

Objectives

after completing this lesson, YOU will be able to



» Understand the enormous **financial, physical, and emotional costs of medical white-collar crime**;

» Be aware of the many *medical scams that are perpetrated*;

» Discuss how *medical fraud is accomplished in hospitals, nursing homes, and other care facilities, including home care*;

» Discuss the *effect of self-referral on health-care costs*;

» Discuss *Medicare and Medicaid fraud*; and

» Discuss the *role of medical professionals* in regulating their own abuses.

For this lesson, please read:

» Rosoff, Pontell and Tillman, *White-collar Crime*:

- **Chapter 11. Medical Crime**

» Pontell and Shichor, *Contemporary Issues in Crime and Criminal Justice*:

- **Dodge, "Fertile Frontiers in Medical Fraud"**

The largest business in the biggest economy in the world is health care. The US health care system is an incredible trillion-dollar-a-year industry and accounts for about **14%** of the gross national product.

*The broad nature of the industry — **including treatment facilities, individual providers, medical suppliers, insurance plans, and the like** — makes it very difficult to pin down an exact dollar figure that is due to fraud and white-collar crime.*





According to a range of estimates, they surely account for tens, if not hundreds of billions of dollars a year.

One thing is certain, however. From the limited research findings in this area, such figures are likely to be enormous, and are replicated year after year.

The financial loss is bad enough. But when coupled with the serious physical consequences, especially among those who are most vulnerable — ***the elderly and the poor*** — the issue of medical fraud brings the victims of white-collar crime into sharp focus.





- » Medical scams have been found in the most likely and unlikely places. Rolling lab schemes, telemarketing frauds, government insurance rip-offs, and other crimes often resemble those of traditional organized crime groups.
- » Medical fraud drains public and private insurance funds and harms patients. But it also does more than this: It increases the cost of health care and ends up decreasing or denying services altogether to those who may need them the most.

*The problem has escalated, according to authorities, from frauds involving single perpetrators to more sophisticated and costly schemes involving "**cartel-type frauds.**"*

*Numerous medical frauds have been found in the health care industry involving equipment sales. Senior citizens are constant targets of fraudsters. **They are particularly susceptible to scams involving medical products such as wheelchairs, seat chair lifts, oxygen concentrators, and other sometimes unnecessary equipment at highly inflated costs.***

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Medicare usually ends up paying at least part of the bill. In less than two years, Medicare's costs more than tripled for motorized wheelchairs, one of the most expensive pieces of equipment.

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*Investigations revealed that the system was being abused by unscrupulous suppliers, who were literally **“handing them out”** to persons who didn't need them and billing the government for the costs. In one case an elderly patient took his wheelchair to a pawn shop and hocked it for \$300.*

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Another scam used teenage girls to sell expensive medical devices to the elderly by telephone.



»Other frauds greatly overprice the item in need. Foam for mattresses that should cost about \$28 was charged to Medicare for \$900 as a **"dry floatation mattress."** Other items that could be bought at any Radio Shack for \$50 have been charged to the insurers for \$500.

»These crimes are not new, and have flourished throughout the years. Home care fraud is a burgeoning form of crime, as the home care industry is rapidly expanding. It is also quite difficult to investigate because it involves a huge menu of services that are delivered in thousands of private residences. **Numerous cases of these frauds have been discovered, and many have price tags reaching into the millions.**



The largest share of the health care dollar goes to hospitals, which are notorious for legitimate pricing that appears absolutely unreal to patients and their families. What appears simply as price-gouging is defended by hospital administrators as being due to overhead costs.

On the other hand, hospitals have been involved in numerous schemes that aren't legitimate, and that constitute fraud. Common forms of hospital fraud include ghost services (where nothing is done, but patients are charged regardless); multiple billings; upcoding, so that insurers pay more for services; and other billing tricks such as **"fragmentation"** and **"unbundling."**

» *Psychiatric hospitals have been involved in major cases of financial frauds and patient abuses. As insurance companies clamped down on costs and services they would reimburse, psychiatric hospitals became increasingly desperate for patients in order to stay in business and turn a profit.*

» This need to fill beds led to incredible abuses, some involving “**bounty hunters**” who literally abducted patients who were hospitalized against their will until their insurance ran out. Texas has been notorious for such abuses.

» Perverse incentives by insurance companies have contributed to this problem, as they offer more generous compensation for inpatient care than outpatient care.

» Self-referral is another major reason for rapidly increasing health care costs in the United States. This practice involves a physician sending patients for services to a company he or she has a financial stake in (X-ray, laboratory, and so on). **This is not always illegal, but it does create opportunities for enormous ethical abuse, not to mention extra profits.**

» **Studies have shown that where doctors have such financial interests they order significantly more tests than when they do not.** Price-gouging has also been found in physician-owned labs.



This conflict of interest has been cited for causing the intentional provision of unnecessary services that drive up the cost of health care, yet self-referrals have so far avoided regulation.

Medicare, the government insurance program for the elderly, loses at least 10% of its total expenditures to various forms of fraud, according to the **Government Accounting Office (GAO)**.

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This means that at a minimum, the program loses about \$17 billion a year, and this figure is likely to be much higher.

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Not all of these frauds are from shady businesses, practitioners, or scam artists. ***Prominent institutions such as the University of Pennsylvania have been implicated in fraud schemes against Medicare.*** Major corporations have also settled large cases.



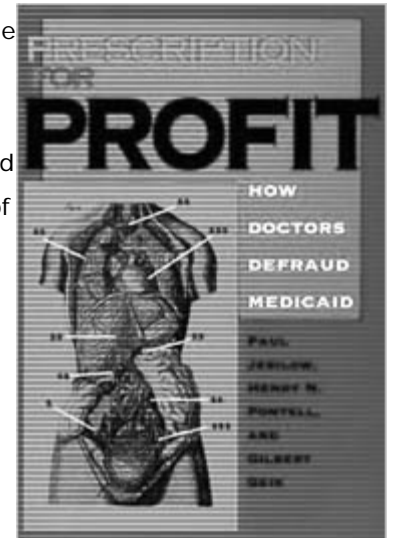
Physicians can cheat Medicare primarily through three means:

- 1 Overcharges:** Doctors make patients sign contracts at inflated prices.
- 2 Retainers:** Some doctors require payment to be made up front.
- 3 Waivers:** Patients waive their right to have physicians bill Medicare directly. This leaves the patient to pay for services that Medicare won't reimburse but have already considered included in the payments they make to doctors.

» Medicaid, the other major government insurance program, serves largely the poor. It receives substantial funding and is run by individual states rather than the federal government.

» Medicaid fraud has been studied in depth in a series of publications by the research team of Henry Pontell, Paul Jesilow, and Gilbert Geis at the University of California, Irvine. Funded by a grant from the US Department of Justice, they conducted the first serious social scientific work on the problem of medical fraud.

The work took place largely in the 1980s and culminated with the publication of the book ***Prescription for Profit: How Doctors Defraud Medicaid***, published by the University of California Press.



» The many types of Medicaid scams are seemingly endless, but one thing is certain. The violations that are uncovered merely scratch the surface of the problem.

» Some of the violations are so blatant and reflect such arrogance that they cross the border into absurdity: **Daily psychotherapy sessions that are billed for more than 24 hours in a day, X-rays taken without film, circumcisions performed on female infants, and hysterectomies done on male patients** are toward the top of the list.

*Some have called the Medicaid fraud problem the "**tip of the iceberg.**" One seasoned investigator referred to known violators as "**the fish who jump into the boat.**" He was referring to those so reckless or stupid that they literally had no choice but to be caught.*

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*Some stories are not so funny. In one case, a respected ophthalmologist in Los Angeles named Dr. Manaya blinded poor Hispanic patients by needlessly performing cataract surgery. **Why? Because Medi-Cal paid \$584 per eye.***

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Just as remarkably, he received fervent support from colleagues during the sentencing phase of his trial. **The judge in the case was astounded, and rightfully ignored their pleas.**

One of the most bizarre cases involved Dr. Olga Romani, a Cuban immigrant in Florida. ***It was not only the single most costly case of Medicaid fraud in Florida at that time, but involved a related murder case as well.***

» The doctor, who was already the focus of a Medicaid fraud case, ordered a hit on a physician with whom she shared a practice so that he would not testify against her! Romani is currently serving time in Pembroke Pines, Florida, and will most likely die in prison.

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I swear we did not make this up, yet it is as good, if not better than any TV movie of the week.

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What is your reaction to the ***Romani case***?

» Fertility fraud is another major issue in the medical crime area.

Major cases of such fraud have surfaced in recent years, including the Cecil Jacobson case in Virginia, and the now infamous fertility clinic scandal at the University of California, Irvine. Both of these cases involved highly prestigious physicians.



» The scandal was first reported by staff, and the university has been accused of punishing the whistleblowers and ignoring their initial claims. When the scandal broke in the press, the university began an internal investigation that revealed major breaches of policy, human subjects violations, financial fraud, and the unauthorized use of eggs to impregnate other patients.



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The UCI clinic was perhaps the most prominent treatment facility in the world, and the scandal was broadcast and covered worldwide. It is also the subject of a recent book by Mary Dodge and Gilbert Geis, Stealing Dreams.

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One expert in medical ethics at the University of Pennsylvania has put the state of the medical specialty this way:



“There is less regulation here than there would be in the animal-breeding industry.”

» Nursing home fraud is another area of medical fraud, and one that is particularly heart wrenching. The horror stories that have been documented, especially in states that are poorly regulated, defy any sense of humanity whatsoever.

» Nursing homes now take up about 8% of all health care costs, and abuses can be found nationwide. Patients are left to die. They are mistreated, starved, improperly cared for medically, and physically abused. On top of this, families and insurers foot the bill.



After reading the stories of patient abuse, one must wonder if there could be anything more degenerate than profiting from the helpless elderly in nursing homes.



Indeed, this is a major measure of the degree to which we claim to be a civilized society. If nothing else, it shows wanton disregard and disrespect for those who have lived before us and can no longer fend for themselves. To call it despicable would be a gross understatement.

How can we heal the medical profession and stop medical fraud? This is no easy matter. Much as the police have their "**Blue Wall of Silence**," the medical profession is likely to present a similar united front when one of their own stands accused.

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*After decades of fighting off outside interference with medical practices, doctors must take such behaviors much more seriously and police themselves. **Until they do this, their calls for less outside intervention would appear more than a little hypocritical.***

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Given that government has a limited capacity to police such an incredibly large health care system, and major changes in the delivery of health care appear unlikely anytime soon, professionals will have to do a much better job of policing themselves in order to curb medical fraud.



Until that happens, the "cops" will only be catching a handful of the "robbers."

Summary

a brief overview of what you learned



» **Medical scams** (rolling lab schemes, telemarketing frauds, government insurance rip-offs, and other crimes) drain public and private insurance funds, harm patients, and increase the cost of health care.

» **Hospitals** have been involved in numerous schemes that constitute fraud. Common forms of hospital fraud include ghost services, multiple billings, upcoding, and other billing tricks.

» **Self-referral, where a physician sends patients for services to a company he or she has a financial stake**, is another major reason for rapidly increasing health care costs in the United States.

» **Medicare**, the government insurance program for the elderly, and **Medicaid, the government insurance program that services mainly the poor**, are riddled with violations.

» **Nursing homes now take up about 8% of all health care costs, and abuses can be found nationwide.** This kind of fraud is particularly inhumane: Patients have been left to die, are mistreated, starved, and abused, while families and taxpayers foot the bill.

» After decades of fighting off outside interference with medical practices, doctors must take such behaviors much more seriously and police themselves.