

HCCA REGIONAL PROGRAM
PHILADELPHIA
TRENDS IN THE FUTURE OF HEALTH
CARE AND COMPLIANCE

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COMPLIANCE HEADLINES

- “Victory” for defendants
- US ex rel. Ruckh v. Salus Rehab (1/11/2018) - \$350 million jury verdict against nursing homes for RUGS upcoding thrown out
- Relator asserts that “a handful of paperwork defects” compel the decisive inference that the defendants never provided the services
- Relator provided no evidence that govt “would have regarded” the disputed practices as material to the decision to pay.

COMPLIANCE HEADLINES

- UnitedHealth –claim for upcoding as part of consultant record review-risk adjustment payments
- California case (Swoben) dismissed
- Minnesota case (Poehling) goes forward (March 2018)
- UnitedHealthcare v. Price-still pending-challenge to Medicare overpayment rule-(duty to report, refund, explain)

COMPLIANCE HEADLINES

- \$114 million judgment against three - individuals-jury trial-kickbacks for lab referrals (May 23) processing and handling fees to MDs (\$16 million in claims induced by kickbacks)
- \$20.75 million kickback settlement-UPMC-contract for unneeded services with cardiology group

COMPLIANCE HEADLINES-other 2018 cases

- Fla. Hospice settlement-patients not terminal-\$2.5 million
- Insys Therapeutics FCA complaint-speaker programs, meals and entertainment to MDs and NPs to prescribe opioid painkiller
- Mercy Health-Ohio-self-disclosure of payments to six employed physicians which exceeded fair value of services-\$14.25 million
- Charles Cole hospital-Pa.-self-disclosure-failure to use modifier for pa's;failure to perform face-to-face on recerts. of hospice patients \$373K

Trends in the Future of Health Care

- 1)"BIGLY"-Healthcare Information and Management Systems Society Conference - 45,000 attendees (Nonprofit organization promoting use of information technology and management systems in health care.)
- 2) VULNERABILITY OF HEALTH CARE NOT-FOR-PROFITS-Capital and systems requirements in new health care
- 3) WHAT DATA? WHAT ARE THEY (payors, plans, government) GOING TO DO WITH IT?
- 4) RISKS, LIMITATIONS, COMPLIANCE

“BIGLY”

- Critical mass in health care
- bargaining power of large systems
- Capital requirements for IT, data, telemedicine, analytics, billing, outcome capture, data reporting
- Value based reporting and payment

“BIGLY”

- Amazon, Berkshire Hathaway, JPMorgan healthcare joint venture (January 2018)
- #1 United Healthcare and Surgical Care Group (January 2017), DaVita Medical Group (December 2017)
- #2 Anthem starting own PBM, IngenioRx, in partnership with CVS (October 2017)
- #3 CVS Health acquiring Aetna (to close in second half of 2018) 21 million members, 1100 minute clinics, 28 state insurance departments
- #3 Aetna joint ventures (Inova, Banner Health “neighborhood care, multidisciplinary teams)
- #4 CIGNA and Express Scripts (March 2018)
- #6 Centene (managed care) and Health Net California) (2016) Fidelis (New York) (July 2018); RxAdvance partnership (March 2018)

“BIGLY”

- Jefferson Health-so big it now runs ads during the Super Bowl
- Penn Medicine
- Temple

SAVINGS/PROFIT OPTIONS for BIGLY

- High volume, high cost surgeries-CABG, angioplasty, knee and hip replacement, caesarians-2-6 times comparable countries
- Administrative costs 3-5 times comparables
- Medical imaging procedures –up to 10 times cost in comparables
- Drugs spending 3 times comparables
- E. Emanuel editorial in JAMA 3/13/2018

VULNERABILITY OF NOT-FOR-PROFITS

- Gradual disappearance of not-for-profit nursing facilities
- Effect of metrics-driven managed care payment systems – and managers- on not-for-profit custodial care-developmental disabilities, mental health, substance abuse (state Medicaid and ACA)
- Weaker funding, management, board, IT, finance structures
- Consensus based institutions at risk in period of rapid change
- Hospitals remain outlier: 2849 NFP vs. 1,035 FP

WHERE DOES BIG DATA COME FROM? (some sources)

- Electronic medical records
- Photos and images
- Prescription records
- Adverse event/near miss reporting
- Appointment records/Patient communication records
- Billing records (coding for ICD-10 and CPT)
- Email and text records
- Wearable technology/body sensor/remote monitoring records
- Social determinant/demography data
- Care coordination records
- Laboratory value records
- Insurance interaction records

WHAT CAN ALL THIS DATA BE USED FOR?

- Predictive Analytics
- Machine Learning/ Artificial Intelligence
- Doppelganger searches/reports
- Integration of pharmacologic, therapeutic care, monitoring, followup, custodial care
- Patient learning and behavior modification
- Provider learning and behavior modification
- Outcomes improvement
- INTEGRATING PHARMA AND MEDICAL/CUSTODIAL CARE

Machine Learning/ Artificial Intelligence

- Machine Learning-the Watson approach
- “Scalable and accurate deep learning for electronic health records” Rajkomar, A. et al (January 2018) (Stanford, UCSF, U Chicago, Google study, not yet published)
- “We propose a representation of patients’ entire, raw EHR records based on the Fast Healthcare Interoperability Resources (FHIR) format.”
- ““Deep learning models achieved high accuracy for tasks such as predicting in-hospital mortality (AUROC across sites 0.93-0.94), 30-day unplanned readmission (AUROC 0.75-0.76), prolonged length of stay (AUROC 0.85-0.86), and all of a patient’s final diagnoses (frequency-weighted AUROC 0.90). These models outperformed state-of-the-art traditional predictive models in all cases.”

FILLING AND EXPLOITING DATA GAPS

- WHAT SYMPTOMS PREDICT WHICH DISEASES? (pancreatic cancer)
- DO PATIENTS TAKE THEIR PRESCRIPTIONS? DO THEY WORK?
- HOW DO DRUGS AFFECT LAB VALUES?
- WHAT SIDE EFFECTS AND COMPLICATIONS DO PATIENTS EXPERIENCE? ARE THEY REPORTED/REFLECTED?
- WHAT HAPPENS AFTER PATIENTS LEAVE THE HOSPITAL?
- WHAT PROCEDURES ON WHICH PATIENTS DO NOT HAVE POSITIVE OUTCOMES?
- WHAT ARE THE CHARACTERISTICS OF THE MOST EXPENSIVE/NONCOMPLIANT PATIENTS

IF DATA ANALYSIS AND GAP ANALYSIS IS SUCH A GOOD IDEA, WHY HASN'T IT HAPPENED ALREADY?

- INCENTIVES
- HOW DOES EACH INDUSTRY SEGMENT MAKE MONEY?
- Pharmaceuticals
- PBMs
- Labs
- Physicians/ancillaries
- Hospitals
- Custodial care

IF DATA ANALYSIS AND GAP ANALYSIS
IS SUCH A GOOD IDEA, WHY HASN'T IT
HAPPENED ALREADY?

- Data aggregation
- Data quality/accuracy
- Interoperability of data systems
- Ownership/licensing issues
- Lawyers
- Regulators

HOW "BIGLY" ADDRESSES THE DATA
ISSUES

- Change in Incentives
- Deep Data Aggregation
- Data standards and quality
- interoperability
- Common ownership
- Profit motive

NEW RISKS FROM BIGLY AND BIG DATA

- Big Brother aspects of data aggregation-do we want private companies with this much personal information about us?
- Required consents from patients?
- Access and breaches
- Moving expensive patients to high cost drug tiers to encourage migration
- Should data generated algorithms be protected intellectual property?
- Are data generated algorithms disclosed or black box?
Can providers rely on black box in malpractice actions?
In medical necessity or privilege reviews?

BIG DATA

- OIG's Consolidated Data Analysis Center

2018 OIG CMPs and Exclusions

- Patient dumping:
 - NC hospital-patient dumping-4 cases-\$200k
 - Iowa hospital-patient dumping \$90,000
 - NC hospital \$52K
 - FL. Hospital \$42,500
 - Ohio hospital-\$50K
 - Ga. Hospital-\$52K
 - Tenn. Hospital-\$40k
- ARC of Anchorage (AK) \$2M false claims-individual and group services at same time, overlapping times, retention of overpayments
- Fla. Drug and Alcohol Rehab-\$95k-kickbacks (point of care test cups) from Millenium Health LLC

2018 OIG CMPs and Exclusions

- Immediate Home Care-Bensalem-excluded home health nurse-\$189K
- Alameda Health System-Ca.-excluded eligibility clerk-\$257k
- Turtle Creek Recovery Center-Tx-\$24k-counselor
- Pharmex Pharmacy-NJ-excluded pharmacist-\$314k
- Southwest Trinity Mgmt-OK-\$141k-LPN
- Arkansas Convalescent Center-AR--\$189-LPN

UPCOMING COMPLIANCE ISSUES TO WORRY ABOUT

- HIPAA and privacy issues
- Ransomware and system vulnerabilities
- Secondary payor
- Risk Assessments-data and claims systems