

Healthcare Department Partners

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Healthcare Update

March 18, 2010

UNGARETTI & HARRIS CONFERENCE ON THE IMPLICATIONS OF THE PROVENA DECISION

Today, the Illinois Supreme Court handed down its long-awaited opinion in *Provena Covenant Medical Center v. Department of Revenue*, upholding the Department of Revenue's denial of a property-tax exemption for Provena Covenant Medical Center. The decision raises questions about every not-for-profit hospital's and nursing home's property-tax exemption.

The actual holding is narrow and, with two Justices recusing themselves and two partially dissenting, the impact of *Provena* remains open to interpretation. The Department had decided that Provena Hospitals, the owner of the land on which the Provena Covenant Medical Center was located, was not an institution of public charity. Writing for the majority, Justice Karmeier found that the Department's decision was not clearly erroneous. The Court further found that the Department's decision to deny a religious use exemption was not clearly erroneous.

The Court reached no majority as to the issue of charitable use. Writing for a three judge plurality, however, Justice Karmeier (i) noted Provena's charitable care policy, but found that the hospital's lack of advertising of the policy was a barrier to those seeking charity, (ii) rejected bad debt and unreimbursed Medicare and Medicaid costs as counting toward charity, (iii) measured the benefit of the hospital's charity in lessening the burden on government against the amount of the tax benefit the hospital received, and (iv) found community benefit outside hospital property irrelevant to determining the charitable use of its property.

Provena raises numerous questions for other not-for-profit hospitals and healthcare facilities, including:

- Are the property tax exemptions of all Illinois hospitals now at risk?
- What is an "institute of public charity"?
- How does a charitable institution demonstrate adequate charitable use?
- What will trigger government review of a hospital's tax-exempt status?
- What steps can be taken to develop and implement your charity care policy in response to the decision?
- How should you respond to an attempted revocation of your property tax exemption?

Ungaretti & Harris will present a seminar addressing these and other questions related on **April 19, 2010** from 2:00 to 5:00 pm (*location to be announced*). Please plan to join us to find out more about what *Provena* means to you and your organization and how you can best protect its property tax exempt status.

For more information and to reserve your seat at this event, please visit www.uhlaw.com/charitycare2010 or contact Eileen Pfaff at 312.977.4391 or rsvp@uhlaw.com.

Ungaretti & Harris' Healthcare Department remains devoted to meeting the changing needs of the healthcare industry. Our firm of 100-plus lawyers devotes a substantial portion of its firm-wide practice to the legal needs of healthcare providers and other related clients.

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