



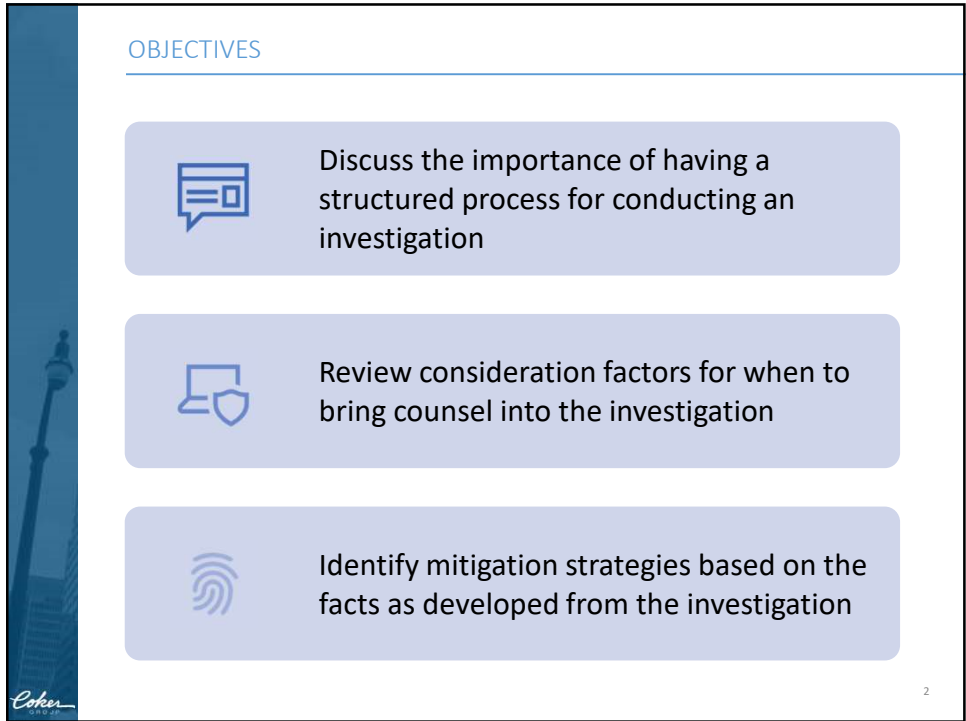
Coker
GROUP
Business Advisors for the Healthcare Industry

Internal Investigations and Remedial Actions




Health Care Enforcement Compliance Conference

Roz Cordini and Dwight Claustre

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OBJECTIVES

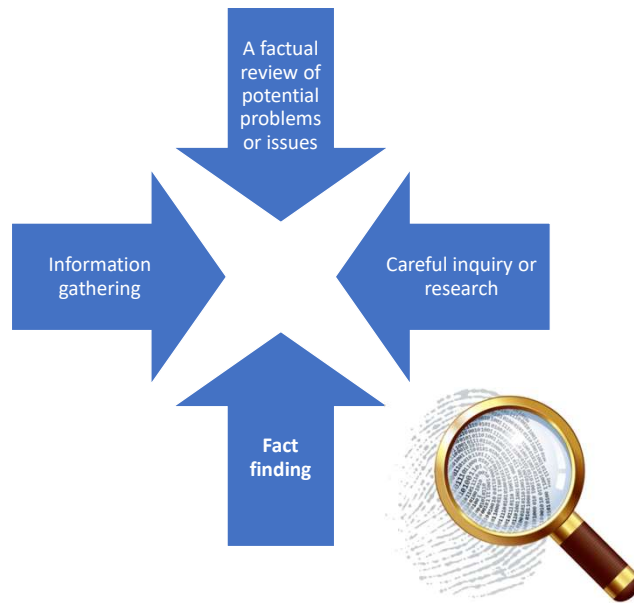
-  Discuss the importance of having a structured process for conducting an investigation
-  Review consideration factors for when to bring counsel into the investigation
-  Identify mitigation strategies based on the facts as developed from the investigation



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INTERNAL INVESTIGATION DEFINED



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WHEN IS AN INTERNAL INVESTIGATION WARRANTED?

Routine audit findings identifying potential error

Reasonable belief that a problem exists

Actual notice received from a 3rd party or employee of a potential violation of regulation/law

Becoming aware of a violation of the compliance program or company policy

Notification from the MAC that they are conducting an audit

Annual OIG Work Plan, OIG Audit Reports, Special Fraud Alerts, new regulations or other identified potential risk areas

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POLICY AND PROCEDURE IMPERATIVE



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INVESTIGATION GUIDE



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CONDUCTING THE INVESTIGATION



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CONDUCTING THE INVESTIGATION

Analyze complaint or concern (cont)

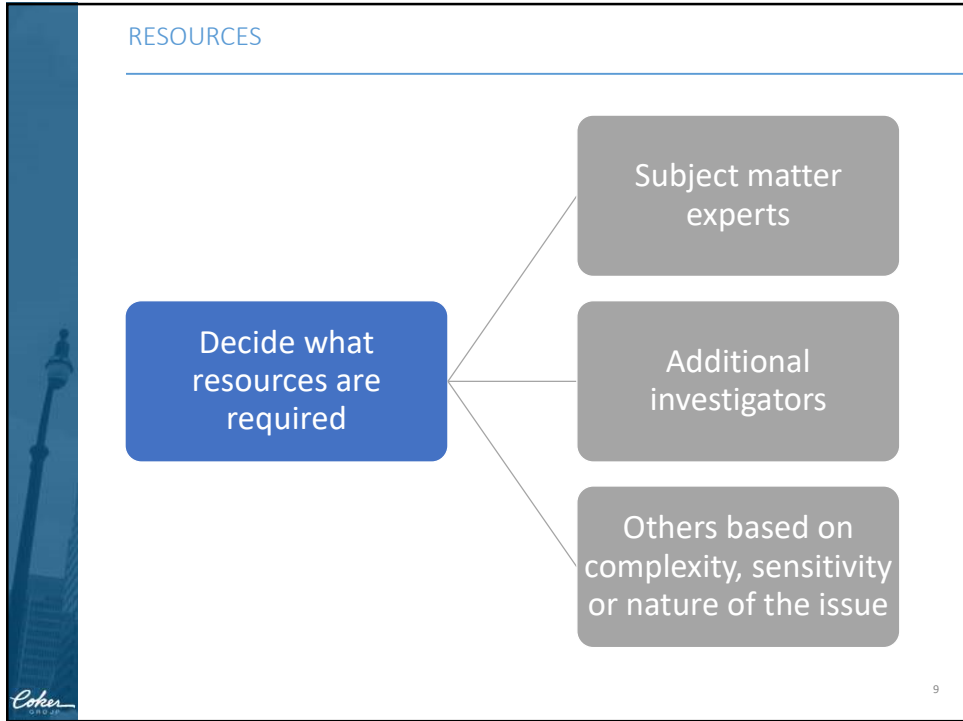
Individuals involved-who knew, who should have known?

Is there monetary impact?

Based on information initially received, is there any activity/behavior that needs immediate intervention?

Practice continues or has it stopped?

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- OTHER RESOURCES
- Auditors, Legal counsel
 - Medical or clinical personnel
 - Risk Management
 - Revenue Cycle/PFS
 - Security or Law enforcement
 - HIPAA/Privacy/Security
 - Human Resources
- Coker GROUP
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Review of documents – may include:

- Personnel records, Medical records
- Billing records, Policies, Regulations
- Contracts, Leases, **Emails**, Letters to file, Call schedules, Work schedules,
- IT usage/access logs

- Background
 - You are the CCO for a large independent general/vascular surgery group - 12 general, 3 vascular surgeons
 - They do their surgeries at the local community hospital
 - They outsource their RCM function to a 3rd party billing company
 - It's a Friday before a long holiday weekend (so excited to take a long weekend after a busy month) when the hotline report comes in.
 - An anonymous report complaining that one of your [unnamed] vascular surgeons is performing unnecessary stenting procedures, not a lot of detailed information.



WHAT DO WE KNOW

- Who?
 - “a” vascular surgeon (you have 3 in your practice)

- What?
 - Unnecessary stenting procedures

- Where?
 - The local community hospital where they perform procedures

- When? Why? How?
 - Unclear from the report



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WHAT DO WE DO NOW?

- How to identify the surgeon allegedly at issue?
 - Review
 - Utilization reports
 - Previous payer audits
 - Previous internal audits
 - Provider complaints

 - Interview
 - RNFA?
 - OR/lab Tech (hospital employee)?

 - Audit
 - Documentation and coding
 - Surgical note



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SCENARIO AUDIT FINDINGS

- During that audit the auditor identifies an inappropriate coding of modifier 59 by one physician.
- “Modifier 59 is the universal unbundling modifier. When used on a claim line, it unbundles two procedures that normally would be bundled and not paid together. Modifier 59 is telling the payer that this situation is an exception and although these two codes are normally bundled, there exists a special situation that you should consider which makes these two codes which normally are bundled, separately payable.” - [AAPC.com/blog](https://www.aapc.com/blog)
- We decide to add a medical necessity review of that physician’s cases and in that review the physician reviewer identifies the inappropriate use of stents.



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SCENARIO AUDIT FINDINGS



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COUNSEL

Attorney Client Privilege

When

- Discuss with counsel?
- Potential for publicity?
- Prior to beginning investigation?
- Severity of allegations?
- When you realize it is big?

COUNSEL

Attorney Client Privilege

How is it Obtained?

- Orally or in writing

How to avoid waiving it once created

- Mark the top of your email "Attorney-Client Privilege"
- Do not copy/forward or otherwise disclose to unnecessary recipients
- Instruct recipients accordingly - shows intent that it be privileged

Can copy all necessary parties within corporation and agents thereof who are assisting the attorney

SCENARIO DISCUSSION

- Should attorney-client privilege have been obtained?
- At what point?



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MITIGATION

Take appropriate mitigation action

Ensure appropriate action is taken

May include

- disciplinary action and/or
- corrective actions such as
 - process change,
 - policy change,
 - **refund**,
 - counseling,
 - education,
 - follow up auditing/monitoring

Self disclosure



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SCENARIO MITIGATION

6-year look-back – Quantify and Repay

- Unnecessary stents
 - Communication with hospital?
- Modifier -59

Corrective Action Physician

Corrective Action Other Employees?

Perform Root Cause Analysis

How will you monitor to ensure this doesn't happen again?



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PRESS RELEASE

Michigan Vascular Surgeon Sentenced to 80 Months in Prison for Health Care Fraud Conviction and Agrees to Pay Up to \$43.419 Million to Resolve False Claims Act Allegations

Thursday, May 25, 2023

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For Immediate Release

Office of Public Affairs


Vasso Godiali, a vascular surgeon from Bay City, Michigan, was sentenced on May 3 to 80 months in prison for orchestrating a multimillion-dollar scheme to defraud health care programs by submitting claims for the placement of vascular stents and for thrombectomies that he did not perform and was ordered to pay \$19.5 million in restitution collectively to Medicare, Medicaid, and Blue Cross/Blue Shield of Michigan (BCBSM). Additionally, Godiali agreed to pay the United States up to \$43,419,000 to resolve related civil allegations that his fraudulent billings to federal health care programs violated the False Claims Act (FCA).

According to a plea agreement that Godiali entered on Feb. 8, 2022, Godiali began to knowingly defraud medical insurers, including Medicare and Medicaid, in approximately 2009. Godiali billed for the placement of multiple vascular stents in the same blood vessel and prepared medical records purporting to document the medical necessity justifying that billing. In fact, however, Godiali did not place those stents and admitted to billing for services never rendered while preparing materially inaccurate medical records to justify the fraudulent billings.




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ABOUT THE PRESENTERS

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ABOUT ROSALIND CORDINI, JD, MSN, RN, CHC, CHPC


Roz Cordini, JD, MSN, RN, CHC, CHPC, is a senior vice president and director of coding & compliance services with Coker Group. Ms. Cordini leads the coding & compliance service line to focus on Office of Inspector General program compliance, including compliance program development, compliance effectiveness reviews, compliance investigations, physician compensation governance procedures, and governance education. She delivers advisory services to boards of directors and senior leaders regarding compliance, virtual compliance officer services, provider documentation and coding audits, and other compliance-related services. These include physician arrangements audits, facilitation of root cause analyses/failure mode effectiveness, and criticality analyses for identified compliance violations, and mergers and acquisitions compliance due diligence. Additionally, Coker's compliance services include Health Insurance Portability and Accountability Act (HIPAA) privacy assessments and security risk analyses.

Additionally, Roz's legal experience helps organizations developing novel structures, such as clinically integrated networks, to understand the statutory and regulatory environment surrounding these entities. While not providing legal advice to clients in these matters, she can provide invaluable guidance and advisory services that ensure the compliance of the innovative integration of clinical providers.

Ms. Cordini is also a registered nurse, certified in healthcare compliance and healthcare privacy compliance, and experienced as a healthcare regulatory attorney with a solid clinical and healthcare leadership background. She is a frequent speaker on healthcare compliance, including compliance program effectiveness and the Health Insurance Portability and Accountability Act (HIPAA), electronic health record compliance concerns, population health management, and more.

Ms. Cordini is a frequent speaker on a myriad of areas relating to healthcare compliance, population health management, etc. At Coker, Ms. Cordini leads the Coding & Compliance service line which focuses on coding, clinical documentation and compliance services for hospitals, health systems and physician practices. Given her background, she is especially qualified to help organizations develop or update their compliance programs, establish remote compliance officer services for smaller facilities without the internal resources to support this area of great importance, and assist acquiring organizations with mergers and acquisitions compliance due diligence.

In addition, Ms. Cordini's legal experience helps organizations, who are developing novel structures such as clinically integrated networks, understand the statutory and regulatory environment surrounding such entities. While not providing legal advice to clients in these matters, she can nevertheless provide invaluable guidance and advisory services that ensure innovative integration of clinical providers is done in a compliant fashion.



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ABOUT DWIGHT CLAUSTRE, CHC-F, CHRC, CHPC

Dwight Claustre, CHC-F, CHRC, CHPC has over 41 years of healthcare experience in the areas of Risk Management, Administration and Compliance. He retired in 2009 from a 42 Hospital system.

For the last 25 years, Dwight has focused on compliance. During his focus on compliance, he has been involved in an array of healthcare settings.



Expertise includes:

- Served as interim Compliance and Privacy Officer and interim Research Compliance Officer for complex healthcare organizations
- Conducts audits and process reviews of physician and referral source arrangements processes and aided in the development of arrangements compliance systems and processes
- Conducts compliance program effectiveness reviews and risk assessments for academic medical centers, hospital systems, and children's hospitals
- Managed Independent Review Organization engagements, and served as IRO for CIA-obligated organizations
- Conducted a complex investigation into Stark and Anti-Kickback allegations and developed data and facts to be used in a self-disclosure



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THANK YOU

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