Hospital Discrimination: HEW Criticized by Civil Rights Groups

The Hill-Burton Act, which provides federal financial aid for local hospital construction, has been the key financial fact of life for hospitals and other medical facilities since its passage in 1946. Under its provisions the federal government has contributed heavily to the building, expansion, or improvement of about 7750 hospitals, nursing homes, outpatient departments, and public health clinics. Aside from its medical importance, the Hill-Burton program had one distinctive feature: it was the only major piece of legislation since Reconstruction that specifically sanctioned segregation. The route to segregation was the familiar "separate but equal" clause. The bill nominally provided that any medical facility receiving federal aid would be open to everyone without discrimination. But in areas where separate facilities were planned for separate population groups it made an exception—provided the facilities were of equal quality for each group.

In March 1964 the "separate but equal" clause was ruled unconstitutional by the Fourth Circuit Court in the case of Simkins *v.* Moses H. Cone Memorial Hospital, and the Supreme Court refused to review the decision. In the interim the government had initiated about 20 other programs involving hospitals—some amounting to continuing federal subsidies—which lacked the discrimination feature. But Hill-Burton essentially had set the pattern for a system of frankly segregated hospital care in the South. That system is now being challenged by a provision of the Civil Rights act of 1964 known as Title VI, which prohibits giving federal funds to institutions that discriminate.

Responsibility for seeing that the nondiscrimination required by Title VI is actually accomplished in hospitals is in the hands of the Department of Health, Education, and Welfare, which administers most of the hospital-aid programs. HEW is faced with monitoring well over 100 programs, including major ones in education and welfare. Organization of the effort has been a problem. There is an unresolved conflict in the Department between those who feel that a separate staff should be hired to handle all civil rights questions and those who feel that concern about civil rights and responsibility for Title VI enforcement should be built into every program and operation the Department runs. The Office of Education, which is now overseeing massive school desegregation in the South, has created a special unit for the job, but in the rest of the Department the other viewpoint has so far prevailed, and officials charged with a myriad of other responsibilities are administering Title VI as well.

The general tendency of HEW officials has been to accept assurances of compliance even if they had reason to doubt the assurances reflected reality. When the first HEW forms registering compliance were sent out, for example, almost all hospitals—including hospitals known to HEW administrators to be officially segregated—signed them and sent them in. The basic philosophy of HEW personnel is not to cut off funds but to avoid doing so by persuading hospitals that compliance is in their own best interest. These attitudes and other factors have brought the Department into collision with the National Association for the Advancement of Colored People (NAACP) and other civil rights groups. These groups believe HEW has been neither swift nor forceful in its handling of Title VI cases, and they have publicly charged it with lax enforcement. Since February they have filed around 230 complaints of specific cases of hospital discrimination about which HEW had done nothing. The largest number of these cases have been filed by the Legal Defense and Educational Fund, an affiliate of the NAACP. So far HEW has limited itself to investigating charges made by others and has initiated no actions on its own.

Although the complaints of the civil rights groups have produced certain tensions, HEW officials do not deny that there is basis for the charges. Every complaint has been "valid, well-founded, and responsible," one HEW official said last week; and HEW Assistant Secretary James Quigley, who is in charge of the department's Title VI activities, told a meeting of hospital administrators recently that, except for a handful, the complaints were "legitimate in that the hospitals were either totally or partially segregated." About 20 of the hospitals studied have been formally found to be "in compliance"—that is, integrated or integrating. The rest admittedly have not.

Cases Cited

Descriptions of some of the cases cited by the Legal Defense Fund read as follows.

1) *A Georgia city hospital.* "The hospital is generally segregated, there being a building for whites only and another building for the use of Negroes only. Great disparities between the two buildings exist. For example, the building containing the white charity patients has four bath tubs while the floor containing Negro charity patients has no bath tubs. Negro female patients (non-charity) in order to bathe, must go up to the Negro male charity floor where there is the one and only bathtub for colored use. There are no facilities for bathing in the private rooms for colored patients, where private rooms for white patients are equipped with full baths. There are separate admitting offices for whites and Negroes as well as separate waiting rooms, x-ray rooms, dining areas for employees and waiting facilities in the out-patient department. Negro physicians are not admitted to the staff. . . . One Negro physician who has been practicing . . . for over ten years is extended 'courtesy privileges.' This enables him to admit and use hospital facilities in the course of treating his Negro patients but he is not recognized as a member of the staff; he gets no work from the hospital nor is he given the chance to be upgraded in the hospital hierarchy as would be the case except for his race.

He is completely segregated from the other white doctors with respect to dressing rooms, conference rooms, etc. The hospital supports a nursing school established for training prospective registered nurses. Classes in this school are not open to Negroes."

2) *A county general hospital in Tennessee.* "This hospital maintains separate facilities for Negroes and whites. The recovery room is segregated. Negro patients are always kept on the first floor. When all rooms occupied by whites are filled, whites are brought to the first floor and Negroes moved to the corridors. Equipment in the Negro section is inferior. Negro babies are always brought to the first floor for parents to see, whereas white parents are allowed to go to the second floor, or the obstetric ward, to visit the babies. There is a separate cafeteria for Negroes downstairs. Ward-aides are provided for all floors with the exception of the first floor where Negroes are placed. Segregated hospital lounges are maintained. Negroes are required to pay $50.00 deposit upon entrance to the hospital if they do not have some type of hospitalization. This is not required of whites. Negroes pay more for the rooms than whites and get inferior service. At present a course in nurses aide work is in progress . . . and no Negroes are enrolled although some wanted to participate."

3) *A city hospital in Alabama.* "Negro physicians are unable to become staff members. Negro maternity cases are not admitted. Of the hospital's 235 beds, only 17 are available for Negroes. The pediatric unit is not available to Negro children."

The other complaints that have been filed offer further illustrations of the same points. There is discrimination in admission policies, in patient room assignments, in the quality and availability of facilities, and in the treatment of both professional and nonprofessional staff. The specific items cited in the complaints simply expand on the obvious: hospital segregation has many aspects. They have also provided a kind of eye-opening checklist for HEW officials sent to investigate the complaints.

In a few cases, investigations have yielded change and promises of change. A few hospitals even in the deepest South have satisfied HEW that they fully intend to eradicate segregation; a smaller number have actually done so. In Birmingham, Tuscaloosa, Montgomery, Jackson, and a few other cities, Quigley told the hospital administrators, "Negroes are sharing hospital rooms with white persons, Negro nurses are supervising white nurses, and Negro doctors are serving patients of both races." In many other cases, however, HEW officials have encountered serious evasions. They have, according to Quigley, been told that hospitals no longer segregate Negro patients but instead "reserve" a section of the institution for Negroes; that Negroes prefer to use entrances marked "colored" although they are not required to do so; and that no Negro babies were in the nursery because Negro mothers preferred to nurse their babies and thus had them "rooming in." One community hospital said it had no Negroes on its board of directors because no Negro was public-spirited enough to accept such an assignment. Others said they had asked Negroes if they wanted to share rooms with whites (a question theoretically forbidden by the Department, which expects rooms to be assigned without reference to race), and when they said "no," felt that that constituted compliance with Title VI. The ultimate evasion came when a hospital in Georgia decided to construct its own little Potemkin village. Prior to a recent investigation by an HEW team, the hospital removed its racial signs, placed a few Negroes in white rooms, closed the Negro dining room, and carried Negro babies to the white nursery. When the review team left the city, the signs went up, the dining room reopened, and the Negro infants and adults returned to their segregated sections.

Some of the Problems

Willingness to integrate appears to be compounded of several factors. One is the rate at which federal money is flowing in. University-based medical centers anticipating conspicuous, large grants have shown a striking willingness to adjust; so have hospitals in line for big Hill-Burton construction grants. Most hospitals, however, have gone on pretty much as before in the hope that their federal subsidies are routine enough to escape special notice and that they won't be singled out for complaints. Beyond that, community pressures vary. In rural areas which lack Negro health personnel, "staff privileges" are not much of an issue. In the cities, there is apt to be competition. On the subprofessional level, most southern whites evidently feel that being "supervised" by Negroes is the highest humiliation, and fears about job security may also play a role. The major concerns appear to arise, however, not over the integration of personnel—the sharing of facilities and so forth—for this largely parallels the integration of stores and restaurants that has been taking place in the South over the last few years, but over the integration of patients. Whether this problem will turn out to be serious remains to be seen; it seems unlikely that a victim of acute appendicitis would refuse hospitalization because of a prejudice against his potential roommate.

Difficulties notwithstanding, the NAACP and its colleagues are not apt to be sympathetic with pleas for time. Formally, HEW is taking a very tough line. There is no allowance for "gradualism," such as has characterized school desegregation, and no allowance for "tokenism." "Hospitals are to be fully integrated," one HEW official said last week, "and they are to be integrated now." But civil rights leaders fear that the Department is talking a better game than it is actually playing. They point to the Department's stated willingness to negotiate and compromise rather than cut off funds, and they have privately expressed dismay that most of the investigations so far have been directed by HEW regional offices in Dallas, Atlanta, and Charlottesville, though Washington representatives have been included as well. Many of the HEW regional officers are southerners, and, regardless of their geographic origin or personal preferences, they tend to have established relationships with hospital administrators that long precede the Title VI prohibition against segregation. "Whatever they believe personally," one civil rights attorney said recently, "they are obviously going to have to experience a radical change in their thinking if they are going to administer Title VI. Even if you're a flaming liberal it is hard to tell a guy you've been playing golf with for eight years that his hospital is going to have to undergo a revolution." This is the key argument for recruiting new staff to handle the integration problem. Civil rights leaders also fear that, despite protestations, HEW officials will be too willing to settle for simply

token improvements, and they have attacked the practice which leads investigating teams to notify the hospitals before they are to be visited. In his recent speech Quigley emphasized once more that the department means business, but the civil rights groups are skeptical. More Potemkin villages would not surprise them.—ELINOR LANGER

Space: MOL to Give Military First Chance at Manned Flight; Soviet Reaction Unpredictable

President Johnson's recent announcement that in 1968 the Air Force will launch its first Manned Orbiting Laboratory (MOL) was a departure down an obscurely marked road. Five MOL flights are planned; a Titan III rocket will place in orbit a Gemini capsule attached to a 42-foot (13-m) long canister serving as a military laboratory for the two astronauts for up to 30 days; at the end of the mission, the astronauts will descend to earth in the capsule, leaving the canister in space. Some proponents of MOL believe that, as insurance against "technological surprise" and as a test of improved methods of intelligence gathering, the project will lead to greater stability in relations between the United States and the Communist world. But skeptics fear that MOL will carry the arms race into space. Despite a long hunger, the Air Force has never before been permitted a role in manned space flight, a function heretofore reserved exclusively for the National Aeronautics and Space Administration.

Approval of MOL is a heady success virtually certain to stir still grander Air Force ambitions. Air Force generals and aerospace industry officials have, for example, often talked of maneuverable spacecraft capable of inspecting potentially hostile enemy vehicles and, if necessary, destroying them; whether such an armed U.S. spacecraft ever materializes will depend upon a welter of influences and circumstances, including the political leverage of the Air Force and its allies, the state of the cold war, and how the Soviet Union —which has Air Force generals of its own—reacts to MOL. Although MOL will not be an operational weapon system but a laboratory intended chiefly to test man's endurance in space and his ability to play a useful intelligence-gathering role there, the remarks of the first Russian to comment on it were predictably unencouraging. "Now the Pentagon wants to use space laboratories not only for espionage but also to accomplish direct combat tasks," said Col. Gen. Vladimir Tolubko, Deputy Commander of the Soviet Union's rocket troops. He derided President Johnson for his "hypocritical" words about extending the rule of law to outer space, and even suggested that MOL would become a nuclear weapons carrier, although many defense scientists ridicule the notion of using highly vulnerable vehicles in fixed orbits as a nuclear delivery system.

But if the Soviets do suspect the MOL of offensive capabilities and move to counter it, an arms race in space will be the prospect. If, on the other hand, the Soviets respond by launching MOL's of their own, the Soviet Union and the United States might each feel more secure as the result of better knowledge of the other's military activities; this assumes, of course, that the manned spacecraft proves even more effective as an intelligence gatherer than the unmanned reconnaissance satellites now in use by both countries. Conceivably, the MOL could contribute to further efforts at arms control, which has not advanced since 1963, the year of the "hot line," the partial test ban treaty, and the United Nations resolution against the orbiting of weapons of mass destruction. In any event, given the ambitiousness and technological strength of the Soviet space program, the possibility that the Russians would have launched a MOL, regardless of what the U.S. did, cannot be dismissed; and they may yet be the first to put a manned laboratory into orbit.

The Air Force's hopes for a manned space-flight role once rested largely on the Dyna-Soar, a space glider designed to manuever to a landing upon re-entering the earth's atmosphere. In December 1963, Secretary of Defense Robert S. McNamara canceled Dyna-Soar, saying that what was needed was a program to determine man's utility in space rather than one limited to finding a way to control his return from space. At the same time, McNamara announced the program to develop MOL, which to more cynical observers suggested that MOL might be hush-money to stifle Air Force outcries over the loss of Dyna-Soar.

As it turned out, a firm decision to proceed with MOL was still nearly 2 years away, pending the completion of extensive studies and a review by the National Aeronautics and Space Council and by the President. MOL had to pass rigorous review from defense officials who wanted the project better defined in relation to military needs. Air Force rhetoric, warning of peril to the nation unless manned military spacecraft were developed, no longer sufficed; the generals faced the necessity of specifying tasks that man might perform and tests of his ability to do them.

The talents of industry and of defense scientists and engineers were enlisted, and as the MOL program finally emerged, great emphasis was placed on intelligence gathering. In fact, before MOL was approved, the Air Force, overlooking no arguments for the project, is understood to have assigned someone to work specifically on its arms-control potentialities.

The project advanced slowly, and by summer some congressmen were showing impatience. The House Subcommittee on Military Operations, chaired by Rep. Chet Holifield of California, indicated in a report in June that the Pentagon was off in its sense of timing. "The orbital space station was technologically right for development at least a year ago," the subcommittee said. It concluded that beyond doubt the MOL should be defense-oriented and run by the military rather than be entrusted to the civilian space agency, although there was no likelihood that NASA might take over the project.

The Soviet Union's military space program was "substantially ahead" of that of the United States, the subcommittee said, noting that the Voskhod launched in October 1964 carried three astronauts who were not confined to space suits and could conduct experiments in their shirtsleeves. "A decision for full-scale development of the military MOL does not mean that NASA is preempted from future space station experiments under its own management," the report added.

For their part, the space committees of the House and the Senate also favored MOL, and their principal concern has been to see that maximum advantage is taken of what NASA as well as the Defense Department can contribute, and thus to avoid needless duplication of facilities and equipment. MOL seems to have stirred little apprehension of