

Quality of Care in Physician Groups: How are they perceived by the Enforcers?

Stephen A. Morreale, D.P.A., CHC
Compliance & Risk Dynamics, LLC
Worcester State College

Quality of Care: How is it perceived by the enforcers?

If your entity delivers medical services:

- What factors can trigger a look from investigators?
- What actions can occur?
- Can Quality of Care trigger FCA charges?
- What are the state vs. federal exposure for actions/inaction?

Emerging Focus Areas

- **Quality of care**
 - Standard of care enforcement actions
 - Administrative sanctions
 - Civil monetary penalties
 - Termination of provider agreement
 - Provider exclusion



Oversight Landscape

- OIG-Office of Investigations
- Federal Bureau of Investigations
- RAC-Recovery Audit Contractor
- MEDIC
- OAS and CMS Audit Teams
- MFCU
- State Medicaid Audit

Deficit Reduction Act

- Enhanced Medicaid Scrutiny
- Entities with more than \$5m in Medicaid billings must:
 - Train all employees on FCA actions
 - Advise staff of relator options (Qui Tam)

If Your Entity Delivers Medical Services:

- What factors can trigger a look from investigators?
- What actions can occur?
- Can Quality of Care trigger FCA charges?
- What is the state vs. federal exposure for actions/inaction?

Quality and Safety - Overview

- Who, What and When?
 - CMS 8th Scope of Work
 - Quality Initiative
 - Joint Commission
 - Leapfrog Group
 - Patient surveys and satisfaction

Hot Spots

- Coding for Quality
- Applying the Queuing Theory to Healthcare

Enforcement Roles - Overview

- Federal Government
- State Agencies
- Accreditation Agencies

Potential Hot Spots in Quality

- Adverse Events
- Proper documentation, i.e.: reflects services provided
- Adhering to Safety Requirements
- Corrective Action Plan follow up
- Quality Measures defined by your organization
- Medically unnecessary procedures
- Proper credentialing of clinicians

False Claims Act

- How does this relate to quality?
- Areas of focus for FCA actions
- Corrective actions to resolve issues

From the Headlines . . .

“Medicare won’t cover hospitals’ preventable errors”

Boston Globe, August 19, 2007

Focus on several quality initiatives to improve care purchased by Medicare

Preventable Errors

- Quality errors cited in story
 - Bedsores
 - Pressure ulcers
 - Injuries from falls
 - Infections from prolonged catheter use
 - Errors during surgery
 - Errors with incompatible blood products

Quality of Care

- Medically unnecessary procedures
- Proper credentialing of medical personnel
- Perceptions of relationships with Pharma
- Prescribing habits of physicians
- Place of service errors-81 or 100 claims in audit

Quality of Care Investigations

- CT Skilled Nursing Facility
 - Lack of proper wound care
 - State Surveyors give warning
 - SNF makes no significant changes
 - PT admitted to ER
 - ER complains on condition of PT
 - MFCU and OI sent to ER
 - PT dies of sepsis

SNF Fire Kills 18 in CT

- Mixed use Medicaid-Funded SNF
 - Geriatric patients
 - Psych patients
 - HIV/AIDS patients
- No segregation
- No specialized nursing staff
- Geriatric and psych PT rooming
- Fire started at by psych PT

View of Oversight Entities

- Lack of care
- Rises to False Claims
- Does not meet minimum standards

Q of C Viewed as False Claims

- Quality of Care viewed as False Claims by G
- Looking at lack of care
- Transfers to ER's
- Lack of supervision

Case Focus



- Podiatrists
- Allied Therapists
 - Respiratory
 - Physical
 - Occupational
 - Speech



Triggers for scrutiny

- Over-utilization
- EOMB review by patient/family
- Ping ponging of patients
- Competitors
- Staff and associates

Case Focus

- Raytel Cardiac Services
- \$11.5 m
- Services not Rendered



Priorities for OIG

- Quality of Care
 - Mixed use facilities
 - Attention to patient medical needs
 - Over-utilization
 - Medical errors charged to Medi-Medi
 - Staffing
 - Patient Abuse

Priorities for OIG

- Grant Fraud
 - Bio-terrorism
 - Medical research
- HIPPA-Privacy violations
- Security of research sites

Priorities for OIG

- Pharmaceutical Manufacturers/Distributors
- Pharmacy Benefits Managers
- Part D – Drug Benefits for Medicare Bene's

Physician Actions by OIG

- LA - Physicians and affiliated hospital fined \$3.8 million and 5 year CIA for medical unnecessary angioplasty and angiograms
- MI – 3 physicians and practice fined \$1 million for FCA liability from 1996-2004 for services billed as performed by physician, when performed by NP, PA or nurse specialist

Physician Action by OIG

- Lincare paid \$10 million and 5 year CIA for nationwide scheme to pay physician kickbacks for referrals
- Inducements included:
 - Consulting payments
 - Sporting and entertainment tix
 - Gift cards
 - Golf & fishing outings and equipment
 - Meals
 - Advertising and office equipment

Quality of Care Investigations

- CT Skilled Nursing Facility
 - Lack of proper wound care
 - State Surveyors give warning
 - SNF makes no significant changes
 - PT admitted to ER
 - ER complains on condition of PT
 - MFCU and OI sent to ER
 - PT dies of sepsis

SNF Fire Kills 18 in CT

- Mixed use Medicaid-Funded SNF
 - Geriatric patients
 - Psych patients
 - HIV/AIDS patients
- No segregation
- No specialized nursing staff
- Geriatric and psych PT rooming
- Fire started by psych PT

Actions by OIG

- Nursing Home excluded – 5 years
 - Failure to supervise Pt.
 - Alzheimer's Pt. found dead outside SNF

Actions by OIG

- Redding Medical Center, CA
 - Unnecessary Cardiac Services
 - Lack of quality healthcare
 - 5 year exclusion attempt
 - RMC divested from Tenet

View of Oversight Entities

- Lack of care
- Does not meet minimum standards
- Will often rise to False Claims Charges

SNF Enforcement Action

- PA Brinton Manor SNF
- Billing for substandard Services
- Death due to failure to maintain blood level monitoring
- \$90k fine

Case Focus

- Podiatrists
- Allied Therapists
 - Respiratory
 - Physical
 - Occupational
 - Speech

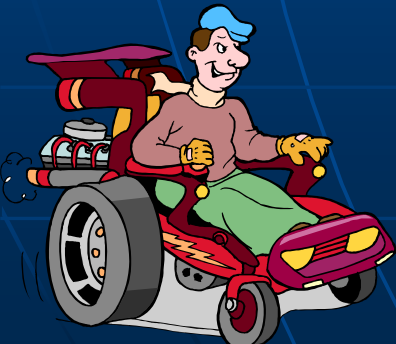


Case Focus

- Wheelchairs
- Scooters
- Hospital Beds
- Oxygen Concentrators
- Infusion Pumps



- Diapers
- Walkers
- Diabetic Supplies
- Nebulizers



Case Focus

- Raytel Cardiac Services
- \$11.5 m settlement
- Services not Rendered/Pacemaker monitoring
- Lacking Quality of Care



Sample CIAs on Physicians

- Jonathan Greene, M.D., FL
- David McCarus, M.D., MD
- Michael Murphy, M.D., WI
- Ronald Ruff, M.D., OR
- Kenneth Willis, M.D., AL
- Richard Winn, M.D., NY
- John LaRossa, M.D., MA
- Ken Kacenga, M.D., AZ
- Michael Aigbe, M.D., NV
- Jessen Anderson, D.P.M., VA
- Dorothy Anderson, M.D., MN
- Arthur Bregoli, M.D., MA
- Joseph Blankenship, M.D., TN
- Raphael Farra, M.D., NH

■ Source: HHS/OIG CIA and Exclusion Databases
2002-2006

Pharmaceutical Investigations

- Bayer
- Pfizer
- AstraZeneca
- GlaxoSmithKline
- TAP Pharmaceuticals

Bayer

- \$257 million settlement
 - Re-label Cipro and Adalet CC
 - To avoid Drug Rebates to Mass. Medicaid
- \$14 million settlement
 - Falsified documents about wholesale prices of Hemophilia and AIDS drugs

GlaxoSmithKline

- \$88 million settlement
 - Fraudulent labeling
 - Paxil and Flonase

Pfizer

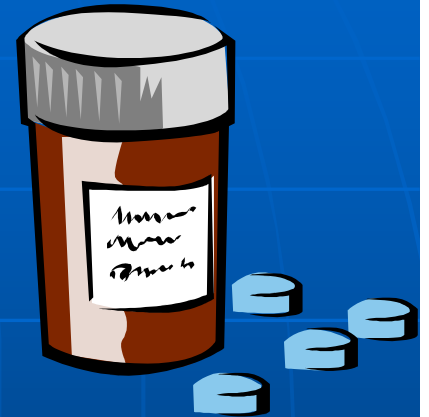
- \$49 million settlement in Texas
- Failure to avail “best price” for Lipitor to Medicaid program

AstraZeneca

- \$355 million settlement in Delaware
- Enticing M.D.'s with free samples for Zoladex
- Prostate cancer drug

TAP

- Lupron Sales for Urology
 - 1989 Sales - \$47 million
 - 1997 Sales - \$710 million
 - 1989 to 2001(est.) - \$5.7 billion
- Employees
 - Total employment – over 1,000
 - Sales force - 193 sales reps in 2001



Future Priorities for LE

- Quality of Care
 - Mixed use facilities
 - Attention to patient medical needs
 - Staffing
 - PT Abuse

Future Priorities for LE

- Pharma relationships with docs
- Pharmacy Benefit Managers
- Rx Drug Benefits for Medicare Bene's
- Underfilling/Dilution of Drugs
- Pain Management Clinics/Practices

Sources of Information

- www.oig.hhs.gov
 - Exclusions and CIA databases
 - Semi-annual reports 2006-2007
 - OIG Workplan 2007
- Institute for Healthcare Improvement
- www.cms.hhs.gov
 - Physician Center
 - Initiatives—Quality Initiative
 - [Physician Quality Reporting Initiative](#)
 - [Physician-Focused Quality Initiative](#)
 - [Beneficiary Notices Initiative \(BNI\)](#)

Contact Information:

Dr. Stephen A. Morreale, CHC

Compliance & Risk Dynamics,
Worcester State College

508-624-7053 W

■ smorreale@compliancedynamics.net