determining its value along with uniform reporting requirements, abuse of the privilege of tax exemption will continue.

Many of California's giant non-profit hospital systems generate huge profits, in part by exploiting their tax exempt status at public expense. The goal of AB 503 is to end the questionable characterization of certain expenditures as charity care and community benefits. It will solve the problem of inconsistent accounting practices regarding charity care and create a standard definition that includes a refined definition of community benefits for private nonprofit hospitals. AB 503 defines charity care as:

- The unreimbursed cost to a nonprofit hospital, or nonprofit multispecialty clinic, of providing services to the uninsured and underinsured and financially supporting healthcare services or items to financially qualified patients with no expectation of payment on an inpatient or outpatient basis; and
- Community benefits that are demonstrated to reduce community healthcare costs.

Under the bill, community benefits would include vaccination programs for low-income families, school based health centers, chronic illness prevention programs and services, nursing and caregiver training provided without assessment of fees or tuition, home-based health care programs for low-income families, community-based mental health, outreach and assessment programs for low-income families and other qualifying health service programs for low-income families. Low-income families means individuals or families with income less than or equal to 350 percent of the federal poverty line.

AB 503 excludes the following from the definition of charity care: uncollected fees or accounts written off as bad debt; charges for care paid for by a public program or grant funding; contractual adjustments below the amount identified by the healthcare provider's "chargemaster" rates; any amount over 125 percent of the Medicare rate for providing funding, or otherwise supporting healthcare with no expectation of payment; and, the cost to a nonprofit hospital of paying taxes or other governmental assessment. Charity care may not include care provided to patients for which a public program or private grant funds any of the charges of the care.

Furthering the need for AB 503 is the fact that in 2010 half of California nonprofit hospitals provided a mere 2.46 percent or less of their operating expenses on charity care, well below the one time federal standard of 5 percent needed to maintain tax exempt status. Furthermore, nonprofits hospitals accumulated $4.5 billion in profits that same year, nearly half of it by two of California's largest chains Sutter Health and Kaiser Permanente.[10] The lack of charity care provided by these large nonprofits has a significant impact on many struggling California cities and counties. Add in the practice of many of these hospitals of cutting patient services they deem insufficiently profitable, especially mental health, women's, and children's care, while emphasizing more profitable enterprises like boutique surgery centers and lightly regulated outpatient clinics and the obvious conclusion is that more accountability and public oversight is sorely needed.

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[6] Ibid., p. 6.
[7] Ibid., p. 4.
[8] "Health Insurance Coverage Status and Type of Coverage by State--All Persons: 1999 to 2011," http://www.census.gov/hhes/www/hlthins/data/historical/files/hihistt4B.xls, accessed March 12, 2013
[9] Benefiting from Charity Care: California Not-for-Profit Hospitals, Ver. 1.1, August 15, 2012, Institute for Health and Socio-Economic Policy.
[10] Ibid

The understanding that nonprofits hospitals are not doing their fair share of charity care has received a significant amount of attention. *Time* magazine reported in February 2013 that "the 2,900 nonprofit hospitals across the country, which are exempt from income taxes, actually end up averaging higher operating profit margins than the 1,000 for-profit hospitals after the for-profits' income-tax obligations are deducted. In health care, being nonprofit produces more profit."[11] One way nonprofit hospitals generate such wealth is through abuse of their tax exempt status, partly by counting such dubious practices as marketing and cutting costs (meaning services, not executive salaries) as a supposed community benefit. AB 503 will fix this practice by setting clear guidelines on what is considered legitimate community benefits and by enforcing improved guidelines on transparent reporting of charity care through rigorous financial penalties for hospitals that fail to meet reporting requirements.

One of the major issues surrounding the lack of true charity care provided by nonprofit hospitals is that hospitals create their own "chargemaster," which is the document that lists the price of all things related to care in the hospital setting. AB 1627 (Frommer) established the Payers' Bill of Rights which requires certain hospitals to provide written or electronic copies of their chargemaster. Despite the requirement of disclosure, this did not stop hospitals from continuing to charge astronomical rates. The chargemaster is much higher than what insured individuals pay, but is typically used for the uninsured and underinsured. When insured patients receive care, their insurer negotiates on their behalf and settles the claim for much less than the chargemaster rate, but uninsured patients are often billed at the full price. These policies often make it so that the most financially vulnerable patients are charged the most. Additionally, hospitals often use aggressive bill collection methods, then exaggerate their bad debt and claim it is charity care.

The failure to adequately define charity care has created an unequal playing field in the hospital landscape. AB 503 seeks to ensure that nonprofit hospitals are fulfilling their mission by defining charity care for nonprofit hospitals and multispecialty clinics, refining what is considered "community benefits". CNA believes California's communities need these changes proposed in AB 503. We respectfully ask your "AYE" vote when AB 503 (Wieckowski/Bonta) comes before you in Senate Health Committee.

Sincerely,

Deanna Johnston
Legislative and Community Advocate

Cc: Assembly Member Wieckowski
Assembly Member Bonta
Members, Senate Health Committee
Consultant, Senate Health Committee

[11] Brill, Stephen. "Bitter Pill: Why Medical Bills Are Killing Us",
http://www.time.com/time/magazine/article/0,9171,2136864,00.html, accessed March 1, 2013.