Physician, Heal Thyself

A deep dive into physician behavior and compliance implications

Presented by

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Disclaimer: Nothing in this presentation should be construed as legal advice nor relied upon as legal expertise.
## What We’re Going to Cover

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<td><img src="image1.png" alt="Physician Icon" /></td>
<td><img src="image2.png" alt="Whistleblower Icon" /></td>
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### Key Takeaways

- **Compliance Program Effectiveness**
  - Is your compliance program designed specifically for physicians?

- **Go Clinical When Necessary**
  - Some auditing and monitoring should be done by those who have been medically trained

- **Manage Compliance**
  - Leverage experts and utilize compliance tools
DOJ sues cardiologist for ‘unnecessary procedures’

-CNBC
January 5, 2015
Cardiology allegations

- Florida cardiologist
- Second highest recipient of Medicare dollars in 2012 ($18.2 Million)
- Whistleblower suit from former biller
- Jan. 2015 DOJ joins suit
- Unnecessary procedures
- Kickbacks to patients (waiving co-payments)

Cardiology allegations

- “Drive-by” renal aortography
- E/M at same time of Protime/Coumadin checks
- Unnecessary nuclear stress test
- Unnecessary erectile dysfunction ultrasounds
- Cardiac caths performed without examining first
- Unnecessary peripheral interventions
- Unnecessary groin artery checks
Cardiology allegations

- Overestimated the extent of arterial blockage (leading to unnecessary angioplasty, atherectomy and stents)
- Unnecessary carotid ultrasounds
- Unnecessary Holter monitors
- Unnecessary extremity ultrasounds leading to procedures
- Unnecessary transcranial Doppler
- Routine waiver of patient co-pays and deductibles

Clinical background with coding

- CPT 75724 (~$293.50) vs. G0725 (~$14.50)

- CPT 75724--Angiography, renal, bilateral, **selective** (including flush aortogram), radiological supervision and interpretation
Clinical background with coding

- G0275--Renal angiography, **nonselective**, one or both kidneys, performed at the same time as cardiac catheterization and/or coronary angiography, includes positioning or placement of any catheter in the abdominal aorta at or near the origins (ostia) of the renal arteries, injection of dye, flush aortogram, production of permanent images, and radiologic supervision and interpretation (List separately in addition to primary procedure)

Image accessed from Cleveland Clinic website on 3/6/2016
https://my.clevelandclinic.org/services/heart/disorders/arterial-disease/renal-artery-disease
“While withdrawing the catheter during a cardiac catheterization procedure, physicians often inject a small amount of dye to examine the renal arteries and/or iliac arteries. These services when medically reasonable and necessary may be reported with HCPCS codes G0275 or G0278. A physician should not report CPT codes 75722 or 75724 (renal angiography) unless the renal artery(s) is (are) catheterized and a complete renal angiogram including the venous phase is performed and interpreted.”
NCCI Manual

“Renal artery angiography at the time of cardiac catheterization should be reported as HCPCS code G0275 if selective catheterization of the renal artery is not performed. HCPCS code G0275 should not be reported with CPT code 36245 for selective renal artery catheterization or CPT codes 75722 or 75724 for renal angiography. If it is medically necessary to perform selective renal artery catheterization and renal angiography, HCPCS code G0275 should not be additionally reported.”

Cardiology allegations

- A staff member specifically told the biller that when the previous medical director had reviewed films of Dr. Cardiologist's procedures, the director had chastised Dr. Cardiologist for performing medically unnecessary procedures.
- Nurse T.B. was the ICE cath lab director. Nurse T.B. told the biller that ICE had a difficult time keeping clinical staff because the "good nurses always leave when they find out what he is doing." Biller asked what Nurse T.B. meant by this, and she stated that Dr. Cardiologist performed unnecessary procedures. Biller sought to confirm this, asking, "are you telling me Dr. Cardiologist is doing unnecessary procedures on patients?" and T.B. responded, "yes."
Cardiology allegations

- Tennessee cardiologist
- Whistleblower suit from another physician (Chief of Cardiology)
- $1.15 million settlement
- Corporate Integrity Agreement
- Unnecessary stent procedures
- Improper *Locum Tenens* billing
## Cardiology allegations

**Unnecessary:**
- transthoracic echocardiography
- scintigraphic stress imaging
- transesophageal echocardiography
- heart catheterization
- diagnostic coronary angiography
- various coronary peripheral intervention procedures, including stent placements

## Cardiology allegations

**Falsification of medical records:**
- Blockage more severe than demonstrated by films

- Documented patients had continual chest pain, symptoms and positive stress tests when this was not the case

**Estimated that approximately 40% of Medicare claims for stent placement and approximately 25% of his TennCare claims for stent placement falsely certified that those procedures were medically indicated and necessary**
JAMA Study


• Large U.S. study of over 500,000 interventions performed at over 1000 hospitals

• For nonacute indications, 72,911 PCIs (50.4%) were classified as appropriate, 54,988 (38.0%) as uncertain, and 16,838 (11.6%) as inappropriate.
Dr Mark Midel’s Medical License Revoked

July 13, 2011

The Maryland Medical Board has concluded its review of Dr Mark Midel, deciding to revoke his license, calling his violations of the Medical Practice Act “Repeated and Serious.”

The disciplinary action was published on the board’s website today, noting that the board will not consider reinstatement of his license for at least two years. At that time, it is up to the Washington, DC-based board whether it will consider reinstatement of his license.

Salisbury stent doctor sentenced to federal prison

Cardiologist falsified patient records to justify unnecessary procedures

November 10, 2011 | By Tricia Bishop, The Baltimore Sun

John R. McLean, a Salisbury physician, was sentenced to eight years in federal prison Thursday, making him the second cardiologist in the country to face incarceration for implanting unnecessary coronary stents in dozens of patients, then fraudulently billing insurers thousands for the work.

A Louisiana doctor was sentenced to 10 years in prison in 2009 under similar allegations. And a half-dozen other physicians, including Towson’s Dr. Mark G. Midel, are accused in civil lawsuits of overusing stents, though they have not been charged criminally.

“I conclude, sadly, that this was a crime of greed,” U.S. District Judge William D. Quarles Jr. said of McLean’s actions, which include falsifying patient records at Peninsula Regional Medical
$270,528 to settle federal civil claims

Ordered to pay restitution in the amount of $172,950

Sentenced to 3 months imprisonment and 3 years supervised release.
Massage as physician services

- Submitted claims for osteopathic and physical therapy services that he did not perform, and by misrepresenting the nature of the services that were performed.
- Specifically he submitted claims in connection with services rendered by a massage therapist, but falsely described the services rendered and falsely stated that he himself had rendered the services.
Dermatology allegations

- Billed for surgical closure procedures at a more complex level than warranted
- Surgical closure procedure codes are arranged by complexity
- Higher complexity = higher reimbursement = greater documentation/performance requirements
Dermatology allegations

- Florida dermatology practice
- Whistleblower suit from another physician and employees
- $3 million settlement
- Corporate Integrity Agreement
Dermatology allegations

Four alleged schemes:

• Improperly supervised and billed radiation treatment for skin cancer
• Surgeries performed by unsupervised non-physicians but billed as if physicians performed
• Patient consultations and follow-up visits performed by non-physicians but billed as if physicians performed
• Medically unnecessary biopsies
Dermatology allegations

- Dermatopathology laboratory in Georgia and dermatology practices throughout eastern U.S.
- Whistleblower suits from three separate physicians
- $3.2 million settlement
- Improper financial relationships with its employed physicians
  - Stark Statute and the False Claims Act
- Corporate Integrity Agreement
  - Focus arrangements requirements
Pain clinic allegations

- Pain center in Missouri
- $860,000 settlement
- Upcoding of evaluation & management services and nerve conduction studies
- Corporate Integrity Agreement
Pain clinic allegations

- Clinic in Long Island, NY
- $1.1 million settlement
- Whistleblower was receptionist
- Medically unnecessary nerve conduction studies

Pain clinic allegations

- Altered documents so it would appear studies were done on different days even though tests done on same day
  - (Tests done on the same day would be denied per payor policy)
- Tests were not medically necessary
- Staff compensated for administering multiple tests to multiple patients
What do You Do?

Compliance Program Effectiveness Review

“With the passage of the Patient Protection and Affordable Care Act of 2010, physicians who treat Medicare and Medicaid beneficiaries will be required to establish a compliance program.”

A Roadmap for New Physicians
U.S. Dept. of HHS OIG

What do You Do?

Some auditing and monitoring should be done by those with a clinical background

“The individuals from the physician practice involved in these self-audits would ideally include the person in charge of billing (if the practice has such a person) and a medically trained person (e.g., registered nurse or preferably a physician).”

OIG Compliance Program Guidance
Federal Register, Volume 65, No. 194, page 59437
**All or Nothing**

“If the physician practice ignores reports of possible fraudulent activity, it is undermining the very purpose it hoped to achieve by implementing a compliance program.”

- OIG Compliance Program Guidance
Federal Register, Vol. 65, No. 194, page 59443

**Track to Resolution**

“A compliance program’s system for meaningful and open communication can include the following…the development of a simple and readily accessible procedure to process reports of erroneous or fraudulent conduct.”

- OIG Compliance Program Guidance
Federal Register, Vol. 65, No. 194, page 59444
Manage the Compliance Program

- Utilize available compliance program management tools
- Leverage the experts
- Document a pattern of thoughtful compliance

Key Takeaways

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- Is your compliance program designed specifically for physicians?

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Questions?

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