



QUARTERLY

WINTER

A COMPARISON OF HOSPITAL SURVEYERS IN NEW YORK STATE

1974

SUMMARY

The New York State Health Department (NYSHD) is required by Public Health Law to inspect hospitals. For the past two years, NYSHD has not fully complied with Article 28 which requires complete hospital inspections every two years before an operating certificate is issued to a hospital. The failure of the NYSHD to meet its mandated legislative responsibility places in jeopardy the life and safety of hospital patients in this state.

Until last September, the City Health Department had the power to inspect proprietary hospitals in New York City. The State took over the City inspections of proprietary hospitals in New York City, at the same time it was turning over its legal responsibility to inspect all hospitals in the State to the Joint Commission on Accreditation of Hospitals.

Recently, the State Health Department revised its policy on the inspection of hospitals to permit Regional Health Directors or County Health Commissioners to accept inspection reports from the private-provider controlled Joint Commission on Accreditation of Hospitals, without sending out the State's own inspection teams to survey hospitals. This action appears to be a serious abrogation of responsibility and violates the intent of the State Legislature which gave the State Health Commissioner the power to inspect hospital facilities in the State.

Responsibility to see that hospitals do not jeopardize the life and safety of patients is the legal responsibility of the State Health Department. Most hospitals receive more than 90% of their support from public funds and Blue Cross. Public fundings requires public accountability which cannot legally be turned over to an outside non-governmental agency, like the Joint Commission on Accreditation of Hospitals.

Consumers are not as concerned about which health department performs hospital surveys, as long as one of them does it well and makes the results public.

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Government agencies are facing credibility problems because of their failure to meet mandated legal responsibilities to protect the public. Health consumers are raising questions about hospital

performance and the lack of satisfactory quality controls. Health care buyers want to know who is monitoring hospital services, facilities, buildings, equipment and staff. Consumers want to know that hospitals are meeting acceptable standards.

In New York, the State Health Commissioner is legally responsible to watch over hospital performance. Chapter 795 of the New York State Public Health Law gives the Commissioner " ... power to enquire into the operations of hospitals and to conduct periodic inspections of facilities with respect to the fitness and adequacy of the premises, equipment, personnel ... standards of care ..."

Article 28 of the State Public Health Law requires the Commissioner to perform surveys before an operating certificate is issued to a hospital. Public Health Law § 2803 is the statutory authority for Chapter V, Part 701 of the State Hospital Code which details the procedure that all hospitals must follow to obtain or renew an operating certificate. Without an operating certificate, which is issued for a period up to two years, a hospital cannot legally open or remain in operation.

The State Health Department also performs for the federal government (under contract) a review of the Utilization Review Committee in each hospital. Utilization Review Committees are required at hospitals to review the appropriateness of care given to Medicare patients. These reviews are not full Article 28 surveys.

Until September, 1973, the City Health Department had the legal power to make full inspections of proprietary (for profit) hospitals in New York City. City administrative procedures required each proprietary hospital to be inspected at least four times each year. Effective last September 1, a new State law prevented the City from continuing its survey program. This act made the State Health Department responsible for the inspection of proprietary hospitals in the City. Prior to passage of this new State law, the State Health Department indicated its willingness and ability to perform additional surveys in the City.

In October, 1973 the State Health Department sent 27 three member inspection teams to proprietary hospitals (and nursing homes) in New York City to perform limited spot surveys of these institutions. The survey teams had less than the usual number of staff. Verbal follow-up replaced the customary enforcement letter listing deficiencies and violations of codes and request for a written timetable for corrections. The State has failed to perform full Article 28 surveys despite the fact that the temporary operating certificates issued last September are due to expire January 31, 1974.

The Joint Commission on Accreditation of Hospitals referred to as the JCAH, also surveys hospitals. The JCAH is a Chicago based non-profit private agency controlled by the American Medical Association, American Hospital Association, the College of Surgeons,

and the College of Physicians. Accreditation by the JCAH is voluntary and is considered to be an educational program to improve hospital performance. The JCAH does not directly review the quality of hospital care, but instead reviews hospital policies, administrative, board and medical committees minutes and procedures. The Preamble of the JCAH Manual for Hospitals states "The new standards are free of all direct demands upon the physicians' clinical judgement and decision. Current standards relate entirely to the supporting elements of hospital life and the environment of medical practice." Hospitals accredited by the JCAH are eligible to participate in the Medicare program.

Non-JCAH accredited hospitals can also participate in the Medicare program by being certified by a federally approved health agency. In New York State the approved certifying agency is the State Health Department.

P.L. 92-603 of the Social Security Amendments of 1972 authorizes the Secretary of Health, Education and Welfare (HEW) to make surveys, either on a selective basis, or on the basis of substantial complaint. Even if a hospital has been surveyed and accredited by the JCAH, it may be surveyed again by the Secretary. The standards of the HEW Conditions of Participation in the Medicare program will be used in HEW validation surveys. If significant deficiencies in any hospital are found to be detrimental to the "health and safety" of patients, the Secretary may consider the hospital ineligible for participation in the Medicare program and, therefore, ineligible to receive Medicare money, notwithstanding JCAH accreditation. The Secretary will communicate his actions and decisions to the JCAH. It can be anticipated that the Federal government will ask the State Health Department to do validation surveys for HEW.

Table I compares the characteristics of City, State and JCAH surveys.

A comparison of State Health Department and JCAH survey characteristics shows that the survey member days per two years are 15 to 25 and 4 to 9 days respectively. The State survey teams have more members bringing a greater diversity of professional skills to the survey than JCAH. The amount of time and range of skills are key factors in the final results of surveys made by these surveying organizations.

In Table II are excerpts of final survey reports made to hospitals by the Health Departments and JCAH. These representative samples show the types of deficiencies found in hospitals and the type of follow-up made by each surveying organization.

Recently, State Health Department staff compared the State Hospital Code with current JCAH standards to identify and eliminate duplication in hospital survey efforts. Health Department officials concluded that the Code and JCAH Standards were generally consistent and comparable. Despite these claims by the State, there are now major inconsistencies in the Code and Standards and both documents are subject to change.

A new State Health Department policy based on the "general consistent and comparable" analysis now permits hospitals to seek a waiver of the full Article 28 Survey from the Regional Health Directors or County Health Commissioners based on JCAH survey reports. The waiver when granted can be full or partial, as determined by the State Health Department. This policy was widely publicized in an official Department memo to all hospitals just one month prior to the transfer of jurisdiction over proprietary hospitals in New York City from the City Health Department to the State.

For about two years, the State Health Department has failed to perform full Article 28 Surveys of hospitals as required by law. This abrogation of legal and moral responsibility to inspect hospital facilities, staff, equipment and services is producing a life-threatening situation to every hospital patient in New York State.

TABLE I

COMPARISON OF SURVEY CHARACTERISTICS OF THE STATE AND CITY HEALTH DEPARTMENTS, AND JOINT COMMISSION ON ACCREDITATION OF HOSPITALS (JCAH).

CHARACTERISTIC	HEALTH DEPARTMENT		JOINT COMMISSION ON ACCREDITATION OF HOSPITALS
	State	City*	
Basis for Survey	Article 28 PHL-§ 2803 Chapter 795	none at present	Voluntary-hospitals can use JCAH accreditation to become eligible for Medicare program.
Maximum Interval Between Surveys	2 Years	3 months	Two years hospital performs self-evaluation in intervening year.
Survey Team	Usually 5-Sometimes more. Members include public health physician, environment, nutrition, nursing, pharmacy and hospital administration consultants.	one**	Two to three members include physician, nurse and hospital administrator.
Survey Time (in days)	3-5	1 1/2 - 2	Two usually, sometimes three.
Survey Time (Survey Member days per two years)	15-25	12-16 (minimum) 36-48 (maximum)	4 - 9
Survey Results	Areas of deficiency are listed according to State (City) Hospital Code. Summary statement of each hospital department also included.		Letter states accreditation status and areas of recommendation listing priorities.
Follow-up	Request hospital in writing to advise department within 30 days of plans to correct deficiencies with timetable for correction.		Hospital asked to do self-evaluation during intervening years between surveys and send reports to JCAH on self-evaluation.

TABLE I (continued)

CHARACTERISTIC	HEALTH DEPARTMENT		JOINT COMMISSION ON ACCREDITATION OF HOSPITALS
	State	City*	
Public Disclosure of Results	None Results sometimes released to concerned individuals upon approval of Commissioner	None	Considered confidential. Hospital may release results.
Importance to Hospital	Retain or receive operating certificate without which institution may not be opened or remain in operation.	Eligible to participate in Medicare and maintain approved internship and residency training program. Good public relations to state that institution meets minimum standards.	
Arrangements for Survey With Hospital	State gives hospital advance notice of pending survey & dates.	City did not give notice or set specific dates	JCAH gives hospital at least six week notice.
Usual Hospital Contacts During Survey	Surveyors meet hospital policy-makers and directors of service. Surveyors review charts and minutes of committees & board.	Surveyors meet on duty staff on patient floors & review charts.	Surveyors meet hospital policy-makers and directors of service and review committee minutes and board.

* Effective September 1, 1973 the City discontinued its hospital survey program. This function was transferred to the State Health Department.

** City Surveyors also included consultants in medicine, nursing, nutrition, etc. as needed and requested by the regular surveyor. At the time that the City Health Department lost its home-rule legal base to perform surveys of proprietary hospitals (and nursing homes) a team approach was under consideration for implementation.

TABLE II

EXCERPTS OF STATE AND CITY HEALTH DEPARTMENT AND JCAH SURVEY REPORTS.

New York State Survey Report (circa 1970) of a Voluntary Hospital In the Bronx.

"Variances to the required standards are listed below. It is requested that this office (State Health Department) be advised, within 30 days, of your plans for correcting these discrepancies. Your response should include a timetable for accomplishment."

"Ether is being improperly stored in unvented cabinets in the surgical suite."

"Dead-end corridors over 30 feet are present in this institution."

"The record storage area adjacent to the boiler room is not sprinkled, as required by the State Hospital Code."

"Radiators throughout the institution are unshielded and present a burn and trauma hazard."

"Patient solariums have been converted to patient sleeping rooms. These rooms do not have laboratories and toilet rooms as required."

"Lighting appeared poor in several areas of the institution. Most notably, lighting in the labor rooms is in need of immediate upgrading."

"Purchasing is decentralized" "There is little evidence of the purchase orders carrying price quotations being reviewed by the controller prior to payment."

"This facility does not identify nor maintain a department of social services as such,..."

"The adequacy of technical coverage should be re-evaluated. Delay in completing laboratory tests on admission to the hospital was observed in several medical records reviewed."

New York City Survey Report (circa 1973) of A Proprietary Hospital In Brooklyn.

"We have not received a reply to the previous letter of deficiency dated June 4, 1973. We would appreciate a reply to this letter by August 3, 1973 and please outline the action to be taken to correct these deficiencies."

"Accreditation was denied by the Joint Commission on Accreditation of Hospitals. This Department (of Health) was not notified of the change as required by the (City Hospital) Code."

TABLE II (continued)

"Fire Department deficiencies have been outstanding since May 22, 1968."

"Deficiencies from the Bureau of Sanitary Review have been outstanding in the files of this Department since September 28, 1972."

"A review of records indicated that electrocardiographs were not interpreted by a qualified internist from June 30, 1973 until July 11, 1973."

"A spot check of the medical records of several post-operative patients indicated that the signed surgical consent forms did not reveal the surgical procedure that was anticipated."

Joint Commission on Accreditation of Hospitals Survey Report (circa 1973) of a Government Operated Hospital on Long Island.

JCAH makes a survey every two years. During intervening years, the hospital does a self-run survey and makes a report to JCAH. Recommendation and suggestions are listed with priority numbers ranging from 1-9. Higher numbers indicate greater priority for implementation.

- 9 "All recommendations from the medical staff to the governing body for initial appointments must be accompanied by clear delineation of clinical privileges."
- 4 "Auxiliary and clerical coverage of the emergency service should be adequate to provide 24-hour service."
- 9 "The medical staff must develop clinical criteria for use in medical care evaluation in each clinical report."
- 4 "Laboratory findings should be reported promptly to the patient care unit."
- 6 "All entries in the medical record must be legible."
- 4 "The physical facilities for care of psychiatric patients should be adequate in terms of comfort, safety, security and the enhancement of emotional well-being."
- 6 "Arrangements should be made for interpreters to be present, or for the utilization of other mechanisms to ensure adequate communication between patients and outpatient service personnel."
- 6 "There should be effective provisions for privacy and confidentiality in the outpatient services area."
- 6 "Physical facilities for outpatient care should be adequate in relation to the volume of outpatient visits."