A Case Study of Healthcare Fraud

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| *he healthcare landscape is changing with the depressed economic times we have encountered in the United States. The anticipated Medicare cutbacks have created angst among physicians and healthcare institutions. This case is a clear reminder to individual physicians and medical institutions that when faced with potential future payment cutbacks and a changing and uncertain financial landscape for the U.S. healthcare system,*  *the overriding responsibilities of physicians and medical institutions must always be for the medical welfare of patients and exercising proper fiduciary responsibility.*  **Key words:** False claims; patient safety; fiduciary responsibility; Medicare and private insurance payment; payment reduction for medical specialty services. |

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On December 31, 2008, in the United States District Court, W.D. Louisiana, Mehmood M. Patel, MD, was charged with 91 counts of healthcare fraud violating *18 U.S.C § 1347* and one count of criminal forfeiture pursuant to *18 U.S.C § 982.* Jury selection began on September 17, 2008. The trial on the merits of the case opened on October 1, 2008. On December 16, 2008, after 11 weeks of testimony that included approximately 80 government witnesses, several defense witnesses, plus 19 days of testimony by the defendant, the jury was instructed and retired to begin its deliberations. On December 30, 2008, the jury returned a verdict finding Patel guilty on 51 counts of the indictment.1

At the time this case was brought, Patel was 64 years old. He had been practicing interventional cardiology in the Lafayette, Louisiana, area for more than 25 years. Testimony at the trial confirmed that Patel had been falsifying reports of his patients’ symptoms in their medical records and altering official records and findings on his patients’ medical test reports. He then used these falsified documents as a pretext for performing thousands of unnecessary coronary procedures.

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Testimony from the court’s medical experts in cardiology revealed that Patel inappropriately deployed angioplasty balloons and stents and used radiation to treat coronary arteries that exhibited only insignificant disease. Testifying medical experts included doctors from major medical universities. Each medical expert testified about only a few of the thousands of medically unnecessary procedures performed by Patel over a 25-year period. (As previously noted, the indictment contained 91 counts that provided a sample of 75 patients chosen by the government prosecution, with the advice of the court’s medical experts.)2

Additionally, the jury heard testimony from government witnesses that included medical technicians and nurses who had worked with Patel and a number of his prior patients. The witnesses described the defendant as lacking in concern for patient care and safety. Other testimony documented that Patel had billed both Medicare and private insurance companies for these unnecessary procedures. During no more than the three-year period covered by the indictment, these Medicare and private insurance claims totaled more than $3 million and were assumed to be false billings.

U.S. District Court Judge Tucker L. Melancon sen-

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tenced Patel to serve 120 months in federal prison and ordered him to pay a $175,000.00 fine. The Lafayette General Medical Center agreed to pay $1.8 million to settle approximately 100 malpractice cases stemming from the care provided by Patel and the hospital. This same hospital paid another $1.9 million to the U. S. Justice Departm ent to settle a False Claims Act lawsuit alleging that the hospital had failed to act on complaints it had received concerning Patel. In 2006, Our Lady of Lourdes Regional Medical Center had paid $3.8 million to settle a false claims lawsuit, as well as an additional $7.4 million to settle a class action lawsuit brought by another group of Patel’s former patients.

*“It is reprehensible to think that a medical professional would put patients at significant risk and conduct medically unnecessary procedures simply to fill [his] personal coffers.”—David Welker*

The sentencing and fines related to the Patel case emanated from his egregious behavior with respect to ignoring the medical welfare of his patients and his failure to exercise his fiduciary responsibilities in their regard. The following provides a clear, single example of targeting “vulnerable” patients with a fraudulent diagnosis, followed by an unnecessary medical procedure. These behaviors were sadly illustrative of Patel’s medical practices.

A female patient visited Patel to seek surgical clearance to donate a kidney to her son. In the process of her examination and evaluation, Patel deployed a stent in her coronary artery: a procedure that prevented her from donating the kidney. As a result, her son remained on dialysis. In reviewing this case, medical experts determined that the procedure had been unnecessary.3

*“Physicians must be held accountable when they fail in their primary mission to care for their patients appropriately, ethically, and respectfully.”—Donald W. Washington*

David Welker, the FBI’s Special Agent in charge of the New Orleans Division, stated in his testimony during this trial, “It is reprehensible to think that a medical professional would put patients at significant risk and conduct medically unnecessary procedures simply to fill [his] personal coffers.”4

U. S. Attorney Donald W. Washington stated,

“Patient care and safety are the primary duty of all healthcare providers. I hope this matter sends a strong message to those good and honorable medical professionals to police their ranks and be faithful to their credo of doing no harm to any patient . .. Physicians must be held accountable when they fail in their primary mission to care for their patients appropriately, ethically, and respectfully.

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Healthcare fraud will continue to remain a priority for this office, and we will aggressively investigate and devote our full attention and resources to matters of this magnitude.”4

# DISCUSSION

In a *Wall Street Journal* article published July 2, 2009, Jane Zhang discussed a plan by Medicare to further reduce payments for so-called “specialty medical services.” Payments to cardiologists would be trimmed by 11% overall, but certain procedures they perform would see steeper reduction. Dr. Alfred Bove, president of the American College of Cardiology, estimated that cardiologists would receive 42% less for an echocardiogram and 24% less for a cardiac catheterization.5

*The overriding responsibilities of physicians and medical institutions must always be for the medical welfare of patients and the exercise of proper fiduciary responsibility.*

The Medicare plan to cut specialty payments creates great anxiety among specialty physicians and institutions whose successful medical practices and performance to date have been dependent upon *both* the medical abilities and financial circumstances of their attending specialty physicians. The Patel case is a clear reminder to individual physicians and medical institutions that when faced with potential future payment cutbacks and a changing and uncertain financial landscape for the U.S. healthcare system, the overriding responsibilities of physicians and medical institutions must always be the medical welfare of patients and the exercising of proper fiduciary control.

In these economically barren times, the present Administration and the U.S. Congress take up the daunting challenge of providing healthcare for uninsured Americans and effectively maintaining healthcare for those presently covered. ■

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