



Physician, Heal Thyself

A deep dive into physician behavior and compliance implications

Presented by 

CJ Wolf, MD, CHC, CCEP, CIA, COC, CPC
 Healthicity | Senior Compliance Executive
 cj.wolf@healthicity.com



Disclaimer: Nothing in this presentation should be construed as legal advice nor relied upon as legal expertise.

What We're Going to Cover

Physicians



Whistleblowers



Action Items

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

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DOJ sues cardiologist for 'unnecessary procedures'

Reem Nassir | @reemnassir
Monday, 5 Jan 2015 16:47 PM ET

Source: Wikipedia

DOJ sues cardiologist for 'unnecessary procedures'

-CNBC
January 5, 2015

THE UNITED STATES DEPARTMENT OF JUSTICE

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JUSTICE NEWS

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE Monday, January 5, 2015

Government Intervenes in Lawsuit Against Florida Cardiologist Alleging Unnecessary Peripheral Artery Interventions and Payment of Kickbacks

The government has intervened in two lawsuits against a Florida cardiologist, Dr. Asad Qamar, and his physician group, the Institute for Cardiovascular Excellence PLLC (ICE), alleging that Qamar and ICE billed Medicare for medically unnecessary peripheral artery interventions and paid kickbacks to patients by waiving Medicare copayments irrespective of financial hardship, the Justice Department announced today.

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)

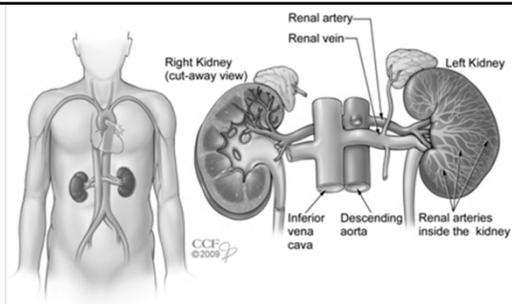


Image accessed from Cleveland Clinic website on 3/6/2016
<https://my.clevelandclinic.org/services/heart/disorders/arterial-disease/renal-artery-disease>

NCCI Manual



"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



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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

The screenshot shows the ACC Quality Improvement for Institutions website. The main content area is titled "Appropriate Use Criteria" and includes the following text:

The CathPCI Registry[®] Outcomes Report contains updated metrics that can be used to identify and categorize patients undergoing a PCI into one of the Appropriate Use Criteria (AUC) categories.

With this feature, NCDR hospitals will be better informed and able to track their use of PCI. Additionally, they'll be able to identify opportunities to improve the selection of patients who receive PCI by using the "institutional rates of procedural appropriateness" data included in the report.

The American College of Cardiology (ACC) is committed to examining medical decision-making, creating the foundation for best practices in decision-making and supporting safer, more cost-effective cardiac care through AUC for Coronary Revascularization. The ACC believes that the implementation of AUC can improve the efficient use of PCI in the United States.

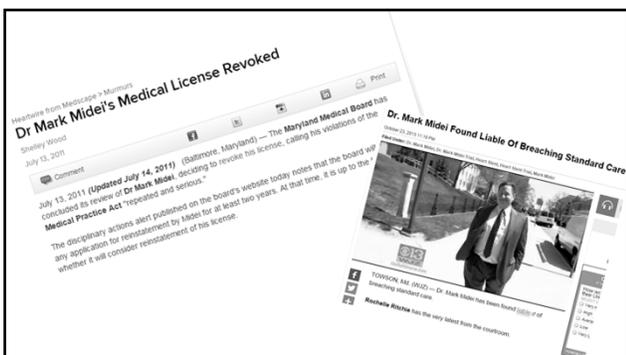
Navigation links include: HOME, ABOUT, GET STARTED, NEWS, SEARCH, REGISTER, LOGIN. A sidebar menu lists: About NCDR, Benefits of Participating, Partners, Data Quality, Training and Education, International Participation, Leadership, FAQs, Registries, Data Collection. An advertisement for ACC Member Publications is also visible.

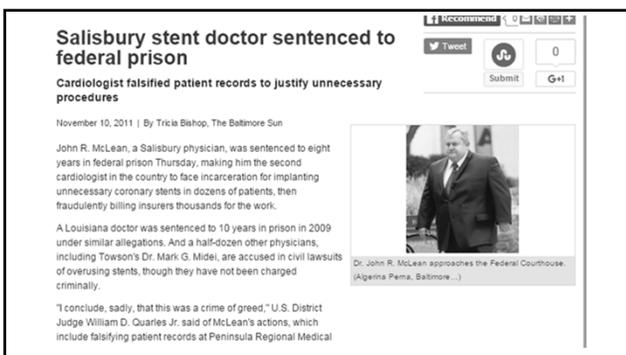
URL: <http://cvquality.acc.org/NCDR-Home/About-NCDR/Benefits-of-Participating/Appropriate-Use-Criteria.aspx>

JAMA Study



- Chan PS, Patel MR, Klein LW, et al. **Appropriateness of Percutaneous Coronary Intervention**. *JAMA*. 2011;306(1):53-61. doi:10.1001/jama.2011.916.
- 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.





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U.S. Attorney's Office December 20, 2012

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FOR IMMEDIATE RELEASE Friday, January 16, 2015

Ridgefield Physician Pleads Guilty To Health Care Fraud

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Deirdre M. Daly, United States Attorney for the District of Connecticut, announced that DAVID LESTER JOHNSTON, 46, of Ridgefield, pleaded guilty today in Hartford federal court to committing health care fraud.

According to court documents and statements made in court, JOHNSTON is an osteopathic physician

\$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.

I am a Doctor of Osteopathy and practice at the Osteopathic Wellness Center in Ridgefield, Connecticut. A few years ago, I hired Serafim Kotsoyannis, who was trained in certain osteopathic techniques and was also a massage therapist. Mr. Kotsoyannis was not, however, a Doctor of Osteopathy. As set forth in Court T work the Trichinoid, I defended an insurance company by billing for Kotsoyannis as if he were a Doctor of Osteopathy. If the insurance company had known that Kotsoyannis was not a Doctor of Osteopathy, it would not have paid the claim relating to his services. I know what I was doing was wrong and engaged in this billing practice knowingly and voluntarily. (D11)

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U.S. Attorneys » District of Rhode Island » News

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FOR IMMEDIATE RELEASE Thursday, November 5, 2015

RI Dermatology and Cosmetic Center Pays More Than \$150,000 to Settle Allegations of Upcoding Medicare Claims

PROVIDENCE, R.I. – United States Attorney Peter F. Neronha and Phillip Coyne, Special Agent in Charge of the U.S. Department of Health and Human Services, Office of Inspector General (HH-IOIG), New England Region, announced today that Rhode Island Dermatology and Cosmetic Center, LLC, and Rhode Island Dermatology OBS, LLC, of Lincoln, have paid \$152,043.25 to

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

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FOR IMMEDIATE RELEASE Wednesday, August 12, 2015

Long Island Physicians Pay \$1.1 Million To Resolve Civil Fraud Allegations That They Provided And Billed For Unnecessary Medical Testing

Dr. Vikas Desai (Desai), the principal of Desai MD, P.C. d/b/a East Islip Family Care (EIFC), and Dr.

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?

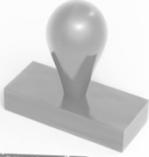


Some auditing and monitoring should be done by those with a clinical background

"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



ERROR

"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 

 **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



Questions?

cj.wolf@healthcity.com
