Current Trends In Healthcare Fraud

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2017 U.S. Overdose Deaths: 
72,000
2017 Deaths Involving Opioids: 
49,068
2017 Prescription Opioid deaths: 
19,354
Insys

- Makes fentanyl spray Subsys
- DOJ intervened on whistleblower claims
  - Settled for $150m
- Allegedly paid kickbacks to physicians to subscribe Subsys off-label
  - Sham speaking engagements
  - Jobs for friends/relatives
  - Meals and entertainment
- Allegedly defrauded insurers
  - “reimbursement unit”
- CEO indicted
- DOJ pursuing individuals
Insys (Cont.)

Dr. Couch & Dr. Ruan
- Pain mgmt. clinics & pharmacy
  - Both sentenced to over 20 years
  - Ordered to pay $30m+ in restitution
- Received kickbacks to prescribe Subsys
  - Among top prescribers in the country
- Shared in pharmacy profits, including Subsys reimbursements
- Insys distributed directly to pharmacy
- Patients mostly treated by nurse practitioners
  - Also using opioids
Consequences of Health Care Fraud

- Health Care Fraud costs the U.S. tens of billions of dollars each year
- Increased health insurance costs
- False diagnosis and unnecessary treatment
- Identity theft
Employee Theft Statistics

- Amount stolen annually from U.S. businesses by employees – $68 billion
- Annual revenues lost to theft or fraud – 5%
- Average length of fraud before detection: 16 Months
- Small Companies (<100 Employees) lose twice as much
Top Ten Healthcare Frauds

1. Billing for services not rendered.
2. Billing for a non-covered service as a covered service.
3. Misrepresenting dates of service.
4. Misrepresenting locations of service.
5. Misrepresenting provider of service.
6. Waiving of deductibles and/or co-payments.
7. Incorrect reporting of diagnoses or procedures.
8. Overutilization of services.
10. False or unnecessary issuance of prescription drugs.
Most Common Schemes per ACFE

- Average Health Care Fraud loss is $100,000
- Most Common Schemes
  - Corruption (36%)
  - Billing (26%)
  - Noncash (19%)
  - Payroll (17%)
  - Expense Reimbursements (16%)
  - Check and payment tampering (13%)
  - Cash on hand (13%)
# Distribution by Department

<table>
<thead>
<tr>
<th>Department</th>
<th>Corruption</th>
<th>Billing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting</td>
<td>23%</td>
<td>29%</td>
</tr>
<tr>
<td>Operations</td>
<td>36%</td>
<td>15%</td>
</tr>
<tr>
<td>Executive/Upper Mgmt.</td>
<td>62%</td>
<td>35%</td>
</tr>
<tr>
<td>Sales</td>
<td>34%</td>
<td>10%</td>
</tr>
<tr>
<td>Customer Service</td>
<td>19%</td>
<td>5%</td>
</tr>
<tr>
<td>Administrative Support</td>
<td>26%</td>
<td>33%</td>
</tr>
<tr>
<td>Finance</td>
<td>37%</td>
<td>17%</td>
</tr>
<tr>
<td>Purchasing</td>
<td>77%</td>
<td>18%</td>
</tr>
</tbody>
</table>
## Method of Detection Effects Loss

<table>
<thead>
<tr>
<th>Method</th>
<th>Median Loss</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>IT Controls</td>
<td>$39,000</td>
<td>5 Months</td>
</tr>
<tr>
<td>Account Reconciliation</td>
<td>$52,000</td>
<td>11 Months</td>
</tr>
<tr>
<td>Internal Audit</td>
<td>$108,000</td>
<td>12 Months</td>
</tr>
<tr>
<td>Management Review</td>
<td>$110,000</td>
<td>14 Months</td>
</tr>
<tr>
<td>Tip</td>
<td>$126,000</td>
<td>18 Months</td>
</tr>
<tr>
<td>By Accident</td>
<td>$150,000</td>
<td>24 Months</td>
</tr>
<tr>
<td>Notified by Authorities</td>
<td>$935,000</td>
<td>24 Months</td>
</tr>
</tbody>
</table>
## Most Effective Controls in Reducing Fraud Duration

<table>
<thead>
<tr>
<th>Control</th>
<th>Control In Place</th>
<th>Control Not In Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive Data Analysis</td>
<td>10 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Surprise Audits</td>
<td>11 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Internal Audit Department</td>
<td>12 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Management Review</td>
<td>12 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Hotline</td>
<td>12 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Anti-Fraud Policy</td>
<td>12 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Fraud Training</td>
<td>12 Months</td>
<td>24 Months</td>
</tr>
<tr>
<td>Formal Fraud Risk Assessments</td>
<td>12 Months</td>
<td>24 Months</td>
</tr>
</tbody>
</table>
HIPPA established a comprehensive program to combat fraud committed against all health plans, both public and private.

The Health Care Fraud and Abuse Control Program (HCFAC) was established and is designed to coordinate Federal, State and local law enforcement activities with respect to health care fraud and abuse.

https://oig.hhs.gov/
Operation Spinal Cap – Pacific Hospital

- $950m falsely billed to Insurers
- $40m paid in kickbacks over 15 years
- Over 30 medical professionals charged
- Bribed Cal. State Senator to protect a beneficial law
  - Air travel, meals, vacations, employed child
- Typical Kickback
  - $15,000 per lumbar fusion
  - $10,000 per cervical fusion
- Ringleader only sentenced to 5 years
Operation Spinal Cap (Cont.)

- Basic Scheme
  - Law allowed full cost of device to be passed on to insurer
  - Paid kickbacks to physicians to refer patients
  - Used shell company to inflate cost of devices
  - Overbilled workers’ comp insurers for surgeries

- Additional Scheme
  - Set up mini-pharmacies in physician offices
  - Pay higher cut of insurance proceeds for surgery referrals
  - Advance payments and write off shortfall
Form of Kickbacks
- Sham agreements with physicians
  - Option contract to purchase physician practice
  - Rent space in physician office
  - “Consulting services”
  - Provide collection services

Some Red Flags
- Some patients lived hundreds of miles away
- Exorbitant cost of devices/procedures
- Inflated expenses to hide kickbacks
Theranos claimed that it invented new blood testing technology
Allegedly misrepresented commercial viability and profitability to lure investors
The company was recently dissolved
Settled SEC charges
Criminal charges filed
Investor losses are approximately $1 billion
Alleged false claims
  ◦ Size of sample
  ◦ Testing Capabilities
  ◦ Speed
  ◦ Accuracy
  ◦ Cost savings – 50% below Medicare reimbursement rate

Alleged Null protocol

Walgreens

Allegedly used modified commercial analyzers
  ◦ Manipulated to test smaller samples
  ◦ With inaccurate test results

Allegedly overestimated 2014/2015 revenues
Bribed physicians for blood sample referrals worth $100m–$150m over 8 years
  ◦ Unnecessary and unordered tests billed
53 Convicted, 38 are doctors –most ever
Bribes in the form of
  ◦ Gifts of cars, concert tickets, vacations
  ◦ Sham leases
  ◦ Sham service/consulting agreements w/shell companies
  ◦ Some doctors paid a fee per test
James Burkhart

- CEO of Indiana nursing home chain
  - 9.5 year sentence
  - $19.4m in kickbacks
- Requested that vendors pay kickbacks
  - Vendors would inflate billings and kickback overage
  - Pass through schemes
  - Kickbacks directly to shell companies
  - Billed for services not rendered
  - Kickbacks for referring hospice patients to vendor
- Solicited vendor instead went to FBI
- Money laundering
  - Shell companies
  - “Consulting” or “marketing” services
- Marked up landscaping 45%
Edward Hills

- Convicted of bribery and kickback schemes
- Payroll fraud with three dentists
  - Allowed to claim salary while also working at private practices
  - Granted exorbitant bonuses
  - Received Bribes
    - Cash/checks
    - Louis Vuitton briefcase and other goods
    - Use of apartment
    - Airline flights
  - Tax fraud
    - Unreported income
    - “Consulting Fees”
Novus Health Services

- Hospice and home health facilities
- Allegedly overbilled for $60m in hospice services:
  - Paid physicians salaries to refer patients
  - Offered assisted living facility a full-time CNA for hospice referrals
  - Offered hospice patients durable equipment to change providers
- The Director of Operations and others recently pleaded guilty
  - Admitted non-eligible patients
  - Billing for services
    - Not provided
    - Not directed by medical professional
    - Not supported by diagnoses
  - Billing for patients for whom Novus had paid referral fees to physicians
Novus Health Services (Cont.)

- Director of Operations
  - Admitted misrepresenting that patients required continuous care
  - Admitted falsifying documents
    - Physician’s orders
    - Certifications and recertifications for hospice service
    - Prescriptions for controlled substances
    - DNRs
  - Admitted acting as go between for CEO and medical professionals
  - Admitted Medical decisions were made by RNs and non-medical professionals
  - Allegedly instructed to overmedicate patients to hasten their death.
42. For example, on or around May 25, 2013, Bradley Harris texted Taryn Stuart to take over continuous care of beneficiary J.J. because the current nurses were not “doing their job,” and that “I told this chick if she would just give her 1ml of Ativan and turn her she would die.” Taryn Stuart agreed to take over the continuous care and texted Jessica Love that Bradley Harris “doesn’t think the Nigerian nurses are medicating properly. Wants me to go cause he knows I do it right.” Bradley Harris then texted, “[expletive] woman is still alive . . . . I need some boots on the ground.”
Ransomware

- Company’s computers infected because employee clicked a malicious link or attachment
- Ransomware blocks company’s access to files
- Message received demanding payment or all data will be deleted
- Indiana hospital paid $45,000 in bitcoin and network access restored
Email to wire funds for company official
Clone of email after months of monitoring company’s internal procedures.
Increased attacks on
  ◦ Accounting personnel
  ◦ Third parties
Spoofing
Scam Alerts

- ACA enrollment phone calls
- Fake health plans
- OIG hotline employees
- Goals of scams
  - Obtain personal information
  - Receive payments
Theft of Patient Information

- Free screening
- Medical personnel
- Purchases from others who have stolen the information

***Always review the explanation of benefits forms sent from the insurance company.
Business ID theft

- Government registration records amended to include additional officer or representative
- False bank accounts opened
How are Health Care Frauds Discovered?

- Whistleblower
- Government Investigation based on large data
  - Data mining
  - Continuous monitoring
  - Predictive analytics
  - Textual analysis
  - Relationship mapping
Data Analytics

- Use of software to test large numbers of transactions for anomalies and outliers indicative of possible fraud
- Provides leads for further analysis
- More effective than traditional sampling methods for investigative purposes
- Reliant upon existence of, access to and quality of data
- Requires Specific Tests
Insys Case

- Insys allegedly paid kickbacks to physicians to prescribe Subsys, a fentanyl spray
- Dr. Awerbuch, a neurologist, pleaded guilty to accepting kickbacks
- Increase in prescriptions after speaking engagements started
  - 13 per mo. -> 118 per month
- From 2012 to 2014 he was the highest prescriber of Subsys for Medicare beneficiaries in the country
- Subsys is only approved to treat certain cancer patients
Per the Criminal Complaint
  ◦ Dr. Awerbuch was also for billing Medicaid for EMG and NCS services not provided
  ◦ Dr. Awerbuch was the top 3 billers of Medicare for related procedure codes
  ◦ An ex-employee stated that Dr. Awerbuch
    • Worked 4 days a week
    • Saw 40–60 patients a day
    • Spent 10 minutes with each patient
  ◦ Typical length of service
    • NCS – 15 to 60 min.
    • EMG – 25 to 60 min.
Example of using Analytics for Fraud Detection (Cont.)

- **Potential Tests**
  - Increase in prescriptions written for specific drug/vendor
  - Lack of co-pay
  - Dramatic increase in number of patients individually treated
  - Significant number of off-label prescriptions
  - Increase in number of off-label prescriptions
    - Cross-reference with Open Payments Data
  - Ranks near top of Medicare billers for specific procedures
  - Skewed dosage distributions
Gavin Awerbuch Open Payments Data – 2013

General Payments

Total General Payments
$92,090.87

Above the National Mean by $90,510.31
Above the Specialty Mean by $88,644.45

Total General Transactions
293

Above the National Mean by 284
Above the Specialty Mean by 273
Gavin Awerbuch Open Payments Data – 2013

Top Companies Making General Payments

- INSYS THERAPEUTICS INC: $56,139.97
- [Other companies with smaller payments listed]

Chart showing the distribution of payments among top companies.
Final Thoughts

- Top priority for authorities
- Progress is slow
  - High bar for criminal prosecution
- Authorities are holding individuals accountable
- Big data is here to stay
- Beware Phishing Schemes