

United States Congress

Washington, D.C.

For Immediate Release
Friday, May 19, 2006

Congress examines process used to accredit hospitals,
Members seek to improve hospital quality, question corporate relationships

WASHINGTON — Members of Congress this week asked the Commission responsible for assessing the safety of America's hospitals and, in turn, determining the eligibility of hospitals to participate in the Medicare program, to answer questions about the relationship between the Commission and a subsidiary corporation and to account for the results of its new accreditation process.

In a letter sent this week to the JCAHO President, Sens. Chuck Grassley and Max Baucus and Rep. Pete Stark continued their work to improve the performance and accountability of the accreditation process so that quality-related problems in hospitals are more readily identified and addressed, rather than missed entirely or allowed to persist.

A Government Accountability Office (GAO) investigation requested by Grassley, Baucus and Stark and completed in July 2004 found serious deficiencies in JCAHO's accreditation process. The GAO is in the process of conducting a second investigation relating to possible conflicts of interest and other concerns at JCAHO and its subsidiary. Today's letter calls into question JCAHO's ability to independently accredit hospitals while its consulting subsidiary, Joint Commission Resources (JCR), profits from the sale of products and services that aide hospitals in meeting accreditation standards.

Legislation sponsored in 2004 by Grassley, Baucus and Stark (S.2698, H.R.4877) would have brought JCAHO's accreditation process under the authority of the Centers for Medicare and Medicaid Services in the same way that CMS oversees the accreditation of health care facilities other than hospitals. Congress did not act on their legislation. Grassley, Baucus and Stark said today that they will introduce revised legislation based on a number of factors including any new findings of the GAO.

"It's very important to determine whether or not the new accreditation process is delivering results and overcoming the shortcomings of the old system," said Grassley, Chairman of the Senate Committee on Finance. "Approval from the Joint Commission should be the gold standard, not a rubber stamp."

Americans rely on accrediting organizations to make sure our hospitals are well-run, that problems are identified and corrected and that quality and safety are constantly improved. Because the Joint Commission has unique status to approve hospitals under Medicare, we must hold the Commission to the highest standards. Hopefully, the Commission's new accreditation

process is improving the effectiveness of their work, which showed serious deficiencies just a couple of years ago. But if the business practices of the Joint Commission continue to compromise the safety and performance of America's hospitals, it's vital to know that now and take corrective steps," said Baucus, Ranking Member of the Senate Committee on Finance.

"JCAHO claims to be a 'not-for-profit organization' that maintains 'state-of-the-art standards.' Nothing could be further from the truth," said Stark, Ranking Democrat on the Ways and Means Health Subcommittee. "For years, JCAHO's close ties to industry have jeopardized the health of millions of Americans. More recently, JCAHO's ownership of JCR, a for-profit consulting arm, has created new conflicts of interest that warrant additional investigation. If JCAHO has nothing to hide, it will provide us with an accurate, complete, and timely response. Anything less than full cooperation will be noted when Congress takes future action."

Stark first raised hospital accreditation problems at a hearing in 1990, and again in 2000 and 2002. He introduced legislation in 1999 to increase public representation on the governing boards of national accrediting entities and to require those entities to have open meetings.

Here is the text of the letter sent by Grassley, Baucus and Stark.

May 18, 2006

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)

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?

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.

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?

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.

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

List the names of all current board members for both JCAHO and JCR. Please include their terms of service.

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).

Please provide the amount of compensation each JCAHO and JCR board member received in FY 2003, 2004 and 2005;

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.

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.

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.

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. 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.

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.

Are JCAHO hospital accreditation standards and/or processes made available directly or indirectly to JCR? If so, please provide a detailed explanation.

Are JCAHO hospital accreditation standards and/or processes published and publicly available? Please provide a detailed explanation.

For tax years 2003, 2004 and 2005, please provide an explanation of services or duties performed 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).

Please summarize activity described on tax year 2004 tax form 990, Schedule 14 as “Continuous Survey Readiness Fees”.

Please describe JCR’s relationship with other “Related Organizations” identified on tax form 990 Schedule 13 (tax year 2004).

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.

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.

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

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

-30-

Staff Contacts —

Jill Kozeny, Grassley (202) 224-1308

Carol Guthrie, Baucus (202) 224-6769

Yoni Cohen, Stark (202) 225-3202