

**MINUTES OF THE
PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE**
Thursday, September 22, 2005 – 9:00 a.m. – Room W135 House Building

Members Present:

Sen. Michael G. Waddoups, Senate Chair
Sen. Gene Davis
Sen. John W. “Bill” Hickman
Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Stephen D. Clark
Speaker Greg J. Curtis
Rep. Brad L. Dee
Rep. James A. Dunnigan
Rep. Patricia W. Jones
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart

Members Absent:

Rep. David Clark, House Chair
Sen. Peter C. Knudson
Rep. Jackie Biskupski

Staff Present:

Constance C. Steffen, Policy Analyst
Allison Morgan, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Patricia Owen, Associate General Counsel
Joy L. Miller, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.leg.utah.gov.

1. Task Force Business

Chair Waddoups called the meeting to order at 9:15 a.m. Rep. D. Clark was excused from the meeting.

MOTION: Sen. Hickman moved to approve the minutes of the September 8, 2005 meeting. The motion passed unanimously with Sen. Davis, Rep. S. Clark, and Rep. Lockhart absent for the vote.

2. Utah Tax Review Commission

Mr. Bruce Johnson, member, TRC (Tax Review Commission) and member STC (State Tax Commission), explained that SJR 6, which was passed in the 2002 General Session, directed the TRC to study tax exemptions for hospitals owned by a nonprofit entity. He discussed “Taxation of Hospitals in Utah: A Supplemental Report by the Utah Tax Revision Commission In Response to S.J.R. 6,” which was included in the mailing packet. TRC was asked to study the cost of the exemptions, purpose and effectiveness of the exemptions, whether they benefit the state, whether the exemptions result in unfair competitive advantage to their owners as compared to taxable entities, and whether the exempt entity should contribute to funding public or higher education, or both. TRC included in its study property, income, and sales tax exemptions.

Based on publicly available books and records of IHC (Intermountain Health Care Inc.), the benefit IHC received for these exemptions totaled approximately \$33.5 million in 2001. Charitable care provided by IHC was approximately \$37.6 million in that same year. IHC's reported total gift to the community, which includes charitable care, education programs, and other community benefit programs, amounted to \$70 million. TRC determined that under applicable laws and statutes as interpreted by the Utah Supreme Court, the exemptions are justified and it saw no compelling reason for restructuring them.

Mr. Johnson said the property tax exemption criteria applied to health care institutions are set out in guidelines promulgated by the STC several years ago and were upheld by the Utah Supreme Court in

litigation brought against IHC. He noted that since the property tax exemption is constitutional, the Legislature has relatively little latitude in defining the contours of that exemption. However, there is more latitude with income or sales tax exemptions.

Mr. Johnson said TRC spent a great deal of time trying to quantify the charitable care given by IHC versus the charitable care given by for profit hospitals, but TRC was never comfortable that it was comparing apples to apples. The problem is that for profit hospitals do not have to account for and track charitable care in the same manner as nonprofit hospitals.

Mr. Doug Hammer, IHC, said IHC has a well-established policy for providing charitable care at its hospitals. He discussed the six standards articulated by the STC and upheld by the Utah Supreme Court, which he asserted are the most exacting and precise exemption standards for nonprofit hospitals in the United States. He gave examples of where IHC has gone beyond its legal obligation for the tax exemption.

Rep. Lockhart asked to be provided a copy of the Supreme Court case which outlined the six standards referred to by Mr. Hammer. She also asked if IHC would work with the Task Force to draft a statutory definition of charity care. Mr. Hammer indicated they would be willing to work with the Task Force in that effort.

Sen. Madsen questioned how much money is raised by the various tax exempt nonprofit entities in IHC and what forms those contributions take. Mr. Hammer said one of the factors to obtain an exemption is to demonstrate the extent to which the organization is supported by donations and gifts. He said he did not have that figure but would provide it to the Task Force. He also pointed out that IHC considers the impact of donations on the organization and that is calculated as part of the gift to the community, but not part of charity care. In 2004 IHC's total gift to the community totaled \$323 million of which \$67 million was charity care, \$3 million was support for uninsured clinics, and \$3.7 million was for volunteer service.

Sen. Madsen requested that staff work with Mr. Johnson to develop a comprehensive list of recommendations that would help in lowering health care costs in the state.

Mr. Hammer discussed the differences between 501(c)(3) and 501(c)(4) organizations. They are both required to meet a community benefit test, but to qualify as a 501(c)(3) organization, a health care entity must operate an emergency room or be engaged in medical research. IHC Health Plans do not qualify as a 501(c)(3) but do meet the standards for a 501(c)(4), which requires a broader community benefit test. A 501(c)(4) organization is exempt from federal income taxes. He noted that IHC Health Plans pay property and sales taxes.

Mr. Johnson responded to questions from Chair Waddoups. Mr. Johnson indicated that TRC felt the questions regarding competition and market dominance were beyond its area of expertise and may be a business or insurance issue that should be addressed. He said TRC is studying methods to value hospitals to assure that the value of the property tax exemption for nonprofits hospitals is calculated properly. Mr. Johnson indicated there is some comfort that if a tax exemption is given to a charity, the exemption will pass through ultimately to the charitable beneficiaries. Alternatively, if an exemption is given to a for profit

entity, the benefit of the exemption may be passed through either to the patient or to the owner of the entity in the form of a larger dividend.

Chair Waddoups stated that other entities provide charitable care and questioned whether the tax exemption should be granted to them as well. He asked if the Task Force should also consider the charitable care provided by physicians. He raised the issue of the apparently excessive salaries within IHC and encouraged the STC to review IHC's 990 filing.

Chair Waddoups distributed "Combined Statements of Operations and Changes in Net Assets (Unaudited)" which compares the 6-month period ending June 30, 2003 with 2004. He referred to the excess of revenues over expenses listed. Mr. Johnson stated that the corporate tax rate is 5 percent of taxable income. The "net assets at end of period" as shown in the handout would appear to be the excess of assets over liabilities. In a for profit business, it would be shareholders' equity.

Mr. Hammer stated that under federal and state tax laws IHC or any other exempt entity can pay reasonable compensation to its employees or independent contractors. Reasonable compensation is determined by looking at the size and complexity of an organization, the job description, and scope of responsibility. IHC hires several national firms to conduct a geographic market analysis for its executive compensation committee. The compensation committee makes a determination in setting the salary ranges based on competitive salaries. IHC aims to pay its individuals at the median of the market.

Mr. Greg Poulsen, IHC, explained that the organizations against which it competes are almost all based outside the state. IHC has done comparisons with those executives. He stated that the income of the organization has nothing to do with the salaries. The complexity and scope of the organization have grown over the years.

Mr. Merrill Gappmeyer, IHC, asserted said that the citizens of the state would feel much worse about having poor quality health care than paying a 50th percentile salary to the chief officer of IHC.

Rep. Jones expressed concern with the number of families who are not insured. It highlights the importance of charity care.

Rep. Lockhart asked if bonding agencies are requiring nonprofit entities to have more profit and cash on hand than for profit entities. Mr. Poulsen stated that can be the case if an entity cannot make a compelling argument to the rating agencies about its ability to deliver on its mission. IHC has been able to show Standard & Poors and Moodys that it has a plan and works hard to meet the needs of the community.

3. Request for Proposals (RFP)

Chair Waddoups encouraged members of the task force to submit their recommendations for an RFP to staff as soon as possible.

Rep. Dunnigan noted that IHC is getting ready to allow non-IHC facilities and doctors to be included in the premier IHC network. He asked how much more expensive it will be for people to have access to

those doctors. He also asked what will be the reimbursement level to those non-IHC facilities that are now in an IHC network and how it compares to how IHC facilities are reimbursed under, not only that same plan, but also IHC Care and SelectMed. Mr. Paulsen stated that IHC will provide that information to the Task Force.

4. Other Items / Adjourn

MOTION: Sen. Hickman moved to schedule the next meeting of the Task Force on Monday, October 10 at 9:00 a.m.

SUBSTITUTE MOTION: Rep. Dunnigan moved to schedule the next meeting of the Task Force on Monday, October 10 at 1:00 p.m. The chair ruled the motion failed.

The Task Force voted on Sen. Hickman's motion which passed with Rep. Dunnigan voting in opposition.

MOTION: Rep. Dee moved to scheduled a meeting of the Task Force on Monday, October 24 at 1:00 p.m. The motion passed unanimously with Sen. Davis absent for the vote.

MOTION: Rep. S. Clark moved to adjourn the meeting. The motion passed unanimously.

Chair Waddoups adjourned the meeting at 12:20 p.m.