

WEISS



July 31, 2021

Brace Yourself For Increased Prosecution of Telemedicine Fraud

Although telemedicine technology is still in its infancy, it came to the rescue for many (both patients and physicians) during the Covid pandemic. As technology advances, its practical application will grow.

But, as with any new frontier, from the physical to the technological, it also poses opportunities for criminals playing fast and loose, and presents dangers for physicians caught up in their web, whether or not naively so.

As telemedicine has grown in popularity, so too has the breadth of alleged scams being prosecuted by the U.S. Department of Justice ("DOJ").

The fact patterns generally involve a supplier of an item reimbursed by a federal healthcare program, a related "marketer", and physicians prescribing the item via some form of telemedicine.

In the past, I've written about prosecution of these scams in the context of pain creams. Check out [Greasy Kickback Residue Is All That's Left of Pain Cream Fraud](#) and [No Matter How Hard They Tri\[Care\], Another Compounded Medicine Scam Creams Out](#).

The DOJ is now widening its focus.

Earlier this year, the federal government charged five individuals for their roles in an alleged \$65 million conspiracy to defraud federal healthcare programs in connection with medically unnecessary orthotic braces for Medicare, TRICARE, and other federal healthcare program beneficiaries.

Thomas Farese and Pat Truglia, the owners of orthotic brace suppliers, were each charged with one count of conspiracy to commit health care fraud and three counts of health care fraud in connection with paying and receiving health care kickbacks and bribes.

Christopher Cirri and Nicholas DeFonte, the owners and operators of an allegedly fraudulent marketing company, were charged with one count of conspiracy to commit health care fraud in connection with paying and receiving health care kickbacks and bribes.

Domenic Gatto, an owner and operator of an orthotic brace supplier, was charged with one count of conspiracy to commit health care in connection with soliciting and receiving health care kickbacks.

The criminal complaint alleges that:

1. Truglia, Cirri, and DeFonte operated or controlled marketing call centers to solicit beneficiaries and to entice them to accept orthotic braces regardless of need
2. Truglia, Cirri, and DeFonte paid telemedicine companies illegal kickbacks and bribes in exchange for doctors and other medical professions signing brace orders and falsely swearing to their medical necessity.
3. Truglia, Cirri, and DeFonte concealed the kickbacks and bribes by entering into sham contracts with the fraudulent telemedicine companies and issuing invoices describing the payments as “marketing” or “business process outsourcing” expenses.
4. Farese and Truglia purchased these brace orders through orthotic brace suppliers in Georgia and Florida through which they billed federal and private health care benefit program. To conceal their ownership interests in the brace suppliers, Farese and Truglia used nominee owners and provided those names to Medicare in lieu of their own.
5. Gatto connected Cirri and DeFonte to other co-conspirators and arranged for Cirri and DeFonte to sell orthotic brace orders to orthotic brace suppliers in New Jersey and Florida in exchange for illegal health care kickbacks and bribes.
6. Gatto and others paid Cirri and DeFonte kickbacks and bribes for each federal health care beneficiary for whom orthotic brace orders were sold to orthotic brace suppliers to be billed to Medicare, TRICARE, CHAMPVA, and other federal and private health care benefit programs. To conceal the kickbacks and bribes, Cirri and DeFonte created sham invoices labeling the payments as “marketing” and “business processing outsourcing” expenses. To conceal his ownership interest in the brace supplier, Gatto used a nominee owner on forms submitted to Medicare and used shell corporations to transfer the funds he paid in connection with the purchase of the supplier.

As is always the case in these prosecutions, the charges are allegations only and all of the defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

If the defendants are found guilty, the charges are punishable by a maximum potential penalty of 10 years in prison and \$250,000 fine, or twice the gross profit or loss caused by the offense, whichever is greater.

You might have noticed that no physicians have been named as co-conspirators . . . yet. It's simply a matter of time. The government knows which physicians signed the allegedly false brace orders.

As mentioned in [Greasy Kickback Residue Is All That's Left of Pain Cream Fraud and No Matter How Hard They Tri\[Care\], Another Compounded Medicine Scam Creams Out](#), with lots of money at play, it's not hard to see how many who might otherwise have legitimate business and medical practice interests become attracted to fast and easy money. Of course,

the money's only easy until you get caught.

There are many legitimate ways for physicians to increase their practice income. They include, depending on state law, investments in compounding pharmacies and the direct dispensing of pharmaceuticals.

But any deal must be structured in compliance with the federal Anti-Kickback Statute, Stark, and various state law counterparts and other restrictions.

Yes, think entrepreneurially. But please be smart about it.



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The coronavsaaairus crisis, especially as it has become politicized, raises a number of business issues and, quite frankly, business opportunities in regard to future disruptive events.

Check out our [mini-series](#), with actionable business lessons for medical group leaders.

Sooner or later this crisis will end. You can't allow yourself to be too busy, too occupied, too concerned with current events, to devote time and effort to strategizing for your future.



Wisdom. Applied. 152 - What Every Physician Needs to Know About a California Anesthesia Group's Bankruptcy

With the tip of the hat to T.S. Eliot, the world for Community Regional Anesthesia Medical Group (CRAMG) ended in 2021, not with a bang but a whimper.

UPCOMING PRESENTATIONS

December 10, 2021

***The ASC Ophthalmic Surgery
Landscape: Opportunities***

December 11, 2021

***How to Structure and Operate Your
ASC to Maximize a Potential Sale***



Presented by Mark F. Weiss

**American College of
Perioperative Medicine**

December 10 & 11, 2021
JW Marriott Orlando,
Grande Lakes, FL

All Things Personal

I sat on the patio of the restaurant.

At the next table was a guy that I just couldn't place; I'd seen him before at a hospital, likely on the other side of a deal.

As he dined with his family, his wife and two teenage girls, one of whom appeared to be his daughter and the other her friend, he lectured the girls, telling them that the more money they have later in life, the more "drama" they will have.

I wonder if he realized that he was programming them to view money as a problem?

How are you programming yourself? Whether it's in connection with a deal, a dispute, or something larger in life, one limitation might not actually exist but for those imposed by yourself.

I'm not attempting to play self-help guru here. But I can say with absolute certainty that if you think you don't have power in a deal, you don't.

I'll probably never see that guy from the restaurant again and you'll probably never see him at all.

But you'll see yourself.

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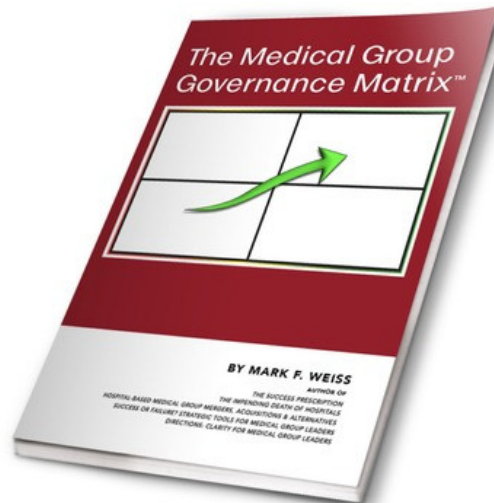
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Published Articles

- [You Have Enough Problems. Why Buy Compliance Risk?](#), Summer 2020 Issue of [MiraMed Focus](#)
- [Who Really Owns Your Anesthesia Group?](#), Summer 2020, [Communique](#)
- [The Practical Essentials of the False Claims Act](#), March 2020, on [AnesthesiologyNews.com](#) and in the May 2020 issue of [Gastroenterology & Endoscopy News](#)

Books and Publications



We all hear, and most of us say, that the pace of change in healthcare is quickening. That means that the pace of required decision-making is increasing, too. Unless, that is, you want to take the “default” route. That’s the one in which you let someone else make the decisions that impact you; you’re just along for the ride. Of course, playing a bit part in scripting your own future isn’t the smart route to stardom. But despite your own best intentions, perhaps it’s your medical group’s governance structure that’s holding you back. In fact, it’s very likely that the problem is systemic. The Medical Group Governance Matrix introduces a simple four-quadrant diagnostic tool to help you find out. It then shows you how to use that tool to build your better, more profitable future. Get your free copy [here](#).



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