Leadership Message

The Nonprofit Organizations Committee had a vibrant presence at the ABA annual meeting in Chicago. It was good to catch up with many regular meeting attendees and to welcome many new participants. We had a number of top notch CLE programs produced by the Committee either as primary sponsors or as co-sponsors: Concussion in Amateur Sports; Legal Risks and Options for Nonprofit Athletic and Recreational Organizations; One Foot in Front of the Other: Basics and Best Practices in Nonprofit Formation and Governance; and The Lawyers of Summer: Careers in Sports, Amusement and Recreation. As with all Business Law Section programming, the materials and audio recording of all of these programs are available free to all Section members on the Section website if you were unable to attend the meeting in person. If you are admitted in a jurisdiction that grants CLE credit for remote review of audio recorded CLE programs, you can order the audio recording for CLE purposes from the ABA bookstore.

At the Nonprofit Organizations Committee meeting, we were honored to be able to present two of our Nonprofit Lawyer Awards in person—the Young Nonprofit Lawyer Award to Emily Chan and the Vanguard Award to Victoria Bjorklund. Emily was one of the presenters at the CLE on Nonprofit Basics and Best Practices. Victoria discussed her background of involvement in the Exempt Organizations Committee of the Tax section and expressed hopes that the two committees would be able to work together in the future. The principal substantive speaker at the Committee meeting was our new Academic Advisor, Dana Brakman Reiser. She impressed the Committee with the seriousness of her scholarly commitment to the nonprofit sector and her willingness to help out with the Committee’s work.

After a long day of CLE, committee business, and non-CLE programming, committee members relaxed and enjoyed each other’s company at Armenian restaurant Sayat Nova. The restaurant provided a delicious meal and a friendly atmosphere for approximately 20 Committee members and guests at our committee dinner, always one of the highlights of a meeting. The concentrated agenda, with most Committee programs and activities clustered on Friday and Saturday morning, was a new format and seemed to work well. A number of other committees are moving in the same direction. It was an exhilarating meeting involving much sharing and learning and ideas for new programs and expanded networking opportunities. If you weren’t able to attend, please consider joining us at the Spring Meeting April 4-6, 2013, in Washington, DC.

Michael E. Malamut
Chair, Nonprofit Organizations Committee
series of "Advising the Board" articles intended to assist our members when advising board of directors of nonprofit organizations on different issues. We are also seeking articles on other substantive subjects. If you are interested in submitting an article, please contact:

- Megan Christensen at Christensen@blankrome.com or
- Cari Campbell at cari@campbell-legal.com or
- Matthew Wright at matthew@mgwrightlaw.com.

The Nonprofit Committee Needs You!

The Committee is in search of persons to fill the following positions. For more information or to volunteer to hold one of these positions, please contact Michael Malumut (michael@michaelmalamut.com):

1. Committee Secretary; and
2. Chair of the Trade and Professional Associations Subcommittee.

Annual Meeting, Chicago, IL - Concussion in Amateur Sports

By David Tang, Gowlings, Toronto, Ontario

Kimberly Lowe and Alan Goldberger spoke at and Janice Hugener's materials were presented at the Nonprofit Organizations Committee sponsored Continuing Legal Education Program entitled Concussion and Amateurs Sports: Legal Risks and Options for Non-Profit Athletic and Recreational Organizations during the ABA's annual meeting in Chicago, August 3, 2012. The program provided a review of the history of concussions and other head injuries in sports, including the surprising fact that these concerns are well over a hundred years old. Many states have passed concussion laws requiring the training of coaches, officials, parents and youth athletes on concussions, its signs, symptoms, behaviours and need for medical attention. These statues usually obligate coaches and officials to remove youth athletes from the activity if they exhibit concussion signs, symptoms or behaviours. There is also a requirement to keep these athletes from participating again in the sport until written permission is obtained from an appropriate health care professional. The application of these statues, including when the pre-condition of an activity fee being charged is met, was discussed.

While the legislation specifically provides that it does not create any new cause of legal action, the panelists were, after a discussion on the interplay between these laws and volunteer immunity laws, clear in their recommendation that organizations should comply and look to the best interests of the youth athletes. A vigourous exchange about the problems of advising amateur sports organizations and the danger of directors and parents downplaying the seriousness of concussions and the liability risk ensued. Use of policies and plans was highlighted, together with a review of case law. Utilizing Ms Hugener's materials, the panel then highlighted the appropriate use of insurance to mitigate risk and avoid doing so how to best obtain appropriate insurance.
Annual Meeting, Chicago, IL - Liaison/Director Reports

Pro Bono Committee Liaison/Director Report

The Pro Bono Committee presented a breakfast program highlighting transactional pro bono on Friday, August 3. The program included Latonia Haney Keith, Pro Bono Counsel at McDermott Will & Emery LLP; talking about coordinating pro bono activities at a large law firm; Jacob Steinfink, a Senior Counsel in the McDonald's U.S. Legal Department, discussing the efforts of an in-house counsel department to provide pro bono services in the Chicago area; and Joseph L. Stone, Director of the Business Law Clinic of Loyola University of Chicago Law School, who discussed how law students can assist nonprofits and small businesses in the clinical setting. The Pro Bono Committee sponsored the Nonprofit Basics and Best Practices CLE program that was co-sponsored by the Nonprofit Organizations Committee and presented by Emily Chen, Lisa Runquist, and Bill Boyd, all attorneys active in the Nonprofit Organizations Committee. The Pro Bono Committee announced the recipients of the 2012 Pro Bono Awards: Coca Cola Co.'s in-house legal division for work with Atlanta nonprofits and micro-entrepreneurs; Ropes & Gray LLP of Boston for pro bono assistance with the Lawyers Clearinghouse, nonprofits, and small businesses; and Andrea S. Kramer and Lisa Kaderabek of McDermott Will & Emery of Chicago for their work with The Women's Treatment Center.

Meetings Committee Liaison/Director Report

The Meetings Committee concentrated on practical issues involving meeting programming, particularly CLE programs. Details about how to co-sponsor programs and how (and to what extent) a speaker's expenses can be reimbursed were discussed. Committees were urged to maximize the footprint of their CLE programming. Pointers in creating exciting, original programming and motivating interest in topics were provided. It was suggested that Committees "market" their programming by contacting state and local bar associations in the area of a meeting to attract new members and ABA Section members who don't normally attend meetings. It was suggested to use a materials coordinator in addition to a program coordinator to reduce the workload on the program coordinator, allow younger members a chance to get involved, and as an opportunity to add diversity to presentations. Meeting planners were also reminded that program materials should adequately identify the presenter and the program, including program title, date, and location. The meeting also mentioned the ABA open meeting policy, allowing media access to all CLE programs, as a way to create excitement about ABA programming. The move of the Business Law Section to a governance only (no content) presence at the ABA annual meeting effective with the 2014 annual meeting was discussed. Starting in 2014, the Section will have a stand-alone meeting in the early fall to replace the Business Law programming involvement at the ABA annual meeting. The early fall 2014 meeting will be held in Chicago, but a date has not yet been determined.

Content Committee Liaison/Director Report

The Content Committee meeting emphasized the many different types of content geared towards different presentation styles and different learning styles and opportunities. Content is all the different forms of intellectual output of a committee, including CLE materials as well as articles and other publications. Content spans all areas of intellectual output of a committee, including materials covered by the Meetings Committee (meeting CLE content) and the Publications Committee. Content is a committee's most valued asset and recruitment tool. Weighing quantity versus quality in content production was raised as a concern. It was suggested that CLE program materials could be revised to serve in a number of different contexts, such as newsletter articles, Business Law Today articles, Business Lawyer articles, and teleconference webinars. ABA is trying to make content broadly available across silos. The key to providing good content is to delegate production and coordinate to avoid duplication. Pluses and minuses or electronic distribution and availability of content were discussed. The meeting smart phone app was mentioned and suggestions for improving the app were solicited. A major goal of the Content Committee is to create an easily searchable database of all forms of content, so that a member search for a topic only needs to look in one centralized location.
Annual Meeting, Chicago, IL - Religious Organizations Subcommittee

The Religious Organizations Subcommittee met on August 3, 2012 during the Annual Meeting in Chicago. The subcommittee discussed current legal issues related to nonprofit religious organizations, including whether the definition of a religious employer exempt from the Affordable Care Act's contraception requirement is too narrow, and whether religious organizations should use hybrid social beneficial entities (benefit corporations, flexible purpose corporations, L3Cs). The Religious Organizations Subcommittee will next meet during the BLS Spring Meeting in Washington, D.C. April 4-6, 2013.

Annual Meeting, Chicago, IL - One Foot in Front of the Other: Basics and Best Practices in Nonprofit Formation and Governance

The Committee sponsored a program at the ABA Annual Meeting in Chicago in August on basics and best practices in nonprofit formation and governance. The speakers were Lisa Runquist of Runquist & Associates, Northridge, California and Emily Chan of NEO Law Group, San Francisco. Bill Boyd of Nyemaster Goode, Des Moines, Iowa, served as the moderator. The program focused on basic concepts and best practices relating to nonprofit formation and governance, including identifying the organization's purpose and mission, choosing an appropriate legal entity, preparing governing documents, understanding tax-exemption issues, navigating federal and state requirements, and strategic approaches to board composition and governance. Materials from the presentations and a recording of the session are available here.

Featured Article: Advising Public Charity Boards on Lobbying Activities

By Emily Robertson, Robertson Law Office, LLC, Minneapolis, MN

The scope of lobbying activities that may be undertaken by a public charity is commonly misunderstood by organizations, their boards, and advisors. The potentially draconian penalty that may arise from exceeding lobbying limitations (loss of exemption) causes many to think that charities should not engage in any lobbying. The perceived absence of bright-line guidance from the IRS in this arena simply adds fuel to the argument that charities should avoid this activity. Lobbying is an appropriate and legitimate activity for a public charity to conduct. However, advisors do not have a "one size fits all" model that should be followed to guide organizations in their lobbying activities. It is up to the advisors to assist the organization to both determine the scope of activities that is most appropriate for their organization, and to understand the laws so that they may engage in lobbying activities to the maximum extent allowed by both the law and their own resources.

Understand the Culture

In order to determine how to guide an organization in its lobbying activities, the advisor should understand the culture within which the lobbying will be conducted. There are a few threshold questions that should be addressed, for the purpose of determining how much capacity the organization has to engage in lobbying activities. If an organization will be doing a significant amount of lobbying, is the organization aware of the limits on their activities and can it track those activities well enough so that it does not exceed its limits? Is the organization's leadership willing to push the limits of their lobbying activities, or are they risk averse? Will the organization's activities be of such a nature that it might run the risk of crossing the line into the realm of political campaign intervention? Advisors should be aware of the extent of the lobbying activities that an organization wants to conduct and how it plans to conduct it. Knowing your audience and gauging both the types of activities, and how much the leadership of the organization understands the rules, will go a long way to properly advising an organization as to how they can best conduct lobbying activities for their organization.

Address the Fear - c3s can lobby
Once the scope of the specific lobbying activities the organization intends to undertake has been determined, the organization and its advisors should discuss under which test it wishes to have its lobbying activities measured. A public charity’s lobbying activities are measured by the IRS under either the "no substantial part" test, or under §501(h).

The "no substantial part" test is the default test and is located in §501(c)(3) and its accompanying regulations. It sets out that a qualifying charity under §501(c)(3) is an organization "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h))." The regulations further specify that an organization is attempting to influence legislation if it: (a) contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (b) advocates the adoption or rejection of legislation. Legislation is understood to include an action by Congress, a State legislature, a local council or similar body, or by the public through a referendum, initiative, constitutional amendment or similar procedure. If an organization engages in attempts to influence legislation as more than an insubstantial part of its activities, it is regarded as an action organization and therefore fails the operational test under §501(c)(3).

The IRS’ use of the word "substantial" in the context of lobbying activities includes not only direct expenditures, but also time spent and other noncash resources expended, such as the use of volunteers. Various numbers have been suggested for what is meant by substantial. The court in *Seasongood v. Commissioner* determined that less than 5% of an organization’s activities being dedicated to legislative activities was insubstantial. However, a percentage test was rejected by the Tenth Circuit in *Christian Echoes National Ministry, Inc. v. United States*. The court stated that using “[a] percentage test to determine whether activities were substantial obscures the complexity of balancing the organization’s activities in relation to its objectives and circumstances.” The court went on to say that “[t]he political activities of an organization must be balanced in the context of the objectives and circumstances of the organization to determine whether a substantial part of its activities was to influence legislation.” In a context other than measuring lobbying, a court held that “[w]hether an activity is substantial is a facts-and-circumstances inquiry not always dependent upon time or expenditure percentages.” The critique of the "no substantial part" test has always been that it is too vague and does not provide a clear standard or bright line rule for organizations.

In contrast, the §501(h) election provides that organizations exempt under §501(c)(3) may elect to be governed by the bright-line limits established under §4911, rather than by the "no substantial part" test. However, only a public charity (vs. a private foundation) can elect under §501(h), and only if it is not: (1) a church, convention or association of churches, or integrated auxiliaries; (2) an organization that is described in 509(a)(3) and is a supporting organization to an organization that is not a charity; or (3) an organization engaged in testing for public safety.

If electing under §501(h), lobbying expenditures must be categorized as either direct lobbying or grassroots lobbying. Direct lobbying is defined "any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation." A communication to one of those individuals is direct lobbying if it mentions specific legislation and also express a view on that same legislation. Grassroots lobbying is defined as "any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof.” A communication to the public is grassroots lobbying if it involve a reference to specific legislation, reflects a view on that legislation, and encourages the recipient to take action on the legislation (a call to action).

Legislation is defined as "action by the Congress, any state legislature, any local council, or similar legislative body, or by the public in a referendum, ballot initiative, constitutional amendment, or similar procedure." Legislation is understood broadly to also include legislation in foreign governments. It is important to clarify that legislation in this context includes more than just bills that have been introduced, but instead as any sufficiently specific legislative proposal. It is not enough just to identify a problem that requires a legislative solution. It rises to the level of legislation (or specific legislation) when it articulates a solution to that identified problem. A call to action involves a communication that: is intended to encourage the recipient to contact a government official or employee for the purpose of influencing legislation; given the context information of the government...
The §501(h) election provides clarity through specific monetary limits on lobbying expenditures, as set out in §4911. Lobbying expenditures include money spent for the purpose of influencing legislation through direct and grassroots lobbying. The limitation on an organization's lobbying expenditures is their "lobbying nontaxable amount." The lobbying nontaxable amount for an organization is calculated based on a declining percentage of an organization's exempt purpose expenditures for the taxable year as follows: 20% of the first $500,000 in exempt purpose expenditures for the year, plus 15% of the second $500,000, plus 10% of the third $500,000, plus 5% of any additional expenditures. The lobbying nontaxable amount is capped at $1,000,000. As a result of the declining percentage scale, smaller charities are allowed to spend a greater proportion of their dollars towards influencing legislation than larger charities. Grassroots lobbying expenditures are limited to 25% of the lobbying nontaxable amount for the organization.

This amount is the grassroots nontaxable amount. Direct lobbying is not so limited and can be conducted to the extent of the organization's maximum lobbying nontaxable amount.

Instead of the potential loss of revocation that comes from exceeding limits under the "no substantial part" test, electing organizations that exceed either the lobbying nontaxable amount or the grassroots lobbying nontaxable amount are subject to a 25% excise tax on the greater of either the excess total lobbying expenditures or the excess grassroots lobbying expenditures. \[21\] If an organization normally makes either total lobbying or grassroots lobbying expenditures in excess of either the lobbying or grassroots ceilings amounts (in excess is understood to be at least 150% of those amounts as defined in §4911), it is only then the organization is subject to revocation of its exempt status for excess lobbying activities. The regulations use the term "base years" to clarify what is meant by "normally" and specify that expenditures are averaged over a four year period. \[22\] For example, consider a $501(c)(3) organization with a consistent lobbying nontaxable amount of $500,000, and which made total lobbying expenditures of $550,000 and grassroots lobbying expenditures of $200,000. The organization exceeded its lobbying nontaxable amount by $50,000, and its grassroots nontaxable amount by $75,000. The organization is liable for a 25% excise tax on the greater amount ($75,000). The organization would only jeopardize its tax-exempt status if, in the most recent four years, it had at least $3 million in total lobbying expenditures or $1.2 million in grassroots lobbying expenditures.

Unlike the "no substantial part" test, certain activities are exempt from the definition of influencing legislation under 501(h), and thus expenditures for these activities do not count against an organization's lobbying nontaxable amounts. An organization is not considered to be lobbying when it does any of the following: makes available the results of nonpartisan analysis, study, or research; provides technical advice or assistance to a governmental body as a result of a written request from that body; appears before or communicates with a legislative body with regard to an issue that may affect the organization's exempt status (also known as "self-defense" communications); and examines or discusses broad social, economic, and similar problems, even if they are or are likely to be the subject of legislation. Additionally, there is a special membership rule that provides that it is not lobbying when an organization communicates with its bona fide members, unless the communication involves direct encouragement for the members to contact their legislators or to encourage others to contact their legislators. In order to be considered a "bona fide member" of the organization, an individual must express a desire to be a member and pay at least nominal dues, contribute at least a minimal amount of time, or be in a class of members that are given "lifetime membership" under a reasonable standard. If an organization's members do not meet these standards, an organization is still able to count them as members if it can demonstrate to the IRS good reason for not meeting these standards and that the organization is not simply trying to sidestep the grassroots lobbying limitation. The most important aspect of the membership rule is that it allows an organization to treat as direct (rather than grassroots) lobbying, a communication to members urging the members to contact lawmakers in support of the organization's legislative position.
Which test is appropriate for a given organization is dependent on the specific activities and preferences of that organization. The definition of lobbying is more narrow under §501(h) than it is for nonelecting charities. A few examples of areas in which the two tests differ are: the use of volunteers to lobby; endorsing legislation but not spending money to promote the endorsement; and public commentary on legislation without a call to action. Electors under §501(h) are subject to revocation based on a four year average, while a nonelecting charity that fails the "no substantial part" test for even one tax year risks losing its status as a §501(c)(3) organization. For each year in which a non-electing charity exceeds its lobbying activities, the organization is subject to a 5% tax on the total amount of lobbying for that year, and an additional 5% tax may be imposed on organization managers who knowingly, willfully and without reasonable cause agreed to the expenditure. For charities electing under §501(h), the only penalty for a tax year in which they exceeded their limits is a 25% excise tax on the excess lobbying. If an organization wants clarity, the detailed regulations under §501(h) will provide greater certainty to it on many common questions. However, organizations with significant annual budgets may not benefit and be able to fully maximize their lobbying potential within the $1 million cap imposed by §501(h); the larger an organization's budget, the more lobbying they can engage in and still have it be considered an insubstantial part. Additionally, if an organization with a fairly large budget conducts mostly grassroots lobbying, it would likely be able to conduct much more than $250,000 (the maximum allowed under §501(h)) and still have that amount be insubstantial relative to the rest of its activities. Either test may generate significant recordkeeping requirements, depending on the organization and the manner in which it conducts its lobbying.

Avoid Campaign Intervention

Lobbying activities also often make organizations susceptible to running afoul of other restrictions on §501(c)(3) activities. An organization engaged in lobbying should be advised to avoid letting its activities cross over into the territory of political campaign intervention. Organizations exempt under §501(c)(3) may not "participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." Political campaign intervention is more than simply the obvious endorsement of a candidate. It includes statements (both written and verbal) as well as other actions by the organization which appear to favor one candidate over another. This is often a very fact specific inquiry. A few factors that may point to a communication rising to the level of a political campaign intervention are: one or more candidates for a given public office are mentioned in the communication; the statement expresses approval or disapproval for a candidate's position on an issue or actions taken with regard to that issue; whether the statement is made close to an election; and whether the organization has a history of making statements on that topic, independent of the timing of any election. Advisors should also alert clients as to the risks involved with working in coalitions with non-§501(c)(3) organizations that are not subject to the same rules as §501(c)(3)s. Engaging in public policy work in coalition with other organizations is an excellent way to leverage resources for the benefit of the charitable constituency, however organizations need to ensure that they can properly distance themselves from electioneering activities that might be attributed back to the §501(c)(3) organization.

Conclusion

Lobbying and advocacy activities may not be the best use of resources for every organization. However, public charities exist to serve a charitable constituency - generally understood to be underserved populations who do not have as loud of a voice in the legislative process. Public policy may be the way that an organization can provide the most significant assistance to the population it serves, and should not be avoided simply out of fear or lack of understanding on the part of the organization or its advisors.

[1] The scope of this article is limited to the federal tax issues associated with lobbying activities by public charities, and is merely an overview of the issues that may arise. Advisors should also be aware of local, state, and federal campaign finance laws that may apply.


7. *Id.* (citing Krohn v. United States, 246 F. Supp. 341 (D.Colo. 1965)).

8. *The Nationalist Movement v. Comm'r*, 102 T.C. 558, 592 (1994) (discussion of substantial with regard to whether the organization's noncharitable activities were substantial enough to prevent it from obtaining exempt status under §501(c)(3)).


10. I.R.C. § 501(h)(4)-(5)


18. Exempt purpose expenditures are amounts paid or incurred by the organization in carrying out its charitable purpose. I.R.C. § 4911(e)(1); Treas. Reg. § 56.4911-4(b) (further addresses what is considered an "exempt purpose expenditure"); Treas. Reg. § 56.4911-4(c) (addresses amounts that are not "exempt purpose expenditures").

19. I.R.C. § 4911(c)(1)-(2)

20. I.R.C. § 4911(c)(4)

21. I.R.C. § 4911(a)-(b); Treas. Reg. § 56.4911-1

22. I.R.C. § 501(h)(1)-(2)

23. IRC § 1.501(h)-3(c)(7)

24. I.R.C. § 4911(d)(2)(A)

25. I.R.C. § 4911(d)(2)(B)

26. I.R.C. § 4911(d)(2)(C)

27. Treas. Reg. §56.4911-2(c)(2)


30. I.R.C. § 4911(d)(3) Note that this paragraph specifies that if the members are encouraged to contact someone other than a lawmaker or another member, it is still grassroots lobbying.

31. IRC § 4912

32. IRC § 501(c)(3)

33. A great resource for beginning to tease out the areas in which the IRS might view an organization's activities as political campaign intervention is the IRS' Fact Sheet 2006-17.
The third edition of one of the Committee's best selling publications, *Guidebook for Directors of Nonprofit Organizations*, is now available for purchase. The Guidebook is a valuable reference book for directors and prospective directors of nonprofit corporations, from the smallest corporation that operates principally at a local or even neighborhood level, to the largest nonprofit corporation. Primarily written for the lay reader, it provides a description of general legal principles as they apply to nonprofit corporations and offers useful and practical suggestions and checklists. This book, a publication of the Nonprofit Organizations Committee, will assist directors of nonprofit corporations in performing their duties and providing an overall understanding of their role to the corporations they serve. The Guidebook is available through the ABA [here](http://apps.americanbar.org/buslaw/committees/CL580000pub/newsletter/201209/).

### National and State Updates

#### National Updates

*Megan A. Christensen, Blank Rome LLP, Washington, DC*

1. **Charitable Contributions to Domestic Disregarded Entities.**  
   On July 31, the IRS released [Notice 2012-52](http://www.irs.gov/irws/servlet/notice?NoticeID=2012-52), which provides guidance on deducting contributions to domestic single-member limited liability companies that are wholly owned by domestic charities and are disregarded entities. The guidance states that the IRS will treat a contribution to such an entity as a charitable contribution to a branch or division of the domestic charity parent, provided that all other requirements for deductibility under I.R.C. Section 170 are met.

2. **IRS Proposes Additional Requirements for Charitable Hospitals.**  
   On June 22, the IRS issued a [notice of proposed rulemaking](http://www.irs.gov/irws/servlet/notice?NoticeID=2012-52) regarding the requirements for charitable hospital organizations with respect to financial assistance policies or individuals who are, or may be, eligible for financial assistance. The proposed regulations address these requirements contained in I.R.C. Sections: 501(r)(4) regarding information that a hospital must include in its financial assistance policy, the methods to be used to widely publicize that policy, and what must be included in the hospital's emergency medical care policy; 501(r)(5) regarding how a hospital determines the maximum charges to individuals eligible for financial assistance for emergency or medically necessary care and charges to such an eligible individual who has not applied for financial assistance; and 501(r)(6) regarding what actions are considered "extraordinary collection actions" and "reasonable efforts" for determining eligibility for financial assistance.

### State Updates

1. **Pennsylvania**  
   Attorneys for The Second Mile submitted a petition in the Court of Common Pleas of Centre County in May to wind up and dissolve the 35-year-old nonprofit founded by Jerry Sandusky. The petition proposes to transfer programs and assets to Arrow Child & Family Ministries, a Houston-based charity, to fund programs in Pennsylvania for about one and half to two years. The charity will stay operative while investigations are underway into child abuse.

2. **New York**  
   New York Governor Andrew Cuomo proposed legislation in May to create a new law enforcement and oversight agency, the JusticeCenter for the Protection of People with Special Needs. The new agency will monitor people in state or private care who have developmental disabilities, mental illnesses, and other brain-related conditions. The legislation will also require greater disclosure for nonprofits that house publicly supported patients by requiring them to make abuse and neglect records public under New York's Freedom of Information Law.

3. **Illinois**  
   In May, the Legislature enacted SB 2194, setting specific standards for nonprofit hospitals seeking property and sales tax exemptions. In order to retain their tax exemption, the new law requires that nonprofit hospitals provide unreimbursed services to the poor or government entities in an amount at least equal to the property tax that would have been assessed on the hospital's property.

4. **Delaware**  
   Attorney General Beau Biden filed action on June 18 against the trustees of the Alfred I. duPont Testamentary Trust in state court of Florida, where the trust is managed. The suit alleges that the trustees have deviated significantly from duPont's original intent by not focusing the trust on activities in Delaware. The trust funds the Nemours Foundation, which operates one of the largest children's health care systems in the country.
5. California
   Attorney General Kamala Harris filed suit on August 9 to remove the officers and
directors of Help Hospitalized Veterans, a California based veterans' charity. The
suit alleges that the named officers and directors of the organization engaged in
self-dealing, paid excessive compensation and engaged in fraudulent fundraising,
along with other unlawful activities. The lawsuit seeks to recover more than $4.3
million in funds improperly diverted from the charity, and general and punitive
damages, restitution, and civil penalties.