NEWS & VIEWS

External Peer Review by Medical Specialists (Visitatie) in a Legal Perspective

M.J.M.H. LOMBARTS* and F.C.B. VAN WIJMEN**

Corresponding address: M.J.M.H. Lombarts, AMC/UvA, Department of Social Medicine, P.O. Box 22660, 1100 DD Amsterdam, The Netherlands, e-address: k.lombarts@hetnet.nl, telephone: (31) (0)20-5665033

Introduction

To assure and improve the quality of patient care much is being invested by health care providers. In different parts of the world the preferred approaches vary. In the UK the focus is on the revalidation of doctors,¹ in the USA patient safety is emphasized,² in Australia clinical indicators enjoy a high profile³ and in the Netherlands visitatie has become an important vehicle for professional quality assurance.⁴ Visitatie is a peer assessment method focussing on the organization and delivery of individual health care by means of a standardized on-site visit. It is a doctors led and -owned quality assurance activity, meaning that medical specialists administer and execute the visitatie programs. Visitaties are ultimately aimed at improving patient care quality.

Legally, Dutch institutions and professionals base their actions on various health laws, such as the Care Institutions Quality Act, the Individual Health Care Professionals Act and the Medical Treatment Contracts Act. Although quality assurance remains to a large extent in the formal domain of national authorities, the development of legal frameworks in an international context can be expected.⁵ This calls for the exchange of knowledge about nationally developed systems. This paper concerns the legal perspective of visitatie of non-teaching medical practices. Although the Dutch dictionary Van Dale defines ‘visitatie’ as a ‘skin-search’, the peer review method is not that physical and there is no need for medical doctors
to feel searched for hidden talents or deficiencies. Visitatie of non-teaching medical practices, introduced by the Dutch Society of Surgeons in the late eighties, is now a well-established professional quality assurance system in all of the 27 Dutch medical specialty societies. By growing to its full stature, the societal interests in visitatie have increased. Once started as a ‘peers only’ QA program, visitatie has grown to become an activity involving many actors and even more stakeholders.

Studying the phenomenon of visitatie, many legal questions arise. This paper deals with the main legal aspects of:

1. The design of visitatie as a peer review system (i.e. who sets the standards, what is their legal strength, who carries out the assessment and what skills and expertise are required)
2. The (potential) external effects of the functioning of an internal system (i.e.: can doctors be forced to submit themselves to a visitatie, can the visitatie results be publicly disclosed, what sanctions – collectively and individually – can be attached to the visitatie results and is there a possibility of appeal?)
3. The role of the healthcare setting in which the visited peers operate (i.e. how does the organization influence a doctor’s position, what is the meaning/role/responsibility of a partnership in a visitatie?)

The visitatie context

Visitatie of non-teaching practices focuses on the quality of patient care. More specifically, the conditions for realizing quality patient care (practice keeping) and the systematic assurance and improvement of that care (the quality management system) are stressed in the survey. The visitatie programs of the 27 speciality societies show considerable resemblance. Most societies installed a Plenary Visitatie Committee, usually operating under the auspices of the Quality Improvement Committee, taking care of the development, execution and maintenance of a visitatie program as approved by the general meeting of specialist members. This committee develops all the necessary visitatie documents, proposes quality norms to the general meeting, recruits and selects (peer) surveyors and approves and ratifies the practice specific visitatie reports. For the actual on-site survey, per practice an ad hoc visitatie team of (2 to 4) peers is formed. Criteria for the selection of peer surveyors, the composition of the ad hoc survey teams and other procedures are formulated by each speciality society and documented in the visitatie regulations.

Visitatie in the format discussed here, is a method of inter collegial assessment or peer review. Depending on which perspective one chooses to study visitatie,