

Should External Reviewers Have Access to Patient Records?

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by Mary Brandt, MBA, RRA, CHE, director of policy and research

Most of us are familiar with surveys by the Joint Commission on Accreditation of Health-care Organizations. Many of us have had the pleasure of other surveys, as well-by Medicare, state licensure agencies, and the Food and Drug Administration, to name a few. In conducting their reviews, many surveyors request access to patient medical records. Health plans, too, may ask to review records to evaluate the quality of services provided to their members. Should external reviewers be given access without patient authorization? Let's look at some specific cases.

Medicare or Medicaid Surveys

In most states, healthcare organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association are recognized as meeting the Conditions of Participation for Medicare and Medicaid reimbursement; this is also known as "deemed status." To assure compliance with the Conditions of Participation, a state's certifying agency (such as the state department of health) may conduct random validation surveys of a sample of accredited organizations. Validation surveys are usually scheduled at least 10 days in advance. These surveys are conducted by a team of surveyors for several days and include a comprehensive review of the organization and its procedures.

The states also conduct investigations in response to patient-specific complaints about care. Conducted by a single surveyor, complaint surveys are usually unannounced and focus on a specific area. Sometimes, a surveyor will tell the healthcare organization the name of the patient who filed the complaint. At other times, the surveyor may request records from several patients in a certain time period, including the patient who is the subject of the complaint.

Medicare or Medicaid surveyors should be given access to the records of Medicare or Medicaid patients without specific patient authorization. When patients accept coverage under one of these programs, they sign an agreement allowing the payer access to their records. If Medicare or Medicaid surveyors request access to a non-Medicare/Medicaid patient's records, that request should be carefully reviewed for appropriateness. In most circumstances, the patient should be asked to authorize such access.

State Licensure Surveys

The state healthcare licensure authority (usually the state department of health) may conduct periodic surveys of healthcare organizations to assure compliance with state licensure regulations. State licensure surveyors should be given access to patient records upon request.

State Board Surveys

Representatives from state boards (such as the board of medical examiners, board of nurse examiners, or board of pharmacy) may survey a healthcare facility in response to a complaint, usually about an individual licensed by that authority. These boards generally have statutory authority to conduct their reviews, and the surveyor should bring a letter describing the review he/she will conduct and outlining the statutory authority for the review. These surveyors should be given access to patient records in accordance with state law or regulation.

Food and Drug Administration

The Food and Drug Administration (FDA) surveys organizations with clinical research programs to assure compliance with federal regulations governing human subject and animal research. FDA surveyors generally limit their review to records maintained by the Institutional Review Board (IRB) and individual researchers, but may request access to specific patient

records. If the patient was a subject in a clinical research study, FDA surveyors should be granted access to the record. (To determine if the patient was a research subject, look for a signed consent form in either the patient's record or the files of the study's principal investigator. The consent form should state that the patient's records may be reviewed by the FDA and/or the study's sponsor.)

Sponsors of Clinical Research Studies

Sponsors of clinical research studies (such as pharmaceutical companies) may conduct reviews to assess compliance with FDA regulations and their research protocols. Their review usually is limited to records maintained by the IRB and the principal investigator, but they may request access to specific patient records. Access should be granted if the patient was a participant in a research study sponsored by the company. The patient should have signed a consent form stating that records may be reviewed by the FDA and/or the study's sponsor.

Health Plans

Health plans and other third-party payers may ask to review records to assess the quality and appropriateness of services provided to their members. Since subscriber agreements vary from one health plan to the next, you will need to evaluate each of these requests on an individual basis. Ask the health plan representative to show you a copy of the agreement patients sign when they accept coverage under the health plan.

If the subscriber has signed an agreement with a health plan that authorizes representatives of the health plan to access the subscriber's medical records, the reviewer should be given access to the records of that plan's subscribers only. The reviewer should not be permitted to review a nonsubscriber's records without the patient's written authorization.

If the subscriber has not signed an agreement that authorizes representatives of the health plan to review his/her medical records, patient authorization should be obtained prior to releasing records to the health plan reviewer.

Requesting Identification

If you have any doubts about a reviewer's authenticity, ask to see his/her identification. Bona fide reviewers have identification badges, and they willingly show them upon request. u

Joint Commission Briefs

New Telephone/Fax Number The Joint Commission's main telephone number has changed to (630) 792-5000. The main fax number is (630) 792-5005. Other numbers that have changed include:

Customer Service Center (630) 792-5800

Department of Standards Interpretation (630) 792-5900

Department of Indicator Measurement (630) 792-5220

New Accreditation Manuals New accreditation manuals available this fall include:

- *1997-98 Comprehensive Accreditation Manual for Behavioral Health Care* (effective January 1997; price \$225; order code CBHC-97)
- *1997-98 Comprehensive Accreditation Manual for Home Care* (effective January 1997, for home care organizations and hospices; price \$170; order code CAHC-97)
- *1997 Comprehensive Accreditation Manual for Hospitals: The Official Handbook* (effective January 1997; price \$325, order code CAMH-97). As of August 1996, the new *Comprehensive Accreditation Manual for Hospitals* subscription update service is available.

Those who purchase the manual and subscribe to quarterly updates will receive new and revised accreditation material continuously. Updates will be published quarterly in February, May, August, and November. A one-year subscription for the quarterly updates will cost \$225. The CAMH will also be available in a software version offered in both DOS and Windows formats on diskette and CD-ROM. The cost of the automated CAMH is \$595 (order code AH-97). A one-year subscription for quarterly updates will cost \$395.

To order, call the Joint Commission Customer Service Center at (630) 792-5800.

Medical Staff Mergers The Joint Commission has adopted a new procedure that will give merged organizations more flexibility in meeting the current requirement for a single medical staff. Organizations will have up to 18 months to combine their medical staffs; previously, they were allowed only six months.

Long Term Care Pharmacies A new accreditation process for long term care pharmacies is being offered. This accreditation process is not applicable to hospitals that directly provide pharmaceutical services for long term care residents in their hospital. These services are included in the hospital's accreditation process. The process will apply, though, if the hospital provides pharmacy services to long term care facilities that are not owned by the hospital. For more information, contact Darryl Rich at (630) 792-5752.

Customer Service Directory The 1996-97 Customer Service Directory includes a quick reference page and a series of Rolodex cards and other useful resource options. To request a free copy of the directory, call the Joint Commission Customer Service Center at (630) 792-5800.

Web Site The Joint Commission has opened a site on the World Wide Web. The online address is <http://www.jcaho.org>.

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