in order for that to get reported by the hospital to the FDA, it has to appear in the hospital chart.

Senator NELSON. Yes.

Dr. WESTON. Well, have you ever seen lawyers go through hospital charts? I mean, what you are doing in effect is you are asking the doctor to invite upon himself a malpractice case. And they just do not do it. They are getting more and more cautious about malpractice and to put down anything that is equivocal in any way on a hospital chart is to invite its inspection by an attorney, and that is why I say in theory it sounds wonderful but it just—I have worked so much with malpractice cases, not only drug reactions but where doctors have had surgical misadventures, and as a matter of fact, in Philadelphia we had a very elaborate system whereby every patient that died in surgery, everyone who died after surgery, or everyone who died as a course of treatment, either immediately or delayed, as this would ordinarily be, had to be reported to the medical examiner. They were referred down to the medical examiner's office for examination. In the course of that examination the hospital chart was subpenaed, a privilege allowed the medical examiner in that city. It is in many. The chart was brought in and summarized.

Now, if in the course of the entire workup, including the hospital chart summary, post mortem examination, chemical studies, and everything else, it could be shown that the doctor was negligent, derelict in his duty, this case was anonymously presented to a committee of the medical society. It was quite effective in bringing the hospital, the physician, and his peers together and pointing out that they are doing something which is not being done by most of the physicians or, as a matter of fact, in some cases you are committing a gross error bordering on criminal neglect. That is in my experience the most sophisticated type of system we have in the United States today. This is similar to California which has set up their board of examiners and they can at will call for a hearing but if you were to go into most communities today, there actually is no agency that functions in this way; the result is that the physician is not protected to the degree that he should be and he protects himself. And that is why they are so conscious of malpractice today that it really has started to be felt in the way they practice medicine.

Senator NELSON. I realize there are tiny 25-bed, 10-bed hospitals that may follow a different procedure, but is it not correct that you could go into any major hospital and the patient's record will show the case history, the diagnosis, the treatment, and so forth, if the patient is in there as a consequence of some dramatic reaction to a drug that has been administered, the record will show that, will it not?

Dr. WESTON. If the diagnosis is established.

Senator NELSON. Yes. You do not mean to tell me that in major hospitals in this country if a patient comes in who has a dramatic reaction to a drug, and it is known what the drug is, it is known that this is a side effect, and they are treating this patient, the hospital would fail to disclose in the record what the patient's condition is? Is that happening? The hospitals are hiding from the record the patient's diagnosis?