White coats and white-collar crime

Government Makes Arrests for $430 Million in Health Care Fraud — ABC News, Oct. 4, 2012

U.S. healthcare fraud scheme funneled money to Cuba — Reuters, Jun. 19, 2012

Medicare Fraud: US authorities charge 107 doctors, nurses and social workers in 7 cities — Global Post, May 3, 2012

Feds: Texas doctor among 7 accused in largest health care scam in US — MSNBC.com, Feb. 28, 2012

73 Members and Associates of Organized Crime Enterprise, Others Indicted for Health Care Fraud Crimes Involving More Than $163 Million — Justice News, Oct. 13, 2010

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The headlines just keep coming, and if anything, more rapidly. In fact, it's gotten to the point where a doctor alleged to be running a "pill mill" offering prescriptions for oxycodone and methadone for a fee and without any legitimate medical purpose (http://somd.com/news/headlines/2012/15982.shtml) barely makes it on to the local online news. Moreover, every case seems to set a new record.

But while dizzying numbers of medical fraud cases, involving staggering numbers of dollars, seem to be reported in recent months and years, a veritable army of newly minted medical fraud investigators fear they're just seeing the tip of America's medical fraud iceberg.

A total of US$4.1 billion worth of medical fraud was identified by the United States government in 2011, and US$10.7 billion over the past three years. But while the Federal Bureau of Investigation (FBI) estimates that fraud accounts for roughly US$80 billion per year in America's US$2.4 trillion health care budget, no one has been able to attach a firm number to health care fraud, says Louis Saccoccio, CEO of the National Health Care Anti-Fraud Association in Washington, DC. "There are a lot of estimates, but they are all just estimates. Nobody has ever done some in-depth mathematical, statistical type study of the issue. But we can safely say it's in the tens of billions of dollars."

Many attribute the recent spate of medical fraud charges to a crackdown initiated by US President Barack Obama. That included a host of anti-fraud tools, such as licence revalidation requirements, contained within his signature health reform legislation, the Affordable Care Act, as well as the creation of a Health Care Fraud Prevention and Enforcement Action Team (HEAT), a joint effort between the Department of Health and Human Services and Department of Justice (www.healthcare.gov/news/factsheets/2011/03/fraud03152011a.html). Other specific measures therein included the establishment of an interagency "strike force … who can target emerging or migrating fraud schemes, including fraud by criminals masquerading as healthcare providers or suppliers," and "senior Medicare patrols — groups of senior citizen volunteers who educate and empower their peers to identify, prevent and report health care fraud."

What manner of health fraud are they catching?

It "takes on many different aspects; there are a lot of different ways to combat it. There's no one type of fraud that stands out anywhere," says Gerald Wilson, chief of the FBI's Health Care Fraud Unit. The most common examples of fraud include the submission of claims for services never provided; upcoding (where a service was provided and a more expensive one was billed); billing for services that are not permitted by a health care provider's licence; identification (ID) theft; and drug diversion.

There's also a growing incidence of what investigators call "organized" medical fraud. "It may not be associated with one of the traditional organized crime families that we talk about, but you still have these groups of individuals working together to commit fraud," says Wilson. "They may be sharing/selling information. They may be sharing/selling beneficiaries. But their combination and their working together is what drives these large fraud schemes."

The creativity often involved in such large initiatives constantly forces the HEAT team — whose investigations and activities led to charges against 1400 defendants for falsely billing Medicare more than US$4.8 billion between 2008 and 2011 — to scramble.

"They are constantly changing and so that requires us to constantly change too," says Wilson. "But if you have information on those schemes, the [billing] codes being abused and the way they're

doing the fraud then you can catch these schemes in the beginning or you can make sure you're doing investigative work looking for that type of fraud or these emerging trends. We're constantly evolving all the types of things we're looking at, how we're investigating it and trying to develop additional efforts to improve our efforts."

Increasingly, health care fraud "is more sophisticated and our tools have become more sophisticated as well. When you educate the criminals about our ways of catching them, then they become more clever," says Diane Cutler, supervisory special agent with the Department of Health and Human Services' Office of the Inspector General.

Also noteworthy is the increasing involvement of patients, who are often "in on these schemes," says Cutler, who is among more than 500 federal agents who have now received specialized training in health care fraud and datamining and are responsible for the policing of more than 330 health care programs.

Patients "are getting kickbacks," she adds. "You'll have just a nest of perpetrators attacking the system. And that's difficult to combat because they can work together to cover each other's tracks. That's on the rise and we combat that through informants, and undercover operations."

Another trend is the growth of medical identity theft (of both patients and physicians) for the purposes of health care fraud, Cutler says. "Unfortunately, we have seen providers' identities stolen. And what has happened is it's come to the point where at the end of the year, they will suddenly receive a bill from the IRS [Internal Revenue Service] saying what taxes they must pay on their earnings and it shows that they have made an income that is quite exorbitant, that they were unaware of. It's because their ID [identification] had been stolen and criminals had set up a storefront or shop and had billed Medicare, and had received money from Medicare, based on a provider or physician's ID."

Many of the cases have involved enormous sums of money. In October, 91 individuals, including physicians, nurses, and other licensed medical professionals, in seven cities were charged for alleged participation in a scheme involving US$432 million in false billing, including more than US$230 million in home health care fraud, US$100 million in community mental health care fraud and $49 million in ambulance transportation fraud. One scheme in 2011 involved more than US$530 million in fraudulent billing, while others involved between US$240 million and US$290 million.

Cutler says the greater rate at which fraudsters are being caught is the product of the participation of prosecutors from the start of a case, a greater focus on data analysis, and better access to claims data, which allows for the coordination of national approaches to cases. "For instance, if you had a perpetrator in Houston [Texas] who previously would be able to escape and go, let's say to New York and set up shop there, we might not be able to see it as easily as we were in 2009 when we were able to start analyzing this data on a national level and we were then able to see him appear and pop up in New York. So we're able to start taking a more nationwide and global look at the data and the scheme and patterns. We were able to do some nationwide takedowns and more coordinated efforts."

Is the incidence rate rising? Or are investigations just improving?

"It's a combination, probably," says Wilson. "Are we getting a handle on fraud? I mean obviously fraud is still occurring, but you see the results of our investigative efforts." In 2011, the FBI investigated 2690 cases of health care fraud, which ultimately resulted in 1676 indictments and 736 convictions.

"A lot of prosecutions are great. But that just means there is a lot of people committing health care fraud," says Saccoccio.

Whether all those prosecutions are deterring medical fraud is another issue. Saccoccio would like to think they are. But still, he says, "you really have to get ahead of the curb and stop it before it happens."

It's problematic though, as medical fraud is complex and health care billing is intricate, says Cutler. "It's a crime of concealment and so it's tough to measure the ripple effect that we're having. We know we're having it because we hear about it through our informants. We hear about it with our boots on the ground because we have a presence in these cities and in the arena. So our agents know what's going on."

"But our prosecutors and our agents have really tough choices to make because we know that fraud and crimes are being committed and we have to choose which ones to prosecute and we have to flip some. And we have to make choices that 'these are the ones we'll have to spend the time working on'. And we can't prosecute all of them because we don't have the manpower," she adds.

Increasingly, the crackdown on fraud is also taking on international dimensions, as collaborations between Interpol and US organizations are becoming common, as are connections within the Global Health Care Anti-Fraud Network, which includes American, European, Canadian and South African anti-fraud associations.

It's hoped that such efforts will curb the future incidence of fraud, Saccoccio says. "What you're going to see over the next five to ten years is a lot more focus on prevention. In other words, stopping the money from going out the door beforehand instead of paying fraudulent claims and then investigating it and prosecuting it and trying to get the money back — a 'pay and chase model'."

"A lot of the focus now is trying to use data analytics to look at claims data as it comes in and trying to analyze that claims data in such a way that you can try to figure out where the potential fraud is before you pay the claim," Saccoccio adds. "As that becomes more sophisticated over the coming years, that could make a dent and bend a curve on this thing to start bringing down the amount of fraud in the system … But there's still a long road to go down." — Adam Miller, *CMAJ*

***CMAJ* 2013. DOI:10.1503/cmaj.109-4346**

Editor's note: First of a three-part series

Part II: **Medical fraud north of the 49th** (www.cmaj.ca/lookup/doi/10.1503/cmaj.109-4358).

Part III: **Exposing Medical fraud: "one of the last taboos in society"** (www.cmaj.ca/lookup/doi/10.1503/cmaj.109-4359).