



April 2, 2012

Kevin T. Kavanagh, MD, MS, FACS
Health Watch USA
3396 Woodhaven Dr.
Somerset, KY 42503

Dear Dr. Kavanagh;

I have received your letters regarding the several requests to Congress for legislation that would make hospital accreditation reports both available to the public and subject, along with hospital complaint information, to the Freedom of Information Act. You are asking for The Joint Commission's viewpoint on both positions. Let me apologize for the delay as we have been carefully considering these issues internally.

It is important to assure you that The Joint Commission has a long history of transparency, starting with The Joint Commission being the first health care accrediting body to make information about individual accreditation decisions available to the public, and later making available organizational performance on data-driven metrics required by accreditation. Currently we post adverse accreditation decisions about organizations which fail to meet Joint Commission requirements necessary to maintain their accreditation status, including the areas of deficiency that led to the adverse decision. Additionally, The Joint Commission has strong public accountability for the quality of our hospital survey process and the particulars of our survey findings through robust oversight by the Secretary, Department of Health and Human Services, as delegated to the Center for Medicare and Medicaid Services (CMS). We routinely provide all hospital surveys reports for government "deemed" surveys (the majority of our hospital surveys) to CMS in order that CMS staff can ascertain that our survey processes are protecting patients and fulfilling public obligations to meet and exceed government regulations for quality and safe care. Moreover, we are in the middle of a revamping of our public disclosure policy relative to complaint information so that we can improve upon the responses we provide to complainants.

I would like to point out that there is no prohibition on hospitals releasing Joint Commission accreditation reports to whomever they decide is appropriate. Nonetheless, The Joint Commission does not itself provide survey reports directly to the public for the critical reason that we want to maintain an open and honest dialogue with hospitals in the various stages of review over survey findings. Under our relatively new process, hospitals which are found to be out of compliance with accreditation requirements that rise to the level of an accreditation citation must generally come back into compliance within 45 days of the end of the survey or they will start moving down a path toward non-accreditation. During this time, The Joint Commission works with hospitals to ensure an appropriate plan of correction and enters into

dialogue with the hospitals over the nature and scope of the cited areas. We believe strongly that this ability to engage hospital leadership in the early stages of review should be protected and kept confidential. By establishing a safe environment for give and take, we promote the attainment of higher levels of quality improvement and faster resolution of any deficiencies found at the time of survey. This philosophy of having a protected dialogue is consonant with similar arguments made by many diverse stakeholders, including some consumer advocates, that there should be a safe environment for health care organizations to report and vet issues about adverse events. In fact, this broadly held concept led to the enactment of the Patient Safety Organization Act of 2005 which encourages protected reporting of patient safety events.

Finally, The Joint Commission is not subject to the Freedom of Information Act (FOIA) because the Act does not apply to non-governmental agencies. We do not support opening the FOIA to accrediting bodies simply because their evaluations are recognized by the government. A critical difference exists between the roles of a governmental body only performing certification activities and an accrediting organization which also seeks to help organizations succeed in achieving compliance with ever increasing levels of quality for the services and care they deliver. To that end, The Joint Commission has many additional standards, safety goals, and requirements beyond those of CMS. But most importantly, such a change to FOIA could have very broad implications well beyond accrediting bodies.

Thank you for taking the time to reach out to me and for considering these issues.

Sincerely,

A handwritten signature in black ink that reads "Mark Chassin". The signature is written in a cursive, flowing style.

Mark R. Chassin, MD, MPP, MPH
President
The Joint Commission