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Hospitals Lax on Conflict-of-Interest Data

By DAVID BIRD

A year and a half after the city asked 87 voluntary hospitals to certify that neither they nor their directors were involved in conflicts of interest, half of the hospitals and even more of the directors have not responded.

No charges have been brought against any hospital for failing to comply with the request for a signed statement. Even where hospitals receiving city aid reported cases that Comptroller Harrison J. Goldin's legal staff considered clear violations of the city's conflict-of-interest rule, no action was taken.

The problem arises because many voluntary, or nonprofit, private hospitals may have potential conflicts because they do business—ranging from buying pharmaceuticals to hiring legal counsel—with companies with which members of their boards of directors are associated.

Almost all of these hospitals are heavily dependent on city and other governmental funds. But while city regulations forbid such conflicts of interest, those regulations have never been enforced.

In 1974, after publicity about conflicts of interest at the Community Hospital of Brooklyn, Comptroller Goldin moved to enforce the regulation on such conflicts, noting that contributions by the city to the voluntary hospitals "run into the hundreds of millions of dollars."

At the Community Hospital, it was disclosed early in 1974 by Assemblyman Andrew J. Stein's Temporary State Commission on Living Costs and the Economy, one trustee had been awarded a $300,000 construction contract that eventually cost the hospital $673,000, another trustee collected $38,472 worth of insurance premiums, two others billed for legal services and another collected $4,000 for electrical supplies.

Spurred on by the Community Hospital case, the Comptroller's office on May 28, 1974, sent out letters to the 87 voluntary hospitals.

Board Members Warned

The letters said that under Rule 9 of the Terms and Conditions Governing Payments to Charitable Institutions, which has been in effect since it was adopted by the city in 1909, no member of a hospital board could be a member of a company that was paid for providing services or merchandise to the hospital.

At the time, the Comptroller warned that any board member who received compensation from a hospital for goods or services "would either have to resign or give up his business dealings with the hospital."

Mr. Goldin added that any hospital that did not comply could be cut off from city funds.

"We finally got responses from about 50 percent of the hospitals," William L. Wood, the general counsel to the Comptroller, said the other day during an interview. "But if you talk about answering on every one of their trustees the percentage is considerably less. From very few hospitals did we get a response from each trustee."

Asked about the level of response, a spokesman for Mr. Goldin's office said, "I guess a lot of them [the hospitals] went to their lawyers who told them, 'You don't have to answer this and if the Comptroller has a case let him go to court.'"

Pressed on why no action was taken, Mr. Goldin's spokesman said his office had been preoccupied with the city's fiscal crisis. Plans are now being made to write letters to those hospitals where there are obvious conflicts of interest.

The Only Penalty

But there is a question of what action the Comptroller can take.

Paul O'Brien, the assistant to the Comptroller for public affairs, said there was difficulty in levying penalties because the only penalty was withholding money from the hospital.

"It's a little like having the atom bomb or the hydrogen bomb — you don't use it very easily," Mr. O'Brien said. "Imagine us being responsible for closing hospitals and putting patients out in the street. The hospitals know how to call the TV stations."

Some hospitals asked for guidance from the Comptroller on whether their actions were in conflict with Rule 9.

The Church and Charity Foundation of Long Island, for example, which operates hospitals and other institutions in Brooklyn and on Long Island, wrote asking if it could negotiate a loan with a bank that was headed by one of its trustees.

The foundation wanted to acquire the Hempstead (L.I.) Hospital and Hempstead Park Nursing Home and it planned to get a loan from the Lincoln Savings Bank, of which Covington Hardee is chairman and chief executive officer. But Mr. Hardee also is a member of the board of managers of the Church Charity Foundation.

Comptroller Goldin replied flatly last Nov. 28 in a letter to the foundation that "participation by Lincoln Savings Bank would constitute a prima facie violation of the rule."

Some hospitals simply replied that they would continue doing business the way they felt best no matter what Rule 9 said.

In returning the Brooklyn Hospital's declaration certifying no conflicts of interest, Robert Markowitz, the hospital's executive director said:

"Please be advised that as an exception to the above declaration, the Brooklyn Hospital has, in past years, entered into contracts with Dooley Electric Company Inc. under circumstances which indicated to us that Dooley Eectric Company Inc. was in the best position, if not the only position, to fulfill such contracts at a cost considerably below that which was available elsewhere in the marketplace."

In an interview, Mr. Markowitz said that the possible conflict arose because John Dooley, head of the company, was a trustee of the hospital.

"We try not to use trustees," Mr. Markowitz said, "but we also don't want to put the hospital at a disadvantage in getting work done economically."

"Rule 9 is an anachronism," Mr. Markowitz said. "It should be polished up and refined."

Many hospital trustees who returned forms noted potential conflicts.

Ross Reid, a trustee of the French and Polyclinic Medical School and Health Center, added as a postscript to his form certifying no conflict of interest:

"I am a director and vice president and general counsel of Squibb Corporation. One or more of its wholly owned subsidiaries may from time to time sell supplies in the ordinary course of business to the [hospital], but I have no personal knowledge of the nature and extent of any such sales."

Asked about French and Polyclinic's dealings with Squibb, Seymour Hirsch, the administrator, said: "Well, sure, every hospital in the country must have some dealings with Squibb, but the amount we buy is minimal. But of over $1 million we spend on pharmaceuticals and other such consumable supplies, less than $35,000 is with Squibb."

'Some Things Are Holy'

As to the purchases from Squibb subsidiaries, Mr. Hirsch replied: "I don't even know what the subsidiaries of Squibb are."

A trustee of Mount Sinai Hospital, Alfred L. Rose of Proskauer Rose Goetz & Mendelsohn, noted that his firm was paid for handling labor relations for the hospital.

A spokesman for the hospital confirmed that Howard Lichtenstein, a member of the law firm, "represents us and gets paid for it." Asked how much Mr. Lichtenstein was paid, the spokesman refused to answer, saying, "There are some things that are holy."

One of the trustees of the New York University Medical Center, William I. Spencer, is also president of the First National City Bank, which makes loans to N.Y.U.

A spokesman refused to give the specific amount borrowed from First National City. "We borrow several million dollars each year, spread around to all of the major banks in the city," the spokesman said. "We have been borrowing from First National City for 75 years."

The Winifred Masterson Burke Relief Foundation, a long-term-care hospital in White Plains, receives funds for caring for the city's indigent.

In returning its form it certified no conflict of interest 'except that Lawrence S. Huntington is the president of the Fiduciary Trust Company of

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New York, investment adviser to the institution, and Walter L. Korntheuer is a regional vice president of the County Trust Company in which the institution maintains a banking account."

At the foundation's office, William B. O'Connor, the institution's associate executive director, refused to answer any questions over the telephone. A letter mailed on Dec. 15 asking how much is paid to Fiduciary Trust and how much of the institution's funds are kept at County Trust and how much the bank pays for the use of the funds has not yet drawn a reply.

Boards Denounced

Despite the increasing sums of money going to private hospitals under such programs as Medicaid and Medicare, there are no other New York State or New York City regulations, outside of Rule 9, to restrict the dealings with hospital trustees.

There is rising concern, however.

Dr. Lowell E. Bellin, the city's Health Commissioner, recently denounced the boards of the city's voluntary hospitals as "upper socio-economic class, oligarchical, self-perpetuating and inner circle" who resent "presumptuous incursions on the part of government and consumers alike into their own clubby sphere of decision making."

As a start on controlling the problem Governor Carey has said he will propose to the 1976 Legislature a public disclosure bill "to eliminate some of the conflict of interest which currently occurs with government revenues in private clinics and hospitals."

But some consumer groups say that what is really needed is the urge to go after the conflicts of interest because the means is already there in Rule 9.

"Consumers are concerned that public funds are being dispensed illegally to voluntary institutions which violate conflict-of-interest and self-dealing provisions of New York City law," said Donald Rubin, president of the Consumer Council on the Accreditation of Health Services. "In not enforcing Rule 9 the Comptroller is acting against the best interests of the city."

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6.9 Per Cent

Pa. Blue Cross Granted General Rate Increase

Capital Blue Cross of Pennsylvania has been granted a 6.9 per cent general rate increase, a sharp reduction from the 21 per cent originally requested. In making the announcement, Pennsylvania Insurance Commissioner William J. Sheppard said the increase would affect some 300,000 subscribers.

Commenting on the changes, Commissioner Sheppard said, "Capital Blue Cross now has the most comprehensive hospitalization program of all 70 Blue Cross Plans in the country. With this approval there is absolutely no reason for a doctor to admit a patient to a hospital just to assure his bill will be paid. We believe the availability of these broader and more cost-effective outpatient benefits will reduce current usage of expensive inpatient services and in the long run save substantial costs for Capital Blue Cross and its subscribers."

The benefit program includes for both hospital inpatients and hospital outpatients all medically necessary health care services. Some examples are:

— Outpatient surgical service.

— Outpatient emergency services including emergency medical services and follow-up services.

— All outpatient diagnostic services such as x-ray, laboratory, electrocardiography including any new services that become available.

— Outpatient physical therapy following illness or injury.

— Outpatient inhalation therapy following illness or injury.

— Outpatient nuclear medicine such as radiation therapy.

The Plan also eliminated the $10 deductible for certain outpatient services and added the following benefits:

— Eliminate the eight-day restriction on normal childbirth to include all available benefit days.

— Eliminate the charges against inpatient benefit days for outpatient surgical care and radiation therapy.

— Increase the non-member hospital allowance to 75 per cent of covered charges.

— Provide coverage for newborn infants regardless of the parents' marital status.

"Of the 6.9 per cent rate increase granted to the plan," Commissioner Sheppard said, "4 per cent goes for these new benefits. The Plan and the department believe that once the physician and subscriber start using them in the proper way, total costs will ultimately be reduced."

Affected by the rate and benefit approval are comprehensive group, direct pay, and student contracts. The group and student rates will increase 4 per cent as compared with the 18.6 per cent and 21.8 per cent originally requested. The non-group rates will increase 11.3 per cent compared with the originally requested 24.7 per cent.

In other matters, the department has announced the release of the "Shopper's Guide To Automobile Insurance Complaints" as a companion to its already released "Shopper's Guide To No-Fault Insurance Rates."

According to Insurance Commissioner William J. Sheppard, "many industry spokesmen have correctly pointed out that consumers should consider service as well as price in comparison shopping among insurance companies. This guide provides one indication of service — how frequently citizens have come to the department for investigation of their insurance problems with particular companies."

The new guide combines information from two parts of the public record concerning insurance companies — the annual premium volume listed in the annual statement and the complaint records resulting from consumer complaints filed with the Policyholders Services division of the insurance department.