

# Joe Mungai OrBlog

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**OrbStandard Contributing Author**

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## **POOR CAN'T AFFORD THE WHOLE TRUTH**

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Below is a letter written by the president of Association of Dialysis Advocates (ADA) to the Federal Centers for Medicare and Medicaid Services (CMS) Region 2 Office “following CMS Region 2 Office’s cost estimate of \$4,800 to receive copies of 158 inspection reports (F2567) for New York state’s dialysis facilities. Request for records was made under the Department of Health & Human Services/CMS Freedom of Information Act regarding public documents”, Ms. Patricia Tate-Harris said during my interview.

You will discover that the CMS does NOT list its surveys on their website, “nor do state health departments which are under contract with CMS to inspect dialysis facilities every three years or upon receipt of complaints regarding a facility”, she went on to say. Instead they charge taxpayers again for information we already paid for [see [Centers for Medicare and Medicaid Services \(CMS\)](#)].

I reviewed the CMS website looking to see if lawsuit awards and settlements against dialysis facilities were listed to ascertain an even more accurate level of oversight but found none. With all the studies and information technology this country possesses more realistic “benchmarks” could be established as opposed to “staying the course”. Of course, the single best predictor of quality in healthcare is the infection, injury and death rates.

In my interview with Ms. Patricia Tate-Harris, ADA president, I asked her if she was aware of any such listings and she said;

“There are bodies of information/data, such as the annual United States Renal Data System (USRDS) report or the ESRD Network reports, that are available and used primarily by professionals who are charged with gathering, interpreting and utilizing data to plan for treatment and ancillary services. There are also data pertaining to infections and guidelines for infection controls at the Centers for Disease Control & Prevention (CDC), but all such information is not readily accessible to the public. And, there are reports/data within dialysis facilities, ESRD Networks and CMS as they relate to adverse incidents that occur in dialysis facilities — but again, the public, including patients and their family members, have no access to such information. As for lawsuit awards and settlements against dialysis facilities, I know of no one source from which such information can be obtained and, as do many others, rely on that reported by media or organizations such as Taxpayers Against Fraud (TAF) Education Fund.

For ordinary citizens/patients, they are the facility inspection/survey reports that provide meaningful information. Reports can reflect that a facility is substantially complying with the Medicare Conditions for Coverage. Such a finding instills a certain level of peace and confidence in the dialysis patient and family about the inspected facility. On the other hand, the facility inspection/survey report may cite a facility for deficient care and/or non-compliance with the Medicare Conditions for Coverage. They are these inspection reports that will reflect suboptimal care, practices or conditions that require correction in order to be in compliance with Medicare Conditions for Coverage. ADA believes that the inspection/survey reports ought be disclosed to patients, their families, facility staff and the public. In some cases, deficient practices or conditions can lead to actual harm of patients — Patients have a right to be in position to protect themselves and/or to partner with staff for improvement of the substandard areas of care or conditions.

If you go to “Dialysis Facility Compare” (that’s on the Dept of HHS, CMS website (<http://www.cms.hhs.gov/DialysisFacilityCompare/>) you will see that there is information regarding: (1) anemia management (2) dialysis adequacy, and (3) survival. But, you tell me if an ordinary, sickly, older patient can readily decipher the meaning of that shown on the site — particularly that related to “survival”, i.e., worse than expected, as expected or better than expected?”

Here is her letter describing what it would cost you or the media to buy the taxpayer financed inspection reports of dialysis facilities “under regulations governing the **Freedom of Information Act**”:

**TO: Steven Blaum, New York Centers for Medicare and Medicaid Services**

**FROM: Patricia Tate-Harris, <http://www.assndialysisadvocates.org/>**

Mr. Blaum:

There was no expectation that each page be counted to provide cost estimate for the requested dialysis facility inspection reports. However, a reasonable estimate was expected.

An estimate of \$4,800.00 for 158 surveys (New York) is not only exorbitant, it is preposterous and mocks the federal Freedom of Information Act and HHS/CMS’ related regulations. It further suggests an attempt on part of CMS to preclude accessibility to public records.

Consider, Mr. Blaum, that if each of the New York surveys were 100 pages, duplication cost would = \$1,580.00. (But, we know that such is not the case, don’t we — i.e., that each survey report is 100 pages?) How then would CMS justify estimated cost of \$3,220.00, or more, to provide the requested public records?

Your experience may have been as shared regarding Dialysis Facility Compare. It is useful to those who may seek limited information and have ability to navigate the site. The site, Mr. Blaum, does not provide information about care and conditions that ordinary patients/families, including prospective ones, may have interest. Dialysis Facility Compare provides no information about staffing, complaints or inspection results of facilities. For patients who rely on life-sustaining dialysis procedures, inspection results are pertinent — particularly if a facility is cited for deficient practices, conditions or treatment performances that pose harm, potential or

actual, to patients. They are the inspection reports that provide information about acceptable or deficient care and practices, considerations that may weigh in a patient's decision for treatment at a particular facility or, in the least, inform of areas about which the patient should remain aware.

Again, I request a reasonable estimated cost for the 158 New York surveys/F2567s. Request is only for the federal inspection reports.

Please feel free to contact me at (225) 355-5379 should there be need to discuss this matter.

Patricia Tate-Harris

(E-mail address: [info@assndialysisadvocates.org](mailto:info@assndialysisadvocates.org))

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So, we might want to consider establishing the cost our government charges us for oversight through taxes then subtract that from our taxes and give it to elected watchdog groups to protect us. If we applied this concept to every facet of government we might easily pay down the national debt to a mere 3 trillion dollars. Clearly there has been no "Spiritual Rehab" for government oversight agencies of corporate and so called "not for profit" facilities.

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