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Social Security makes public deficiency letters sent by JCAH

A New York consumer group has won the first round in its fight to open Joint Commission on Accreditation of Hospitals survey data to the public. In response to the group's request, the Social Security Administration, April 25, released copies of deficiency letters sent by JCAH to 105 hospitals that were later subjected to validation studies by SSA (AMN, April 7, 1975).

Copies of the deficiency letters had been submitted to SSA by JCAH as part of the validation process. (Under the Social Security Act, hospitals accredited by JCAH are "deemed certified" as qualifying to receive Medicare and Medicaid funds. The 1972 amendments to that act require SSA to resurvey a sample of accredited hospitals to make sure they do, in fact, measure up to federal standards.)

JCAH DIRECTOR John Porterfield, MD, reacted angrily upon learning of release of the deficiency letters. "We consider this to be a violation of confidence and are preparing a formal protest to SSA. We also have stopped releasing any more confidential information to SSA," Dr. Porterfield said. JCAH has notified the 105 hospitals of the SSA action.

A spokesman for JCAH adds the organization is considering legal action to stop further release of deficiency letters by SSA.

Stanley Rosenfeld, director of the hospitals section for the U.S. Bureau of Health Insurance—a division of SSA—says SSA lawyers authorized release of the letters based on the U.S. Freedom of Information Act (FOI), which opens most federal documents to public inspection.

The JCAH had thought it was exempt from FOI requirements by a clause in the SSA amendments that "authorizes the JCAH to release to the Secretary (on a confidential basis) . . . a copy of the most current accreditation survey" of any hospital subject to an SSA validation study.

Not so, ruled SSA lawyers. The examination applies only to complete JCAH reports, including surveyor work sheets, report forms, and questionnaires returned by the hospitals to JCAH.

JCAH has steadfastly refused to release the working papers to SSA, though considerable pressure has been brought upon it to do so. Rosenfeld says SSA lawyers agreed that if the deficiency letters and the working papers had been submitted to SSA, the whole package would have qualified as confidential. In that case, SSA lawyers said, they could have fought the consumer request.

THE GROUP, Consumer Commission on the Accreditation of Health Services, Inc., is attempting to have all JCAH deficiency letters made public.

Donald Rubin, president of the group, says, "In New York City, 50% of hospital patients are covered by federal programs. The hospitals are getting federal money on the basis of JCAH deemed status. Why shouldn't the consumer get to look at the deficiency letters?"

Rubin says the group has serious questions about the validity of JCAH inspection procedures and has branded its deficiency letters a "whitewash."

"Just compare an SSA inspection with a JCAH survey. One is a real inspection. The other is a slap on the wrist," Rubin says.

He adds, "We will publish an article soon urging that all hospital inspections be under the auspices of the federal government. JCAH should do what it says it does best—helping hospitals to improve themselves. But we object to the federal government dispensing federal tax money on the say-so of a private agency that keeps its records secret."