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U.S.

Hospital Watchdog Gives Seal of Approval, Even After Problems Emerge

The Joint Commission, which the government relies on to accredit most hospitals, rarely withdraws its approval in the face of serious safety violations



Cooley Dickinson Hospital in Northampton, Mass. PHOTO: ADAM GLANZMAN FOR THE WALL STREET JOURNAL

By *Stephanie Armour*

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Patient-safety problems were so serious at Cooley Dickinson Hospital in Northampton, Mass., that the federal Medicare agency threatened to cut it off. Most patients never knew.

Two babies died within six weeks in late 2013 and early 2014. That was just a couple of months after a pregnant woman died when the hospital didn't ensure she was treated for high blood pressure from a condition called pre-eclampsia, according to a federal inspection report.

"The failure to provide quality medical care resulted in the death of all three patients," said the report from the Centers for Medicare and Medicaid Services, known as CMS.

Yet the Joint Commission, a nonprofit organization that provides hospital accreditation, made no change in Cooley Dickinson's status, allowing it to continue promoting itself as fully accredited despite being out of compliance with safety requirements to participate in Medicare. The organization named the hospital a 2013 top performer on several measures, such as surgical care and treating heart failure.

The Joint Commission is the accrediting organization for almost 80% of U.S. hospitals, including those for veterans, the Federal Bureau of Prisons and the Indian Health Service, giving it a sweeping quasi-governmental role overseeing medical care. The federal government relies on the Joint Commission's findings, and nearly all states recognize its judgment in some part of their licensing process, usually instead of doing regular inspections.

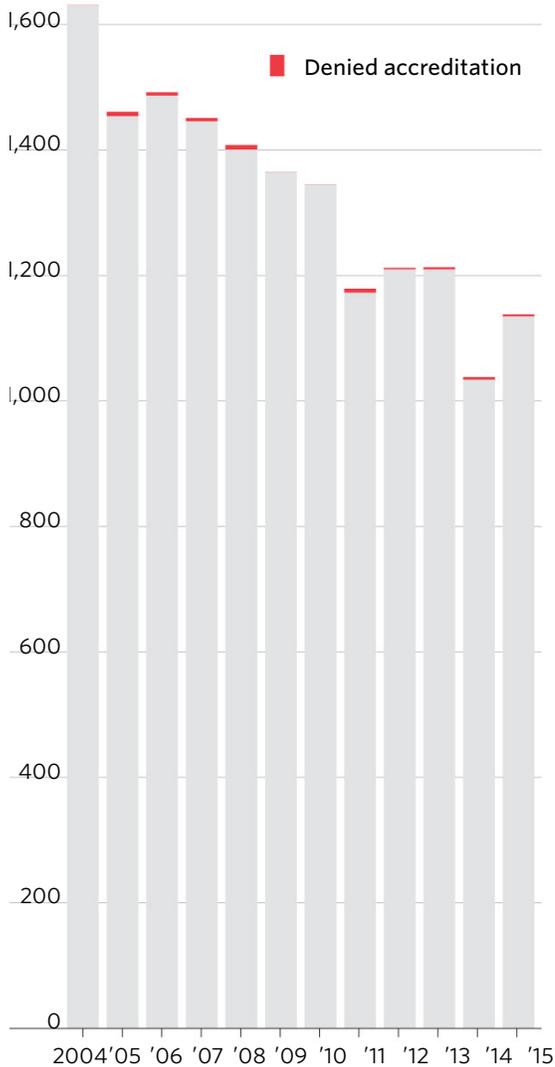
This certifier of hospital quality, however, typically takes no action to revoke or modify accreditation when state inspectors find serious safety violations, according to a Wall Street Journal database analysis of hundreds of inspection reports from 2014 through 2016.

In 2014, about 350 hospitals found in those reports to be in violation of Medicare requirements had Joint Commission accreditation at the time, the Journal found. More than a third with accreditation went on to have additional violations later in 2014, 2015 and 2016.

Seal of Approval

Only a small percentage of hospitals inspected by the Joint Commission have been denied accreditation.

Hospital inspections by fiscal year



Note: Includes both renewal and first-time inspections of hospitals. Excludes some hospitals such as psychiatric and critical access hospitals
Source: Centers for Medicare and Medicaid Services

The Joint Commission revoked the accreditation of less than 1% of the hospitals that were out of Medicare compliance in 2014, the Journal found. In more than 30 instances, hospitals retained their full accreditation although their violations were deemed by CMS so significant they caused, or were likely to cause, a risk of serious injury or death to patients.

A result is that hundreds of hospitals with safety problems could continue to display a “Gold Seal of Approval” and promote their accredited status. The Joint Commission provides hospitals with an accreditation publicity kit, and a consulting arm of the organization sells “We Are Accredited!” pins and stickers. A brochure it prepared for patients reads, “Whenever and wherever you receive health care, look for The Joint Commission Gold Seal of Approval.”

“It’s clearly a failed system and time for a change,” said Ashish Jha, a health-policy researcher at Harvard University, who said the Journal finding “shows accreditation is basically meaningless—it doesn’t mean a hospital is safe.”

Sen. Charles Grassley (R., Iowa.) said he will look for ways to improve the system, because “based on The Wall Street Journal’s reporting, it’s

unclear what rock bottom a hospital would have to hit before losing accreditation.”

Mark Chassin, president and chief executive of the Joint Commission, said the organization doesn’t routinely withdraw accreditation of hospitals with safety problems because its focus is less on regulating or penalizing and more on preventing problems.

“Our mission is to work closely with health-care organizations to help them improve the care they provide,” Dr. Chassin said.

The Joint Commission, based in Oakbrook Terrace, Ill., said its inspectors make unannounced visits to hospitals to identify problems before they cause harm to patients. Denying accreditation is sometimes necessary if hospitals can't bring their care up to an acceptable level, it said, but in the overwhelming majority of cases, they eventually come into compliance.

Joint Commission officials said they couldn't comment on a specific hospital, such as Cooley Dickinson, as a matter of policy.

The hospital, an affiliate of Massachusetts General Hospital, said it reported the deaths of the babies and pregnant woman to regulators and began a reorganization and improvement of its childbirth center. It was determined to be back in compliance with Medicare requirements later in 2014. Various litigation against Cooley Dickinson concerning deaths at its birth center is pending.

The Joint Commission was founded in 1951 but its role traces to the 1965 law that created Medicare and Medicaid. The law required hospitals to meet certain safety conditions to receive money from the programs. Hospitals can use state inspections to prove their compliance but have the option of hiring a private, federally approved accrediting organization such as the Joint Commission.

Most hospitals have chosen that option, and many states that once routinely inspected hospitals have allowed private accreditors to take over much of their inspection role. The process has turned the Joint Commission, the largest private accreditor, into an important safety watchdog.

It is one with ties to the industry it oversees. Twenty of the Joint Commission's 32 board members are executives at health systems it accredits or else work at parent organizations of such health systems. Some other board members are named by health-care lobbying groups, such as the American Hospital Association and the American Medical Association.

"Can you imagine Big Pharma setting up its own accrediting organization?" said Rita Numerof, a health-care business strategist, referring to prescription-drug makers. "If you look beneath the surface, there are conflicts and problems. It's industry insiders."

Joint Commission officials said excluding hospital executives would deprive the board of the most knowledgeable and valuable advisers. The organization said hospitals that have executives on its board sometimes are cited by its inspectors for Medicare violations, which "shows our impartiality and argues against our accreditation process showing any favoritism to hospitals that have executives serving on our board."

Hospitals accredited by the Joint Commission pay it an annual fee of from \$1,500 to \$37,000, depending on their size, according to the organization.

They also pay the Joint Commission for inspections, which occur at least every three years and cost an average of about \$18,000 in 2015.

In addition, Joint Commission Resources, a subsidiary, provides consultants that hospitals can hire to help attain and keep accreditation.

Glenn Krasker, a former hospital-accreditation program director at the Joint Commission, cited its practice of charging hospitals for a test while a subsidiary charges to help them pass, and said, "That, to me, is the focus for the conflict of interest."

When he was there, Mr. Krasker said, "We in the central office used to teach and educate the Joint Commission Resource consultants. We'd train them on the standards."

The Joint Commission said it maintains a strict firewall so information isn't shared. It also said its subsidiary offers consultants to hospitals because others were selling such a service and sometimes giving incorrect advice.

The Joint Commission's program revenue, much of it from its core accrediting work, totaled \$142 million in 2013, according to its filing for that year with the Internal

Revenue Service, the latest available.

The nonprofit paid its CEO, Dr. Chassin, more than \$1 million in 2013, including salary, benefits and retirement-plan contributions, the filing shows. The organization said it uses a compensation consultant.

To examine the Joint Commission's record, the Journal built a database from information on hospital violations provided by CMS. The Journal also obtained information on state inspection reports from various sources to look at how many hospitals had previous or later violations, and it checked hospitals' accreditation status on a website maintained by the Joint Commission.

The Journal found that not only did about 350 hospitals have accreditation while in violation of Medicare safety requirements in 2014, but 60% of them also had such violations in the preceding three years.

In later years, when more than a third had Medicare deficiencies, these violations included instances of patients being shocked by medical equipment, sent away from emergency departments with untreated broken bones or dying after staff members didn't respond for trauma surgery, according to a review of CMS inspection reports, state health-department data and information from HospitalInspections.org, a site run by the Association of Health Care Journalists.

Being in violation of Medicare safety rules puts a hospital's federal funding at risk, and a single serious deficiency can limit its capability to provide adequate care and ensure patient safety and health, said a 2004 report by the Government Accountability Office.

CMS checks the work of the Joint Commission and other private accreditors of hospitals by using state inspectors to examine some of the same facilities.

The checks produce a "disparity rate," a formula showing what percent of Joint Commission inspections missed a problem found in the inspections done at CMS's behest. If the rate is above 20%, CMS informs the accreditor of its performance.

The Joint Commission had a disparity rate of 42% in fiscal 2014. In the case of psychiatric hospitals, the rate was 75%.

The Joint Commission called the disparity rate an incomplete measurement. It said although state inspectors have similar standards, they use different measurement tools to assess compliance with Medicare requirements and sometimes take note of infractions that don't affect clinical care, such as violations concerning fire safety.

"This is a one-way measurement and an incomplete reflection of Joint Commission survey measures," the Joint Commission said.

It isn't easy for patients to find out about hospital safety problems on their own. Some information is available from states and CMS, but consumers have to know where to look and what to ask for. CMS said it is required to notify the public only about two weeks before it cuts off a hospital's Medicare funding. Hospital inspection reports from the Joint Commission and other private accreditors are kept confidential.

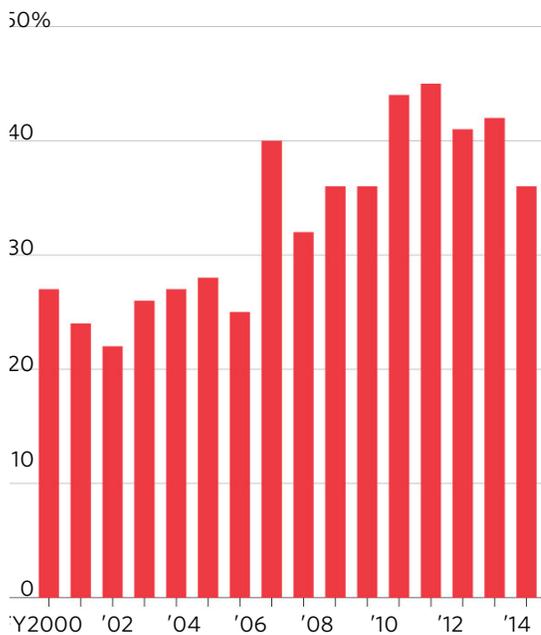
This secrecy has long been criticized by consumer groups, former and current members of Congress and some hospital leaders and physicians. The Joint Commission "is authorized by CMS to do the surveys on its behalf. They are paid by the hospitals," said Paul Levy, a former CEO of Beth Israel Deaconess Medical Center in Boston, who argued the results should be available "for hospitals, doctors, patients and anyone else."

This spring, CMS proposed making the Commission's inspection reports public. A draft regulation said the proposal grew out of serious concerns about private accreditors' ability to identify health and safety deficiencies.

The Joint Commission opposed the proposal, saying the confidentiality of its inspections encouraged candor, and the proposal would hamper its consulting work. Many hospitals also were opposed.

Problems Missed

A 'disparity rate' compiled by the Medicare agency shows what percent of hospital inspections by the Joint Commission miss a safety issue later found in state inspections.



Notes: The disparity rate is based on a formula that takes into account violations the accrediting organization missed that were identified in follow-up government inspections. Fiscal year ends Sept. 30.
Source: Centers for Medicare and Medicaid Services

In August, CMS withdrew the proposal. It noted that federal law bars CMS itself from disclosing inspection results and said it didn't want to appear to be circumventing the prohibition.

The Joint Commission said it is "committed to making relevant and accurate information about our accredited and certified health care organizations available." It runs a website, Quality Check, where people can look up a hospital's status.

Eastern State Hospital in Williamsburg, Va., is an institution CMS disqualified from receiving Medicare funding in April 2016 for safety violations.

Yet Quality Check's entry for the hospital says it is accredited and has met all national patient-safety goals, compared with other commission-accredited organizations. The listing notes that the hospital performed below a target

range on assessing patients on certain criteria, such as risk of violent behavior.

The Quality Check entry calls Eastern State a "Top Performer on Key Quality Measures in 2012 and 2013." The entry makes no mention of the hospital's having been disqualified from receiving Medicare funds.

The Joint Commission, while declining to comment on a specific hospital, said the site is designed to provide information on whether institutions are accredited.

Virginia health official Daniel Herr, to whom state-run Eastern State referred questions, said the institution is on track to request again being made eligible for Medicare for its adult acute-care units. It has "strengthened its treatment processes and focused its quality oversight mechanisms," he said.

Some family members of patients are angry at the Joint Commission for letting troubled hospitals maintain their accreditation. Among them is 74-year-old Jim Bennetts of Novato, Calif.

His daughter, Brittney Bennetts, was struggling with depression and anxiety when she was admitted in late 2014 to United Health System's Timberlawn Behavioral Health System in Dallas. Ms. Bennetts, a 37-year-old therapist who worked in hospice care, was in the hospital because she felt suicidal, her father said.

Timberlawn, built around a stately white farmhouse, had amassed 16 safety deficiencies since 2011, a review of records at HospitalInspections.org shows.

"How would we know?" said Mr. Bennetts. The hospital had accreditation from the Joint Commission, which ranked it as a top performer on hospital-based in-patient psychiatric care in 2013 and 2012. Mr. Bennetts said his daughter researched and



Jim Bennetts flips through a photo book featuring his late daughter, Brittney Bennetts, at the Montana home of his ex-wife, Marian Stone. PHOTO: SAMUEL WILSON FOR THE WALL STREET JOURNAL

selected the hospital on her own.

Hospital staff wrote in their records that Ms. Bennetts needed constant observation and was at high risk of suicide, according to the report of a state inspection for CMS months later. The report said that on Dec. 3, 2014, Ms. Bennetts was left alone and used a sheet to hang herself from a closet doorknob.

The inspection that followed her death found continuing problems at the hospital, including patients sleeping on chairs in an overcrowded unit and an alleged rape of one patient by another. Eight months after the suicide, CMS cut off Medicare funding for Timberlawn, saying in a report that its violations posed “an immediate jeopardy to patient safety and health.”



Photographs of Brittney Bennetts. PHOTO: SAMUEL WILSON FOR THE WALL STREET JOURNAL

Throughout the events, Timberlawn remained accredited by the Joint Commission and displayed its quality seal.

“It’s unbelievable they’re able to still be

accredited,” said Mr. Bennetts. “We believe Brittney would still be with us if she’d been under constant observation.”

Timberlawn CEO James Miller said Medicare certification was reinstated about 15 months later. He said he couldn’t comment on a patient’s care because of privacy laws, but said “the incident was tragic and our thoughts and prayers continue to be with the family.” The family reached a confidential settlement with the hospital.

A spokesman for CMS said it couldn’t provide any comment.

Joint Commission officials declined to comment on Timberlawn but said scores of published studies show the organization’s accreditation process, including working with troubled hospitals, drives improvements in quality and patient safety.

“Health care has a long way to go before it as safe as we want it to be,” the organization said in its response to the Journal. “That road would be a lot longer without The Joint Commission.”