Health Care Investigations and Prosecutions

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Who are the players?
- Law Enforcement: HHS-OIG, FBI, DEA
- Prosecutors: State AG, DOJ, Local Prosecutor
- Whistleblowers
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DOJ Priorities:
- AAG Criminal Division – Kenneth A. Blanco
  - Medicare Strike Forces model – focusing on “hot spot” cities for billing fraud, e.g., Chicago and Detroit.
  - Use of data analytics to identify “suspicious billing patterns and emerging schemes.”
  - “pushing out the data . . . to U.S. Attorney’s Offices”

- “focusing even more attention to other current issues plaguing our country, such as the opioid abuse epidemic.”
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July 13, 2017 – AG Sessions announces the “largest health care fraud takedown operation in American history.”

- Charges brought against 412 persons – including 56 doctors
- 120 charged with opioid-related crimes
  - 21 U.S.C. § 841 penalizes the unauthorized distribution of controlled substances
    - United States v. Moore, 423 U.S. 122 (1975)
      - Held: ...registered physicians can be prosecuted under § 841 when their activities fall outside the usual course of professional practice.
      - Practitioner must take a patient history
      - Practitioner must examine patient
  - A Rx for a controlled substance is effective only if it is “issued for a legitimate medical purpose by an individual practitioner in the usual course of his professional practice.” 21 C.F.R. § 1306.04(a)
- Additional charges for health care fraud under 18 U.S.C. § 1347 for billing Medicare for medically unnecessary office visits, treatments and tests

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W.D.K.Y. brought charges against three physicians and their Primary Care LLC.

- Why not Indiana?
- Reckless homicide
- I.C. § 16-42-19-20 penalizes issuing a prescription for other than a legitimate medical purpose
    - Indiana “Dealing” statutes apply to licensed physicians who write prescriptions for scheduled drugs
    - A physician that has issued prescriptions without legitimate medical purpose or outside the usual course of his professional practice was sufficiently supported by evidence in narcotics prosecution...
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Friday, September 22, 2017

Department of Justice Awards Nearly $59 Million to Combat Opioid Epidemic, Fund Drug Courts

- financial assistance to state, local, and tribal governments to create comprehensive diversion and alternatives to incarceration programs
- HHC of Marion County received $300K for overdose outreach
- Indiana CJI received approximately $1M for updated technology to link opioid offenders with services and to maintained databases to collect and analyze Rx data

Questions?