

Maryland
BPQA

NEWSLETTER

Maryland Board of Physician Quality Assurance

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MEDICAID FRAUD CASES

by: Dan Anderson



Mr. Dan Anderson is the Director of the Maryland Medicaid Fraud Control Unit which operates under the auspices of the Attorney General's Office. Mr. Anderson delineates the responsibilities and summarizes the recent activities of his unit in the following article.

The Medicaid Fraud Control Unit of the Office of the Attorney General investigates and prosecutes fraud committed by health care providers who participate in the State Medical Assistance ("Medicaid") Program. In addition, the Unit investigates and prosecutes allegations of the abuse or neglect of patients in health care facilities receiving payments from Medicaid.

The 21-person Unit, which was established in 1979, utilizes the services of attorneys, investigators and auditors in its efforts to uncover and prosecute criminal wrongdoing by providers enrolled in the State's two billion dollar Medicaid program. Last year, the Unit successfully prosecuted twenty-two individuals and recovered nearly two million dollars in restitution to government coffers.

The Unit has uncovered a wide variety of schemes intended to defraud the Medicaid program. Recent cases

include the prosecution of a Baltimore City physician who routinely saw a large number of Medicaid patients - nearly 100 on some days - without providing any medical treatment or service. Instead, he merely signed disability vouchers used to qualify over 90% of those in Baltimore City receiving public assistance. Even though he rendered no medical service, he billed the Medicaid program as if he always provided lengthy medical examinations. This physician was ordered to pay nearly \$94,000 in restitution to the Medicaid program upon his conviction and sentenced to eleven months incarceration which was suspended by the Court.

A Catonsville clinical laboratory and its owner was convicted of fraud after the Unit determined that the lab included costly ferritin tests in the basic chemistry screening profiles offered to physicians. Physicians either did not notice these extra tests, or assumed there would be no additional costs associated with their performance. In some cases, the lab altered physicians' orders to add the expensive ferritin test. After a trial in Baltimore County, the lab's owner was sentenced to five years in jail and was ordered to pay \$161,000 in restitution to Medicaid.

A Towson physician billed the Medicaid program for the delivery of 121 babies, even though he had nothing to do with their deliveries. Found guilty by a jury, he was ordered to make trebled restitution of nearly \$350,000 to the Medicaid program and given a suspended jail term.

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"A TICKET TO NOWHERE"

Although only a small percentage of providers are thought to be engaged in a deliberate and systematic attempt to defraud health care insurers, the General Accounting Office has advised Congress that about 10% of the total health care expenditures in this country involves loss to fraud. In 1995, the estimate is that \$100 billion will be lost due to fraud. The most commonly cited fraudulent activities are 1) fraudulent diagnosis, 2) billing for services not rendered, and 3) waiver of patient deductible/co-payment.

Since 1992, fifteen of our licensees have had criminal convictions related to billing fraud. By statute, the Board is required to revoke the license of an individual who is convicted of a crime of moral turpitude. The Board has consistently ruled that billing fraud is such a crime.

After conviction for either Medicare or Medicaid fraud, the provider is precluded from participation in either program for between five to ten years. Substantial fines are levied based on an estimate of the amount of the theft, which is then trebled. Most of those convicted are given suspended jail terms or serve a period of home detention. Extensive community service is often mandated by the court.

Three of the fifteen licensees revoked for criminal fraud subsequently have been relicensed. One of these physicians shares his experience in the following abridged comments:

"The punishment was a six month jail sentence, a \$200,000 fine, loss of my medical license and medical privileges.

The time you spend in prison is the most demeaning, humiliating experience of your entire life. When one is in the outside world living a normal existence, being in jail is inconceivable. Besides the fright and loneliness one faces, the hopelessness of it all wears you thin.

Although I was placed in a new camp, which was very clean and didn't have hardened criminals, there is no freedom. Everyone in authority treats you with little or no respect like you are a hard core criminal. There is very little to do in camps. You just try to pass the time and stay out of trouble. Although you have no real access to the outside world, there were the letters I received about loss of privileges and the disintegration of my family life. Those weeks and days seemed to go so slowly. When I got out, I was so happy. I thought nothing could ever be as bad as prison.

Although in prison you don't worry about money or work, when you get out you attempt to get back on your feet. But because of the Medicare and Medicaid restrictions, it is almost impossible to work. Now, with the data banks and HMO's, no one will hire you with a criminal record. It automatically disqualifies you for jobs. Most places don't consider your application. Even if you have served your sentence and paid your fines, you are permanently blackballed. Doing private practice is useless because all the insurance companies cancel you once they learn of the conviction. Although they say you can reapply, they never reaccept you.

When you are in prison, you are helpless and frightened. When you get out, the little optimism you have soon turns to anger and hopelessness again. You are constantly involved in probation hearings, legal hearings, and licensure hearings. You keep saying, 'It will end soon,' but it never does.

I have been out for two years now, and I have passed a lot of hurdles. But I have not really gained much. It seems I'm fighting harder and harder to achieve less. Although I have more freedom, I now realize that I can never meaningfully practice medicine again. Although I am highly qualified and have three board certifications, they really don't mean much to anyone.

This letter was written because I believe some people feel doctors are not closely scrutinized or punished. I can attest that if you are convicted of any crime, no matter what the degree, your medical practice is doomed. Once you are convicted, you have a ticket to nowhere."

BOARD DISCIPLINARY ACTIONS
OCTOBER 1 - DECEMBER 31, 1994

BRODY, Alan, M.D., License #D26759. Three year probation continues with modified conditions. The physician completed certain conditions of probation and is placed under a new condition based on a current peer review. Effective 10/11/94.

ADKINS, R. Thomas Jr., M.D., License #H43718. Inactive license approved. The conditions of probation are tolled. The physician cannot resume the practice of medicine in Maryland until he appears before the Board and obtains prior approval. The physician is relocating. Effective 10/15/94.

BARHAM, William B., M.D., License denied. The physician was convicted at a general court-martial by the Navy for indecent assault on two patients. Effective 10/26/94.

FAUTER, Harold H., M.D., License #D01943. Immediate surrender of license pursuant to an amendment to a previous letter of surrender dated May 23, 1994, to become effective December 31, 1994. The physician accelerated the surrender of his license in lieu of the Board proceeding with a summary suspension hearing on the basis of a violation of the terms of the May 23, 1994 Letter of Surrender. Effective 10/26/94.

LEVITT, Jeffrey M., M.D., License #D29875. Suspension stayed. Three years probation from the date of this order. The physician complied with all the conditions precedent to the stay of suspension. Effective 10/26/94.

MILLER, Ted, D.O., License #H29971. The probationary status imposed by the consent order, dated December 21, 1993, is tolled. The physician must appear before the Board in order to resume his medical practice in Maryland. The physician stated he accepted a medical position in another state. Effective 10/26/94.

ROSS, Alan J., M.D., License #D22050. Three year period of probation ordered on December 28, 1993 remains in effect with additional conditions. The modifications were made as a result of a formal evaluation and assessment of the physician's medical knowledge. Effective 10/26/94.

GOSSWEILER, Robert L., M.D., License #D03184. Reprimand. The respondent willfully filed a false record in the practice of medicine and prescribed drugs for an illegal or illegitimate purpose in that he prescribed a controlled dangerous substance for an individual he had never seen, examined or treated. Effective 10/26/94.

MASCARDO, Rolando N., M.D., License #D17056. Three years probation subject to conditions. The physician failed to meet the standard of care in his practice of obstetrics and gynecology. Effective 10/27/94.

BRIGGS, Jeffrey A., M.D., License #D28640. Reinstated. Three years probation subject to conditions. The physician, pending the resolution of charges, surrendered his license on November 19, 1992 due to an investigation of allegations of sexual misconduct. In resolution of the charges, the physician has admitted to certain actions on the basis of which the Maryland Board concluded that the physician was guilty of immoral and unprofessional conduct in the practice of medicine and willfully made or filed a false report or record in the practice of medicine. Effective 11/1/94.

HAROUN, Naji J., M.D., License #D19133. Suspended three months, three years probation subject to conditions (effective from the date on which the physician's license is reinstated). The physician failed to meet the standard of care and prescribed or administered drugs for illegitimate medical purposes. Effective 11/10/94.

ZEVALLOS, Prospero, M.D., License #D14352. Suspended for three years; suspension is stayed after 60 days. Probation three years subject to conditions. The physician failed to meet the standards of care in the area of his specialty of family practice. Effective 11/15/94.

AIKENS-AFFUL, Nathaniel A., M.D., License #D13607. Summary suspension for unprofessional conduct and illegal and illegitimate prescribing of controlled dangerous substances. Effective 11/16/94.

COLEMAN, Darryl M., M.D., License #P05480. Registration as an unlicensed medical practitioner reinstated subject to terms and conditions of probation. The physician complied with all the conditions precedent to reinstatement of his registration. Effective 11/16/94.

EMICH, Charles H., M.D., License #D25100. Probation dated October 18, 1993 is terminated. The physician has satisfied the conditions precedent to termination of probation. Effective 11/16/94.

MCDANIEL, Robert B., M.D., License #D19837. Suspension of May 10, 1994 is terminated. Two years probation subject to conditions. The physician has satisfied the conditions precedent to termination of his suspension. Effective 11/16/94.

FRANKS, Denis, M.D., License #D17419. Reprimand. Probation for three years subject to conditions. The physician failed to meet the standard of care in his practice of plastic surgery. Effective 11/21/94.

KHAROD, Prabhakar, M.D., License #D22212. Reprimand. The three years probation ordered in the August 26, 1992 consent order is extended for one year subject to conditions. The Board took this further action as a result of a peer review of the physician's practice of medicine. Effective 11/29/94.

AALAI, Mehrdad, M.D., License #D26712. Revoked, stayed for 30 days to provide for transition of patients to new providers. The physician pled guilty to one count of Medicaid fraud, and is subject to the mandatory revocation of his license pursuant to Maryland statute. Effective 12/6/94.

ABBASI, Abdul Hafeez, M.D., License #D44155. Revoked. The physician was found guilty of one count of grand larceny and 17 counts of offering a false instrument for filing in the first degree in the State of New York and is subject to the mandatory revocation of his license pursuant to Maryland statute. Effective 12/6/94.

YOUNG, Henry A., M.D., License #D33875. Revocation dated December 15, 1993 continues after further hearing. The physician failed to meet the standard of care in his practice of neurosurgery. Effective 12/7/94.

BANKS, Lester H., M.D., License #D28369. Reprimand. Probation subject to terms and conditions. The physician was guilty of unprofessional conduct in the practice of medicine because of inappropriate conduct with female employees while on duty at a hospital. Effective 12/13/94.

MOSTAAN, Mehrdad, M.D., License #D24061. Probation terminated. The physician has complied with conditions precedent to the full reinstatement of his license. Effective 12/15/94.

FARSANI, Asghar, M.D., License #D40392. Restrictions and conditions imposed by the December 21, 1993 order terminated. The physician has complied with the conditions precedent to termination. Effective 12/20/94.

KOTLER, Everett G., M.D., License #D06560. Reprimand. The physician must comply with all the terms and conditions of the Consent Order issued by the New Jersey Board on February 9, 1994, and the physician must obtain approval of the Maryland Board before practicing in Maryland. The Maryland Board took reciprocal action based on a NJ order issued due to the physician's prescribing practices. Effective 12/20/94.

MYERS, John G., M.R.T., Certificate #R03237. Certificate reinstated subject to a probation of five years with terms and conditions because of the health provider's substance abuse. Effective 12/20/94.

KUMAR, Vinay, M.D., License #D43879. Reprimand, six months probation subject to condition and a \$1000 fine. The physician failed to disclose on his licensure application a settlement of malpractice claims and investigations by another state licensing board. Effective 12/21/94.

SINGAL, Krishan Kumar, M.D., License #D36900. Suspension stayed; probation subject to conditions for three years to be counted from June 14, 1994. The physician met all the conditions precedent for termination of the suspension of his license. Effective 12/21/94.

STROWHOUSER, William J., D.O., License #H38646. Probation for three years subject to conditions. The physician failed to meet the standard of care in his practice of medicine based on peer review. The physician has cooperated with the Board and is willing to abide by guidelines established by the Board for the practice of bariatric medicine in the State of Maryland. Effective 12/21/94.

WILLIAMS, Carter J., M.D., License #D27537. Reinstated. Probation concurrent with probation imposed by the Circuit Court for Baltimore County, Maryland. After the physician's conviction in State Court for Medicaid fraud and other charges and the suspension and revocation of his medical license based on the conviction, the physician has not practiced medicine since May 26, 1993 and satisfied the conditions precedent to reinstatement of his license. Effective 12/21/94.

ZAMPIELLO, Francis A., M.D., License #D17400. Granted an inactive license, and the physician shall not practice medicine in Maryland until he appears before a committee of the Board and obtains prior approval. The physician has not practiced medicine in Maryland since the Board issued its January 11, 1989 order and to date has demonstrated compliance with conditions of the 1989 order. Effective 12/21/94.

BRIGGS, Jeffrey A., M.D., License #D28640. Probation for three years effective November 1, 1994 subject to terms and conditions. The physician has been in compliance with the terms and conditions of the interim order and presented to a committee of the Board a description of proposed supervised practice settings which were approved by the Board. Effective 12/27/94.

INOCENCIO, Narciso F., M.D., License #D41106. Suspended for 60 days. License shall be reinstated provided the physician has met the conditions precedent, and the physician shall be placed on three years probation subject to terms and conditions. The physician's inappropriate touching and other conduct toward women employees and/or patients constituted immoral and/or unprofessional conduct in the practice of medicine. In addition, the physician gave a false answer on his renewal application. Effective 12/29/94.

SMITH, Robert L., M.D., License D24858 (Elkton, Md.). **Restriction on the physician's prescribing privileges is terminated. Other conditions of probation continue.** The physician successfully completed the mini residency prescribing program pursuant to the September 20, 1994 consent order. Effective 12/29/94.

ARROYO, Jose Cleofe, M.D., License #D02433. **Suspension for one year effective from January 15, 1995. The physician may petition for termination of the suspension after 6 months, and upon this termination the physician shall be on probation for 3 years subject to terms and conditions.** The physician was guilty of immoral or unprofessional conduct in the practice of medicine, because he engaged in a sexual relationship with a patient during the course of a physician/patient relationship. Effective 12/29/94.

VARGAS, Donato A., Jr., M.D., License #D17148. **Probation for three years subject to terms and conditions.** The physician failed to meet appropriate standards of care in his prescribing of tranquilizers and narcotic analgesics. Effective 12/30/94.

VERSIS, Jeffrey, EMT-P, Certificate #E30926. **The Board had accepted the surrender of the health provider's EMT-P certification subsequent to the February 24, 1993 Summary Suspension based upon the health provider's substance abuse problems.** Effective 12/30/94.

THE BOARD WISHES TO SHARE THE FOLLOWING LETTER WITH ITS READERS REGARDING CLARIFICATION OF AN ACTION LISTED IN THE LAST ISSUE:

Robert L. Smith, M.D.
2303 Belair Road
Fallston, Maryland 21047

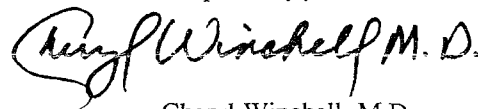
Dear Dr. Smith:

Thank you for calling attention to the fact that the BPQA Newsletter does not sufficiently identify disciplinees to distinguish between individuals with the same or similar names. Investigation revealed that there are two Robert L. Smith's and four other Robert Smith's with a different middle initial licensed by BPQA. Our disciplinee was identified by license number and not by address (Elkton, Md.).

In the future we will check the names of all disciplinees and if there are licensees with similar or identical names, we will publish the address of the disciplinee for purposes of clarification.

Thank you again for calling this important problem to my attention so that we can improve the BPQA Newsletter and not repeat this oversight.

Respectfully yours,



Cheryl Winchell, M.D.
Editor

Medicaid Fraud Cases

(continued from page 1)

The Unit uncovered a kickback scheme at a southern Maryland hospital, and obtained the conviction of a hospital administrator who expended \$18,000 for drain cleaner from a supplier, while accepting a television set and a video cassette recorder in return. This administrator placed enough orders for drain cleaner to last the hospital until the year 2050.

In the past two years, the Unit has obtained fifteen convictions against providers of general transportation who were permitted to bill Medicaid on a "per mile" basis for transporting patients to medical facilities. In one instance, a transportation provider bribed Medicaid recipients to use their Medicaid eligibility cards. Once he obtained these Medicaid numbers, this provider billed the program as if he had provided \$12,000 in transportation services for two patients who owned their own cars and

did not use his services. This individual was ordered by the Court to repay the State nearly \$45,000 in restitution.

The Unit also has obtained forty-two convictions against individuals accused of abusing or neglecting vulnerable adults. These cases have included the conviction of a Baltimore County physician who operated a local nursing home and neglected patients under his care to the point that nearly all were malnourished and dehydrated and many suffered from severe bed sores. At least one patient had a limb amputated because of medical neglect. This physician, who was convicted of both fraud and patient neglect, was sentenced to two years in jail and was ordered to pay fines and restitution in excess of \$100,000.

The Unit continues to vigilantly guard both the public purse and the safety of Maryland's vulnerable citizens. Currently, there are fifty investigations involving individuals and health care providers suspected of criminal wrongdoing.

BOARD ADVISORIES

PHYSICIAN ASSISTANT PRESCRIBING

The authority for Physician Assistants to write medication orders in an institutional setting came under question in March 1992. Since that time, several attempts have been made to correct this through the legislative process, the last being House Bill 1527 introduced in the 1994 legislative session. This legislation was defeated, and the legality of PA's being permitted to write medication orders remained in limbo. The BPQA has always maintained that it has the ability to delegate this function by regulation; however, to make certain that there was a legal basis for this, BPQA asked Nelson Sabatini, Past Secretary of Health and Mental Hygiene to request a formal Opinion of the Attorney General.

Opinion #95-004 dated February 1, 1995, in summary states: "The Board has authority to adopt a regulation specifying the circumstances under which the job description of Physician Assistants may include prescribing. A regulation may not authorize Physician Assistants to dispense prescription medicines, however."

Accordingly, BPQA, through its advisory committee, has begun the process of promulgating regulations to permit Physician Assistants to be able to write medication orders in a hospital or state/local correctional facility.

Initially, it is likely that prescribing authority will be granted for PA's working in hospital and institutional settings where there are multiple levels of oversight inherently in place. Unless the PA's job description specifically allows for prescribing authority, the physician supervisor may not delegate this aspect of medical care to a PA. As has always been the case, PA's may not legally use presigned prescriptions. Our goal is to have these regulations in place by July 1995 in order for BPQA to begin processing the expanded job description applications for those PA's who wish permission to write medication orders. In the interim, and until these regulations are in place, there is no express authority for PA's to be prescribing in any circumstance. In addition, PA's may not give out prescription medications to patients, including samples of medications.

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