

BAKER HEALTHCARE CONSULTING, INC.

SUITE 2000, BOX 82058
ONE AMERICAN SQUARE
INDIANAPOLIS, INDIANA
46282

SECRETARY OF THE S
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DALE E. BAKER
PRESIDENT

March 5, 2003

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510

Re: Untimely Filing of LD-2 for Year End 2002 Reports

Dear Secretary:

Baker Healthcare Consulting, Inc. is a very small firm with one full-time employee, Dale E. Baker, and one full-time leased employee, Karen K. Siders. Ms. Siders' father had surgery in January 2003 and died on Tuesday, February 25, 2003. Ms. Siders used the Family Medical Leave Act to be with her father and her family throughout this most difficult period.

As a result, normal secretarial activities were delayed and the reports were not filed to an oversight by Dale E. Baker.

We hope that we have not inconvenienced your office with this oversight. Our interest always been, is, and will continue to be, to fully comply with the Lobbying Disclosure Act of 1995 and its interpretation.

Sincerely,

BAKER HEALTHCARE CONSULTING, INC.



Dale E. Baker

Enclosures

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SECRETARY OF THE
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Clerk of the House of Representatives Legislative Resource Center B-106 Cannon Building Washington, DC 20515	Secretary of the Senate Office of Public Records 232 Hart Building Washington, DC 20510
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LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required To Complete This Page

1. Registrant Name
BAKER Healthcare Consulting, Inc.

2. Address Check if different than previously reported
One American Square, Suite 2000, Box 82058

3. Principal Place of Business (if different from line 2)
City: INDIANAPOLIS State/Zip (or Country) IN 46282

4. Contact Name <u>Dale E. BAKER</u>	Telephone <u>317-631-3613</u>	E-mail (optional) <u>BAKER Healthcare@YAHOO.COM</u>	5. Senate ID # <u>5164</u>
7. Client Name <input type="checkbox"/> Self <u>University of St. Francis</u>			6. House ID # <u>3356</u>

TYPE OF REPORT 8. Year 2002 Midyear (January 1-June 30) OR Year End (July 1-Dec)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report ⇒ Termination Date 1/2003

11. No Lobbying

INCOME OR EXPENSES - Complete Either Line 12 OR Line 13

<p>12. Lobbying Firms</p> <p>INCOME relating to lobbying activities for this reporting period was:</p> <p>Less than \$10,000 <input checked="" type="checkbox"/></p> <p>\$10,000 or more <input type="checkbox"/> ⇒ \$ _____ Income (nearest \$20,000)</p> <p>Provide a good faith estimate, rounded to the nearest \$20,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).</p>	<p>13. Organizations</p> <p>EXPENSES relating to lobbying activities for this reporting period were:</p> <p>Less than \$10,000 <input type="checkbox"/></p> <p>\$10,000 or more <input type="checkbox"/> ⇒ \$ _____ Expenses (nearest \$20,000)</p> <p>14. REPORTING METHOD. Check box to indicate accounting method. See instructions for description of</p> <p><input type="checkbox"/> Method A. Reporting amounts using LDA definition</p> <p><input type="checkbox"/> Method B. Reporting amounts under section 603 Internal Revenue Code</p> <p><input type="checkbox"/> Method C. Reporting amounts under section 162 Internal Revenue Code</p>
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Signature Dale E. Baker

Printed Name and Title Dale E. Baker, President

LD-2 (REV. 6/98)

P

Registrant Name Baker Healthcare Consulting Client Name University of St. Francis

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code information as requested. Attach additional page(s) as needed.

15. General issue area code MMM (one per page)

16. Specific lobbying issues

See Attached

17. House(s) of Congress and Federal agencies contacted

Check if None

Senate

House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
<u>DALE E. BAKER</u>	

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

None

Signature W. C. Wain Date March 6, 2

Printed Name and Title Dale E. BAKER

Form LD-2 (Rev 6/98)

Page

Registrant Name BAKER Healthcare Consulting Client Name University of St. Francis

Information Update Page - Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City

State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name	Address	Principal Place of Bu (city and state or cc

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Name	Address	Principal place of business (city and state or country)	Amount of contribution for lobbying activities

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant or affiliated organization

Signature Dale E. Baker

Date March 6, 202

Printed Name and Title DALE E. BAKER, President

A. Hatcher

PROVENA ST. JOSEPH MEDICAL CENTER (PROVIDER NO. 14-0007)**UNIVERSITY OF ST. FRANCIS****Joliet, Illinois****NURSING EDUCATION ISSUE****BACKGROUND**

Nursing education costs have long been a contentious issue for the Centers for Medicare & Medicaid Services (CMS). These costs, along with other allied health education and graduate medical education costs have been the subject of numerous regulations, changes in the law, Provider Reimbursement Review Board cases and subsequent lawsuits. CMS has always tried to draw a balance to pay for only the costs that hospitals have historically incurred in training the above types of needed medical professionals. Obviously, if CMS defined these rules too loosely, arrangements would shift from public financing of these costs (generally through educational institutions) to hospital programs in order to obtain the Medicare funding. On the other hand, Congress, and the courts have continuously instructed CMS to pay for these educational costs that the hospital had historically borne these costs to insure an adequate supply of medical professionals to the communities, which rely on the hospitals (or a collaborative arrangement with a university) for these needed educational programs.

HISTORICAL MEDICARE POLICY

The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) and 1990 (OBRA 90) gave CMS specific instructions to continue to pay the costs of nursing education and other similar allied health educational programs. In 1992, CMS issued a proposed rule that provided very specific standards so that the costs of a collaborative nursing program (a program that is jointly administered by a hospital and a related educational institution) could continue to be reimbursed on a pass through cost basis for both classroom and clinical costs. The preliminary rule established certain tests for the continued payment of these costs as follows:

1. The hospital incurs at least 50% of the net costs (after deducting tuition).
2. There are four common board members.
3. All instruction is provided at the hospital.
4. The preceding criteria have been met continuously as of June 15, 1989 and continuously thereafter.

Provena St. Joseph Hospital and the University of St. Francis, both located in Joliet, Illinois carefully studied this proposed regulation and crafted agreements that would meet the Medicare standards and insure continued pass through of costs applicable to the nursing programs. Through the year ended June 30, 2001, Medicare has consistently treated these costs (both clinical and classroom) as pass through costs for Medicare program purposes, resulting in approximately \$500,000 per year of added Medicare payment.

On January 12, 2001, over ten years after the passage of OBRA 89 and 1990, in the waning of the last administration, CMS, in a rush to complete unfinished business, published a final rule which will be applicable to Provena St. Joseph Medical Center's fiscal year which began July 1, 2001 and ends June 30, 2002. **The new rule requires the hospital to maintain direct curriculum control of the program and control the administration of the education program on a day to day basis in order to obtain Medicare pass through treatment for classroom costs in a collaborative program. Based on the final regulations, the hospital's legal counsel has indicated that the hospital is no longer eligible for the Medicare pass through treatments for the classroom portion of these payments.**

DISCUSSION

We have discussed the final regulations with Rebecca Hirshorn, of CMS (area code 410-771-3411). Rebecca is listed as the contact person for further information on these rules listed in the January 12, 2001 Federal Register, which is attached. Per Rebecca, the final regulations, which will have the impact of denying pass through payments to Provena St. Joseph, had a very significant impact on the approximately 700 hospitals throughout the country who received Medicare pass through treatment for allied education costs. Based on our discussions with Rebecca, only a handful of hospitals would lose payment under these rules.

IMPLICATIONS

With the letter from legal counsel stating that these classroom costs are no longer eligible for pass through payment by the Medicare program, the hospital has little choice but to either disallow these costs on the Medicare cost report scheduled to be filed in November 2002, or include them simply to preserve appeal rights to the Provider Reimbursement Review Board after giving appropriate disclosure thus avoiding any indication of an inappropriate filing with the Medicare program. It is clear that under the new regulation these classroom costs are no longer eligible for pass through treatment.

REQUESTED SOLUTION

We believe that the January 12, 2001 CMS Federal Register establishes a standard that is tighter than what Congress intended in restricting payment to cases where the hospital historically borne these costs. There are important programmatic advantages to nursing programs and hospitals to have the active involvement of a university involved in day-to-day curriculum and administration of the four-year degreed baccalaureate program. The interpretation by CMS to deny the classroom costs in this collaborative arrangement results in the disallowance of these costs. We believe that the hospital should be allowed to continue to pay. We believe that the

which we believe Congress intended Medicare to cover

disallowance of Provena St. Joseph's classroom costs are an "unintended side effect" of an otherwise workable regulation. We believe that Congress clearly intended to continue Medicare payment to pay for these costs of collaborative arrangement between a hospital and university that are related parties under Medicare payment principles. There are three possible solutions to Provena St. Joseph's issues as follows:

1. **APPEAL TO COURTS.** File (with full disclosure) to include these costs in Medicare cost report, obtain an audit adjustment from the fiscal intermediary, appeal this issue to the Provider Reimbursement Review Board (which is bound by these regulations) and subsequently to the courts. This solution would take years to implement and would be a very expensive solution to the hospital and university. It is not a practical alternative.
2. **REGULATION CHANGE.** CMS might clarify the existing regulations by grandfathering any hospitals that met the conditions outlined in the 1992 Federal Register (57 CFR 43659) or (2) by retroactively changing the standards to meet the four criteria included in the 1992 proposed regulations. For either of the solutions CMS would need to be consulted to determine whether they would consider such a retroactive interpretation to be applied to Provena St. Joseph for the fiscal year beginning July 1, 2001, or whether they would agree to any regulatory change.
3. **STATUTORY CHANGE.** Two statutory solutions are possible (1) either grandfather hospitals paid under the 1992 provisions, or (2) "rifle shot" solution that would simply deem the Provena St. Joseph/University of St. Francis collaborative arrangement a hospital based program that would allow Medicare to continue paying clinical and classroom costs as the program has historically

