

ANATOMY OF A DOJ INVESTIGATION

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September 14, 2009



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ANATOMY OF A DOJ INVESTIGATION



Cristine M. Miller

ChiMed Healthcare Business Consulting, LLC

- Certified Medical Practice Executive (CMPE)
- Certified Coding Professional (CCP)
- Certified in Healthcare Compliance (CHC)
- 24 years experience in healthcare consulting

Practice emphasis includes:

- Healthcare organizations
- Litigation support
- Due diligence
- Compliance review
- CON expert testimony
- Reimbursement consulting
- Program/product development
- Feasibility studies



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Christie A. Moore

Greenebaum Doll & McDonald PLLC

- Former Health Care Practitioner and Administrator
- Assistant U.S. Attorney, prosecuting health care fraud and white collar crime cases
- Chair - Greenebaum White Collar Crime Team

Practice emphasis includes:

- Health Care Litigation
- White Collar Criminal Defense
- Antitrust Counseling and Defense
- Qui Tam Litigation Defense



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Kent Wicker **Reed Wicker PLLC**

- Graduated from Harvard Law School, 1988
- Assistant U.S. Attorney, prosecuting fraud and public corruption cases
- First Assistant U.S. Attorney and Criminal Division Chief

Practice emphasis includes:

- White collar criminal defense
- Healthcare litigation

WHY SO MUCH PROSECUTION INTEREST IN HEALTHCARE?

- \$ \$ \$ \$ \$ \$ \$ \$ \$ \$
- Qui tam – whistleblower suits
- Self-disclosure obligations
- Highly regulated:
 - Lot of regulations
 - Lot of regulators

HOW TO PREPARE

- Develop a Team
- Staffing Case
- Hierarchy of Counsel

HOW TO PREPARE

- Create a Response Team:
 - Top Leadership
 - Revenue Cycle
 - Case Management
 - Health Information Management ("HIM")
 - Patient Accounting
 - Information Systems ("IS")
 - Consultants/Lawyers

HOW TO PREPARE

- Internal Investigation Attorney-Client Privilege Considerations

PLANNING STAGE

Know your Risk Level:

- 1 – Low Risk
- 2 – Moderate Risk
- 3 – High Risk

PLANNING STAGE

- Medicare Administrative Contractors:
 - Changes in claim payment process

CASE STUDY

- DME Company & Specialty pharmacy:
 - DOJ requested 100 charts
 - Consultant reviewed 100 charts
 - Found few errors on DME side – nothing that required refunds
 - Found unit billing errors on pharmacy side
 - Rebilled pharmacy units for past 18 months
 - Received additional \$450,000 in reimbursement
 - Whistle-blower discredited, case dropped, no fines or penalties
 - Legal and consulting fees, \$100,000;
 - Profit, \$350,000

CIVIL LITIGATION

- Federal Authority for Information Gathering:
 - 18 USC § 3486
 - Parallel Investigations

POSSIBLE VIOLATIONS

- Stark and Anti-kickback
- Bad billing
- Cost reporting – false statements
- HIPPA
- Antitrust

DOJ GUIDELINES FOR FEDERAL PROSECUTION OF CORPORATIONS

- Public benefits to charging corporations
- Does not mean individuals should not be charged
- Consider factors including cooperation, compliance programs, remedial actions

COMPLIANCE PLAN

- Help prevent violations
- Help detect violations
- Help reduce sanctions for violations

IF YOU FIND A PROBLEM . . .

- Get out in front of the problem.
- Bite the bullet quickly.
- Understand how the government thinks.
- Know the case before the government.

QUESTIONS



THANK YOU!

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