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

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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.
9. Corruption (kickbacks and bribery).
10. False or unnecessary issuance of prescription drugs.

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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

Department	Corruption	Billing
Accounting	23%	29%
Operations	36%	15%
Executive/Upper Mgmt.	62%	35%
Sales	34%	10%
Customer Service	19%	5%
Administrative Support	26%	33%
Finance	37%	17%
Purchasing	77%	18%

Method of Detection Effects Loss

	Median Loss	Duration
IT Controls	$39,000	5 Months
Account Reconciliation	$52,000	11 Months
Internal Audit	$108,000	12 Months
Management Review	$110,000	14 Months
Tip	$126,000	18 Months
By Accident	$150,000	24 Months
Notified by Authorities	$935,000	24 Months

Most Effective Controls in Reducing Fraud Duration

Control	Control In Place	Control Not In Place
Proactive Data Analysis	10 Months	24 Months
Surprise Audits	11 Months	24 Months
Internal Audit Department	12 Months	24 Months
Management Review	12 Months	24 Months
Hotline	12 Months	24 Months
Anti-Fraud Policy	12 Months	24 Months
Fraud Training	12 Months	24 Months
Formal Fraud Risk Assessments	12 Months	24 Months

- 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/

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Medicare Fraud Strike Force Locations

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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

Operation Spinal Cap (Cont.)

- 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

- 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

Theranos (Cont.)

- 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

Biodiagnostic Laboratory Services

- 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”

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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.

Details Alleged in Indictment

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 there 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

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Business Email Compromise

- 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

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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.

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Business ID theft

- Government registration records amended to include additional officer or representative
- False bank accounts opened

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How are Health Care Frauds Discovered?

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

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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

Example of using Analytics for Fraud Detection

- 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

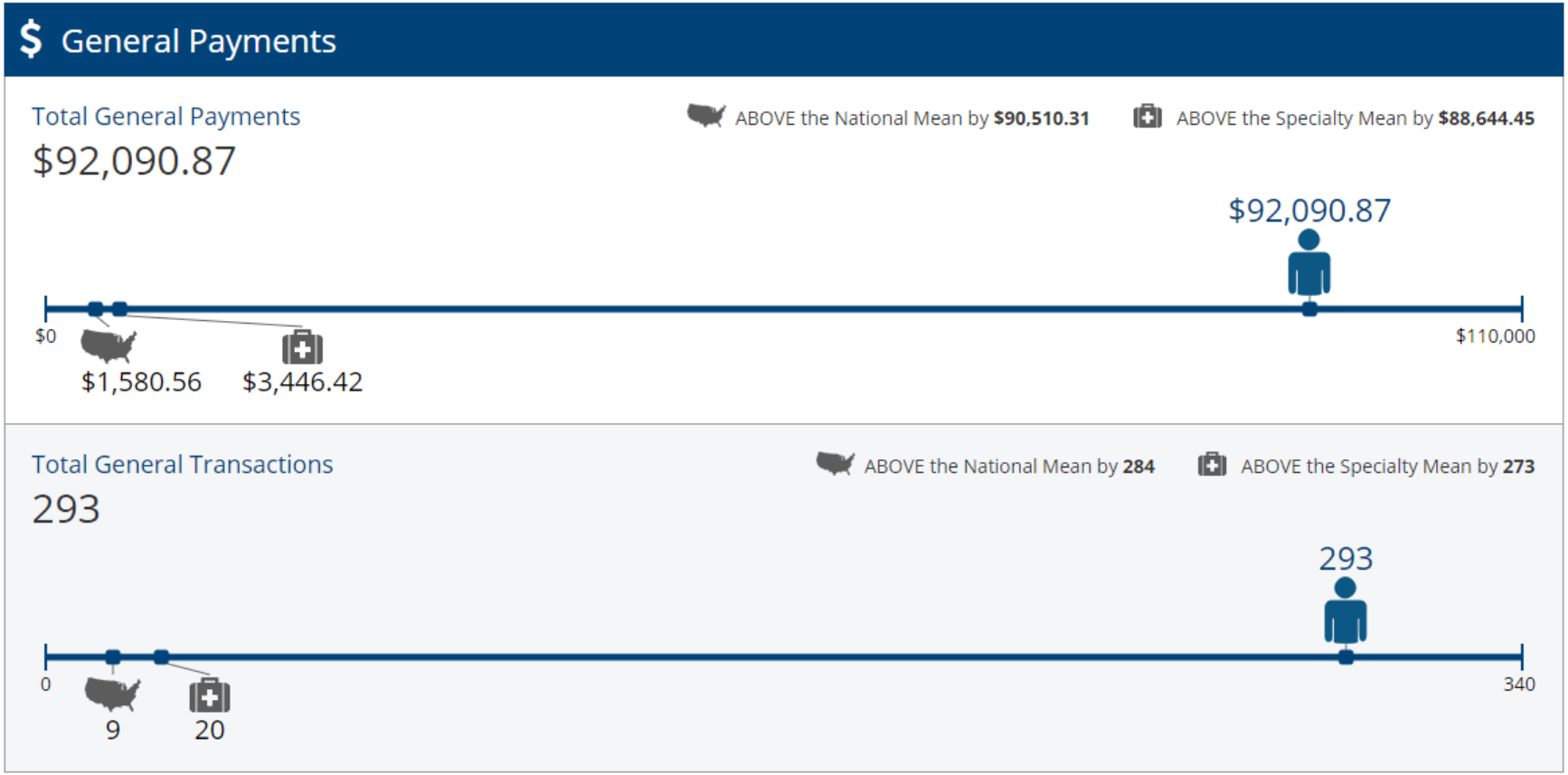
Example of using Analytics for Fraud Detection (Cont.)

- 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.)

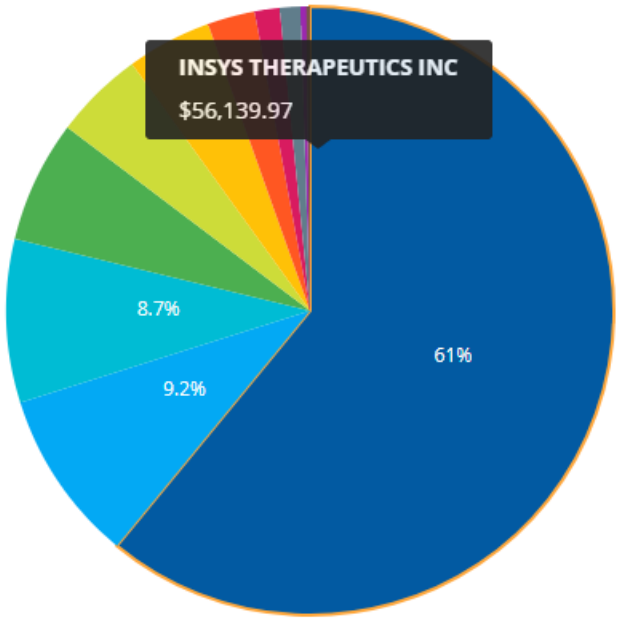
- Potential Tests
  - Increase in prescriptions written for specific drug/vendor
  - Lack of co-pay
  - Dramatic increase in number of patients individually treated
  - Significant number of off-label prescriptions
  - Increase in number of off-label prescriptions
    - Cross-reference with Open Payments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

Gavin Awerbuch Open Payments Data – 2013



Gavin Awerbuch Open Payments Data – 2013

Top Companies Making General Payments



INSYS THERAPEUTICS INC	$56,139.97
	$8,435.15
	$7,991.63
	$5,975.47
	$4,372.66
	$4,156.33
	$2,326.30
	$1,224.73
	$290.98
	$180.62
	$997.03

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

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