Congress of the United States
Washington, DC 20510

May 18, 2006

Via Electronic Transmission

Dennis S. O'Leary, M.D.
President
Joint Commission on Accreditation of Healthcare Organizations
One Renaissance Blvd.
Oakbrook Terrace, IL 60181

Dear Dr. O'Leary:

The Committee on Finance has exclusive jurisdiction over the Medicare program in the Senate, and the Committee on Ways and Means has jurisdiction over the Medicare program in the House of Representatives. Accordingly, we have a responsibility to the more than 40 million Americans who receive health care under the program. The Center for Medicare and Medicaid Services (CMS), the agency responsible for administering the Medicare program, has established quality and patient safety requirements called "Conditions of Participation" (COPs) that hospitals must meet in order to be eligible for Medicare payment. Federal law deems hospitals that are accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to be compliant with Medicare requirements, and thus eligible to treat Medicare patients and be reimbursed by Medicare for doing so. No other health care accreditation program shares this unique statutory authority.

At our request, the Government Accountability Office (GAO) initiated an investigation on hospital accreditation and patient safety. In a report released in July 2004, the GAO determined that JCAHO's pre-2004 hospital accreditation process did not identify three-quarters of the hospitals found by state agencies to have serious deficiencies in Medicare requirements. The GAO warned that even "a single deficiency in a Medicare requirement can limit the hospital's capability to provide adequate care and ensure patient safety and health."

In January 2004, JCAHO introduced a new accreditation process called "Shared Visions – New Pathways". Joint Commission Resources (JCR), a wholly-owned subsidiary corporation of JCAHO, describes this new process as "a complete paradigm shift from a process focused on survey preparation and score achievement to one of continuous systematic and operational improvement by focusing to a greater extent on the provision of safe, high quality care, treatment, and services" on its website.

It has been more than two years since "Shared Visions – New Pathways" was initiated, and we are interested in learning more about how these changes have improved patient safety. Additionally, we are interested in learning more about the relationship

between JCAHO and JCR. Accordingly, please provide the requested documentation and responses to the following questions. It is our expectation that you will comply promptly and completely with this request. Failing that, additional avenues will be pursued.

"Shared Visions – New Pathways" (2004 through Present)

1. The new hospital accreditation program is designed, at least in part, to identify deficiencies in your clients' hospitals.
   a. What percentage of deficiencies is the JCAHO accreditation program designed to identify?
   b. What percentage of those hospitals surveyed are found to have deficiencies?
   c. What is the average number of deficiencies found among those surveyed?
   d. What level of certainty or accuracy does JCAHO guarantee and how does this differ from JCAHO's pre-2004 hospital accreditation programs?
2. Please provide a summary of results of unannounced surveys. In addition, please describe the selection process for conducting unannounced surveys and include any information or data that JCAHO has comparing its pre-2004 hospital accreditation program to its post-2004 hospital accreditation program in light of the addition of unannounced surveys. Please explain JCAHO's rationale for the extensive delay in moving to unannounced surveys.
3. What percentage of deficiencies identified through JCAHO's post-2004 hospital accreditation program are in the physical environment COP category versus clinical categories? How does this percentage compare to the percentage from the pre-2004 program?
4. List the names and titles of all employees and/or consultants and/or others who perform accreditation surveys. Please indicate the region or territory to which each individual identified is assigned.
5. Please explain the dynamics of survey teams. Please include in your explanation details on survey team composition, diversity and credentials typical of team members.

Joint Commission Resources

6. List the names of all current board members for both JCAHO and JCR. Please include their terms of service.
7. Please describe the composition of board members for both JCAHO and JCR in terms of their "diversity" of expertise (e.g., current or former health practitioners, administrators, consumers, payers and others).
8. Please provide the amount of compensation each JCAHO and JCR board member received in FY 2003, 2004 and 2005;
9. For any individual who received compensation for being a board member or is a member of both boards, please provide a curriculum vitae, as well as a description of their duties and responsibilities.
10. Please list the costs associated with board of directors meetings including the cost of meetings, cost of transportation to/from meetings, off-site costs, meals/entertainment costs.

11. Please list any luxury items owned by JCAHO, including non-commercial real estate valued over $250,000, vehicles (automobiles, airplanes, yachts), art, or furniture. Please explain how each of these items is used and provide documentation regarding such use, including identifying who within JCAHO and JCR has access to the items.
12. What number and percentage of JCR clients that are subsequently surveyed by JCAHO receive accreditation? How does this compare with the number and percentage of clients surveyed by JCAHO who are not JCR clients? Please provide supporting documentation for these figures.
13. Please provide a quantitative analysis of fees and length of engagements collected by JCAHO for hospital accreditation surveys of clients who were also clients of JCR.
14. Please provide a quantitative analysis of fees and length of engagements collected by JCAHO for hospital accreditation surveys of clients who were not clients of JCR.
15. Are JCAHO hospital accreditation standards and/or processes made available directly or indirectly to JCR? If so, please provide a detailed explanation.
16. Are JCAHO hospital accreditation standards and/or processes published and publicly available? Please provide a detailed explanation.
17. For tax years 2003, 2004 and 2005, please provide an explanation of services or duties preformed in connection with the following payments identified on the JCR's 990 tax form. Please include total dollar amounts, as well as copies of all contracts or other documents executed in connection with these agreements.

    a. Management Fees;
    b. Royalty Fee;
    c. Funding Agreement (For example: Schedule 7, tax year 2004);
    d. Payments due or Transferred to Parent Company (For example: Part I, line 20/Schedule 2; Schedule 9, tax year 2004).

18. Please summarize activity described on tax year 2004 tax form 990, Schedule 14 as "Continuous Survey Readiness Fees".
19. Please describe JCR's relationship with other "Related Organizations" identified on tax form 990 Schedule 13 (tax year 2004).

    a. If any monetary exchanges or agreements that require payments to be made to or from JCR to or from these organizations are (or were previously) in effect, please list amounts and dates paid during the last 3 years.
    b. Please list the names and positions held of any JCR or JCAHO board members who also currently or previously served on the boards of any of these "related organizations".

We thank you in advance for your cooperation and request that your staff provide a point of contact for this matter no later than May 23, 2006. Additionally, we request that you provide documents and written responses no later than June 8, 2006. In

complying with this request for information, please respond to each enumerated question by repeating the questions, followed by JCAHO's response. All formal correspondence should be sent electronically in PDF format to thomas_novelli@finance-rep.senate.gov or via facsimile to (202) 228-2131.

Should you have any questions regarding this matter please contact Daniel Marquardt of Senator Grassley's staff at (202) 224-4515 or David Schwartz of Senator Baucus's staff at (202) 224-5315, or Cybele Bjorklund of Representative Stark's staff at (202) 225-4021.

Sincerely,

Charles E. Grassley
Chairman
Senate Committee on Finance

Max Baucus
Ranking Member
Senate Committee on Finance

Pete Stark
Ranking Member, Subcommittee on Health,
House Committee on Ways and Means

Attachments

Cc: The Honorable Michael O. Leavitt
Secretary of Health and Human Services

The Honorable Mark B. McClellan, M.D., Ph.D.
Administrator, Centers for Medicare & Medicaid Services

The Honorable David M. Walker
Comptroller General of the United States

GENERAL INSTRUCTIONS

1. Please note that, for purposes of responding to this document request, the terms "document" and "record" should be interpreted in accordance with the general definitions attached to this letter.

2. In complying with this document request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. In addition, produce documents that you have a legal right to obtain, documents that you have a right to copy or have access to, and documents that you have placed in the temporary possession, custody, or control of any third party.

3. No documents, records, data or information requested by the Committee shall be destroyed, modified, removed or otherwise made inaccessible to the Committee.

4. If the document request cannot be complied with in full, it shall be complied with to the extent possible, which shall include an explanation of why full compliance is not possible.

5. In complying with this document request, respond to each enumerated request by repeating the enumerated request and identifying the responsive document(s).

6. In the event that a document is withheld on the basis of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other. This information should be produced in a manner that renders the review of the applicable information is possible on a single page.

7. Each document produced shall be produced in a form that renders the document susceptible of copying.

8. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.

9. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, or control.

10. This request is continuing in nature. Any document, record, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

All documents shall be Bates stamped sequentially and produced sequentially.

GENERAL DEFINITIONS

1. The term "JCAHO" means the Joint Commission on Accrediting Health Care Organizations, a 501(c)(3) corporation, its board of directors, or one or more of its divisions, subsidiaries or affiliates, or related entities.

2. The term "JCR" means Joint Commission Resources, a 501 (c) 3 corporation and a subsidiary corporation of JCAHO, its board of directors, or one or more of its divisions, subsidiaries or affiliates, or related entities.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to the following: memoranda, reports, statistical or analytical reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (E-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disc, or videotape. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The terms "standard operating procedure" or "SOPs" mean any written, recorded, or graphic material pertaining to policies, procedures, programs, methods, protocols and/or strategies, regardless of whether original or copy, or how recorded, and contained or stored in documents or media including, but not limited to the following: memoranda, reports, statistical or analytical reports, books, manuals, instructions, financial reports, working papers, records notes,

letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, prospectuses, interoffice and intra office communications, electronic mail (E-mail), contracts, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, summaries, minutes, accounts, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disc, or videotape. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

4. The term "investigation" means any formal or informal examination, inquiry, request, review, or study, conducted by a third party, including but not limited to, a federal, state, or local government body, seeking to understand the public or non-public happenings of a specific event or events.

5. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.

6. The terms "relate," "related," "relating," or "regarding" as to any given subject means anything that discusses, concerns, reflects, constitutes, contains, embodies, identifies, deals with, or is any manner whatsoever pertinent to that subject, including but not limited to documents concerning the preparation of other documents.

7. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa to bring within the scope of this document request any information which might otherwise be construed to be outside its scope.

8. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, written, electronic, by document or otherwise, and whether face to face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise. Documents that typically reflect a "communication" include handwritten notes, telephone memoranda slips, daily appointment books and diaries, bills, checks, correspondence and memoranda, and includes all drafts of such documents.