

## **What Joan Rivers' Untimely Death Says About Healthcare in America**

Joan Rivers' tragic death offers an opportunity to focus deeply on some of the most important, and least understood aspects of the healthcare delivery system. Outpatient surgery centers have grown from first being primarily dental extraction offices using various forms of general anesthesia to now estimated to be equal in number to hospitals. Yet that enormous transformation in the healthcare delivery system has taken place with only sporadic media coverage, and more importantly, even less awareness in every state government. Joan Rivers' death from care provided in a surgery center will hopefully initiate a much-needed discussion about that form of medical care.

### **Begin with the fundamentals of patient care:**

States license doctors (and regulate hospitals), and all medical care is local\*. One must (should) begin there! The logical conclusion taken from those two fundamental facts is that each state is responsible to establish, and maintain an effective healthcare delivery system for the benefit of their citizens. But one of the greatest mistakes in every effort to provide healthcare (medical care) to the public has been the failure to recognize that fundamental equation. Proof of that indictment is demonstrated by noting that the entire quality of healthcare, and patient safety literature is devoid of any mention of state responsibility in the delivery of medical care. (References\*)

Furthermore, each state's medical examining board is over 100 years old\*, and each board's mission statement contains the phrase, "to regulate the practice of medicine", and presumably such regulation would include every form of patient care, i.e. surgery centers. Alas, a critical review of any state's medical regulatory apparatus would reveal surgery centers to be largely ignored.

### **Media clips regarding Joan Rivers' death**

#### **New York State Inquiry Into Joan Rivers' Death, NY Times\***

"The New York State Health Department is investigation the circumstances that lead to the comedian Joan Rivers' death on Thursday, one week after she lost consciousness at an outpatient surgery clinic on the Upper East Side of Manhattan, a spokeswoman for the agency said."

#### **Clinic Joan Rivers visited, FOX NEWS\***

"Yorkville Endoscopy first opened in 2013 and we're told it was inspected at that time. There have been no previous complaints or violations at the facility."

#### **Joan River's death puts spotlight on clinics, Fox News\***

Fox News legal analyst, Peter Johnson Jr. told "Fox & Friends" Friday. "There's another body called the Office of Professional Misconduct, that would also look into a physician's conduct if it was warranted."

"Almost half now [of all] procedures are done in outpatient ambulatory facilities, but we need to understand in New York and other states across the country ... the same regulations do not apply to outpatient ambulatory facilities [as] they do to hospitals,"

Johnson said. “Very often, there’s nothing called accreditation... These types of facilities – [Yorkville Endoscopy] opened just in the last couple of years – [are] not subject to the same kind of strictures, so the issue is investigation in terms of discipline.”

### **The Test**

Because of her celebrity Joan Rivers’ tragic death due to care rendered in a surgery center provides the necessary ingredients for a test of the New York State medical regulatory system. Who came, how fast, and with what degree of sufficient medical expertise? It is estimated that over 1,000 other individuals needless died in hospitals on the same day that Joan Rivers suffered what later become fatal care. Yet while her tragic event has led to enormous media attention, the far greater track record of needless hospital deaths is largely ignored by Congress, every state government, and all major media sources.

### **Needless hospital death (NHD) track record**

1990 Brennan, Leape, et al\*, estimate 98,000 NHDs annually.

2000 IOM To Err Is Human\* promised to reduce that number by 50% in 5 years.

2013 John James\* estimated NHDs to be 4x 1990 B&L estimate.

2013 Dr. Leape\*, and others, supported James’ latest estimate.

### **Past quarter century NHDs track record**

Every new estimate of NHDs has been significantly greater than all previous estimates for the past quarter century. Yet no one can explain why.

### **Brief history of surgery centers**

As an example, Dr. Stuart Kelly began his oral surgery practice using outpatient general anesthesia in Madison, WI across the street from the state capitol in 1947. I became the fourth surgeon to join Kelly, Griffin and Lynn in their relocated outpatient surgery center four blocks west of the state capitol in 1966. Dentistry’s oral & maxillofacial surgery specialty pioneered the safe feasibility of outpatient general anesthesia many decades before adoption of that form of patient care by the medical profession. Today there are estimated to be as many outpatient surgery centers in both professions as hospitals, and are used by a wide range of medical and dental specialties. Noteworthy is the fact that the outpatient use of general anesthesia by oral surgeons for many decades, while not flawless, has been exceedingly safe for patients.

### **The Problem as demonstrated by the tragic death of Joan Rivers**

States license doctors (and dentists), and all states have created “regulatory agencies” that have proved to be such agencies in name only. New York State Health Department will investigate, and that state’s Office of Professional Misconduct may also participate in that media-driven process. But nothing regarding improving patient safety in New York, or any other state in hospitals or surgery centers will likely result.

States license doctors, and have created regulatory agencies, but the public has been left with highly speculative estimates of NHDs because no element of any state’s regulatory apparatus can provide even semi-precise numbers of those unfortunately deaths. How any state responds to a NHD can provide clear evidence of their medical regulatory system.

**But we can always count on the Federal Government  
Feds to release Hospital data, USA TODAY\***

“Federal regulators (Centers for Medicare and Medicaid Services – CMS) are reversing course and will resume publicly releasing data on hospital mistakes, including when foreign objects are left in patients’ bodies or people get the wrong blood type.” There is no mention of surgery centers.

**CMS hospital-acquired conditions\***

CMS list 11 categories of hospital-acquired conditions. But CMS does not become involved in NHDs events.

**CMS pressed to approve Medicare fraud rules, THE HILL \***

CMS is the same federal agency that has been responsible for about \$50 billion lost due to Medicare fraud annually for the past several years.

How can the public have confidence in a federal agency that has been losing billions of dollars every year for decades, and with little evidence of stopping the bleeding? Federal, state, professional, and non-professional agencies and organizations have been touting their ability to improve the quality of healthcare and patient safety, and the collective results can be stated in one clear statement; “The system is broken”.

**Review of Joan Rivers’ tragic death should have two goals**

A fair determination of the events leading up to her medical emergency, and the cause of her unrecoverable condition must be made, and I do not assume this event was caused by practitioner error. A thorough review should determine that. But the equally important second goal should be to determine the effectiveness of the New York State medical review apparatus. They acknowledge their existence, but can anyone demonstrate their effectiveness? Joan Rivers’ tragic death provides an opportunity for the New York State Health Department to display their medical regulatory effectiveness.

**References**

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