CCH Healthcare Compliance LETTER

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Rx drug card anti-fraud effort launched

by Jay Nawrocki, Contributing Editor

Several anti-fraud efforts regarding Medicare prescription drug discount cards are being launched by CMS in response to reports of complaints received in several states about potential fraud schemes involving this benefit. Beneficiaries may begin to enroll in the prescription drug card program on May 3 and will begin receiving benefits in June.

Beneficiaries in Alabama, Georgia, Idaho, Maine, Massachusetts, Maryland, Nebraska, New York, Oklahoma, Pennsylvania, Rhode Island, Virginia, and Washington have complained that they have received unsolicited telephone calls and in-person solicitations from companies posing as Medicare officials attempting to gain personal information. Approved card sponsors are not allowed to market the cards through unsolicited phone calls or unsolicited visits, however, they may make phone calls or visits in response to a request for further information. In addition, card sponsors are prohibited from marketing their cards until early May.

CMS will be conducting three programs to counter fraud and abuse from drug card sponsors. CMS will conduct weekly updates on the covered drugs and drug prices provided by the card sponsors to ensure that no "bait and switch" tactics are used by card sponsors. Negotiated prices for covered drugs can only be increased if there is a change in the sponsor's costs, such as changes in the discounts, rebates or other price concessions received from a drug maker or pharmacy.

Under these new anti-fraud efforts CMS will: (1) monitor changes in overall drug prices and identify programs that stray from the expected changes in the prices the card sponsors themselves pay, which are based on average wholesale prices; (2) conduct "mystery shopping" of the card sponsor's 1-800 numbers to ensure sponsors are charging beneficiaries the advertised enrollment fees, checking the prices displayed on the Medicare drug price comparison website, and following other federal guidelines, and (3) log and respond to beneficiary complaints against card sponsors received at 1-800-MEDICARE, www.medicare.gov, from state health insurance assistance programs (SHIPS), CMS's regional offices, state agencies or other partners.

"We have been working closely with health care providers and our partners in law enforcement and oversight to reduce fraud and abuse in Medicare, and we are extending those efforts to Medicare's new programs," said HHS Secretary Tommy Thompson. "The vast majority of health care providers try to do the right thing, so we are going to be very clear about our rules and focus our efforts on those who intentionally seek to commit fraud," according to CMS Administrator Mark McClellan. ■

CCH Chicago Bureau, April 22, 2004

Letters to the Editor

The CCH Healthcare Compliance team welcomes comments or questions regarding articles published in the CCH Healthcare Compliance Letter. Send comments to Sharon Sofinski, Coordinating Editor, at sofinsks@cch.com. For more information about the CCH Healthcare Compliance Portfolio visit our online store at http://health.cch.com.

Recent fraud cases reflect a variety of schemes

by Sharon Sofinski, Coordinating Editor

United States Attorneys recently announced a hospital computer tech's guilty plea to charges of healthcare fraud, the sentence for a psychologist who submitted false claims to Medicare, the conviction of a psychiatrist in a motorized wheelchair fraud scheme, and sentences related to an ambulance scheme.

Northern District of Alabama. In the first case, Timothy Buckner, Director of Technology for Eastern Health System, Inc., pled guilty to healthcare fraud and income tax evasion. He will face a maximum 25-year prison sentence and a $500,000 fine.

Buckner set up a phony business name—Network Services, Inc., Division of Network Partners, Inc.—and created and submitted phony claims for computer goods and services allegedly supplied by Network Services. The company had a letterhead, a mail-drop address, and a checking account using Buckner's wife's social security number.

Buckner received payments from Eastern Health System for the bogus claims, deposited them in the Network Services checking account, and spent the money. He failed to report the income on his tax returns.

In another case, United States Attorney Alice Martin announced that Dr. Todd Everett Walborn was sentenced for mail fraud and money laundering in connection with a Medicare fraud scheme.

Walborn, a clinical psychologist, submitted false claims to Medicare from 1998 to 2000 for services provided to nursing home residents. Walborn submitted claims reflecting services he provided when others who were not psychologists actually provided the services. He also billed Medicare for psychological testing services when lesser paying services were provided, and overstated the amount of time spent providing services.

Walborn was sentenced to 33 months in prison and ordered to pay $1,801,980 in restitution to Medicare. Said U.S. Attorney Alice H. Martin, "There is a great deal of money to be made by medical providers and the greedy can turn to fraud to enrich themselves. To do so at the expense of elderly nursing home patients and the Medicare program deserves incarceration." The U.S. Attorney's press releases on these two cases can be found at http://www.usdoj.gov/usao/aln/Pages/newsreleasesmain.html.

Southern District of Texas. Psychiatrist Dr. Lewis Gottleib was convicted for his involvement in a scheme to defraud Medicare and Medicaid of $16 million.

Between 2001 and 2003, a number of durable medical equipment (DME) suppliers approached Gottleib and offered him kickbacks in exchange for signing certificates of medical necessity (CMNs) approving motorized wheelchairs for Medicare beneficiaries. Gottleib admitted to signing hundreds of CMNs for a $200 kickback for each. The DME suppliers then fraudulently billed Medicare and Medicaid for motorized wheelchairs when less expensive scooters—or in some cases, nothing at all—were actually provided.

Gottleib faces a maximum 10-year prison sentence for healthcare fraud, five years for the illegal kickback conviction, and five years for conspiracy to commit healthcare fraud. The U.S. District Judge also ordered that $1.6 million held in Gottleib's bank account be forfeited to the United States. The U.S. Attorney's press release on this case is at http://www.usdoj.gov/usao/txs/releases/index.html.

Northern District of Georgia. First Med EMS, Inc., an ambulance transport company, and its director and owner were sentenced on charges of conspiracy against Medicare and Medicaid related to an ambulance scheme, U.S. Attorney William S. Duffey, Jr. has announced.

First Med EMS and its director and owner filed false documentation claiming medically necessary single patient transports in First Med EMS ambulances, accompanied by two licensed emergency EMS personnel, when

- The services were provided to people not medically qualified to receive the transports.
- The defendants transported multiple patients simultaneously.
- The defendants billed for services provided by unlicensed individuals on emergency and nonemergency calls.
- The defendants billed for transport in vehicles that were not licensed as ambulances.

Furthermore, First Med employees often used the ambulances as taxis to transport unqualified patients, sometimes "stacking" them in the

continued on page 8

CCH Healthcare Compliance LETTER

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Distinguishing allowable uses of PHI

by Catherine Hubbard, MA, Contributing Editor

Some health care providers are exceeding the intent of the HIPAA Privacy Rule by refusing to share information with other covered entities. And this unnecessary precaution could hamper the delivery of health care. After all, disclosures of personal health information (PHI) are allowed for treatment purposes.

"The Privacy Rule is designed with the importance of providing good quality health care right front and center," said Linda Sanches, senior advisor on HIPAA Privacy in the Office for Civil Rights during a recent presentation. "We are basically permitting anything that needs to happen for good care to occur. The Privacy Rule should not be getting in the way of that," she said. In fact, she advised companies to rethink their interpretation of the Rule if it's interfering with care. She spoke during an April 13 audio conference sponsored by the American Health Information Management Association.

Some participants in the conference were concerned that transferring PHI without patient authorization, say from an emergency room to the primary provider, would violate the Rule. But Sanches assured them that the disclosures are allowed.

Permitted disclosures. In addition, Sanches said, covered entities and providers:

- Are specifically allowed to talk with patients and enrollees. "We've had a lot of questions about this," she said, noting that the Privacy Rule "doesn't impose any restrictions on your communications with individuals."
- May use and disclose PHI to carry out essential functions, including treatment, payment and health care operations, without an authorization. "There's a broad range of disclosures that are permitted," she said.
- May use professional judgement when deciding whether to disclose information about a patient who is incapacitated.
- May disclose information to states. "If a state law requires you to disclose information, then we do not get in the way of that," she said.
- May disclose PHI for law enforcement purposes, health oversight activities and judicial and administrative proceedings. Disclosing information about victims of abuse, neglect or domestic violence is also permitted.
- May make reasonable disclosures. For instance, patients who enter a doctor's office with a spouse do not need to give consent before a disclosure is made. "The doctor can pretty much infer from the circumstances that this individual is comfortable with this disclosure and the Rule permits that," she said. The Rule also allows a friend to pick up a prescription as long as the friend knows the patient's name and the drug the patient is taking. "It's in their best interest that they get the medication, so you can go ahead and provide the information," she said.

Yet hospitals should obtain consent up front if possible, Sanches recommended. "A lot of hospitals haven't created a process to discover if the individual is okay with information being given out," she said. "If it's not an emergency situation and they weren't provided that opportunity, then there is a problem and the covered entity would have trouble disclosing under the Rule."

Incidental disclosures. On the other hand, providers must take precautions against incidental disclosures. For instance, staff should keep papers with PHI secured and should keep conversations about a patient's health low-key. Nurses can certainly talk about treatment as long as they take some precautions, such as moving to a private area and speaking quietly, Sanches said. "We've seen lots of complaints on this," she said, recommending health care workers "think through whether you need to be having this conversation in a public space."

Before sending faxes, providers should check to make sure the number is correct, Sanches said, noting that OCR has received many complaints about misdirected faxes. "If it happens once or twice, that's personal error, but if it happens all the time, you need to think about some systems to prevent it from happening," she said. Sanches recommended programming numbers into fax machines to prevent misdialing and limiting PHI on faxes as much as possible. Likewise, phone messages should be brief and should only contain the minimum amount of information necessary, Sanches said. ■

CCH Washington Bureau, April 23, 2004

continued on page 8

On The Front Lines

Beyond bylaws and ethical codes: An interview with a corporate accountability expert, Part II

by Judith A. Tichenor, JD, LCSW

In the last issue of the CCH Healthcare Compliance Letter, the first part of this interview with corporate accountability expert Mark Samuel of Impaq Corporation was presented, detailing the definition of accountability and its impact on the success of a corporation. Samuel noted that too many corporations overlook what is often viewed derisively as "the soft stuff," such as strong communication, active listening, dealing with conflict, and other skills necessary to increase corporate accountability. Processes for creating positive change and increasing accountability, including how to change a negative corporate culture, were discussed. In Part II of this two-part interview, Samuel discusses the importance of habits for acting accountably, including communication and leadership habits, the impact of fear and a sense of lack on corporate professionals' misconduct. He also details the "accountability" vs. the "victim/blame" loops that can determine whether a corporation will or won't succeed in accomplishing its intentions.

CCH: In changing a negative corporate culture to a positive one, what is the one key thing that is critical to a good execution of clearly set intentions in this effort?

Samuel: It's a habit. You can go to a class to learn all these decision-making tools and models, but when you come back to the workplace, if you haven't created a new habit, you're still not going to include the right people. Or, we have a habit of not dealing with conflict, so we talk behind everyone's back, and we never address the conflict. So, they send us to a class to learn negotiating and conflict-management skills and active listening and right body language and expect us to use that in the workplace. But I go back to the workplace with my habit of avoiding people I have a conflict with. And if that's the culture, then that's the habits the culture perpetuates. You see, the culture is made up of all the habits of performance execution—avoiding conflict, making decisions, how we don't share information or share too much information, how we can't make a decision fast enough because we have the habit of trying to get everyone's opinion first, how we can't seem to create a clear strategic plan because we're trying to get everybody (or nobody) involved—all these become the habits. Now the question becomes, "How do you change a habit?"

CCH: How *do* you change a habit?

Samuel: The way you change a habit is to replace an old habit with a new habit. And it's the new habits that then become the true desired outcome, not the measurable results. I can give you measurable results, but if you're just using your old habit to get there, you'll have to work harder at the habits that aren't working to have higher quality and productivity. That's why it makes people and corporations crazy. If all we're doing is saying, "Oh, I'm holding you accountable for your numbers," then you're not helping me to achieve them.

CCH: After you track the habits, then do you measure for the quantitative results?

Samuel: Exactly. And that's what you see top athletes doing. They track the habit of how they eat during the day. They track the habit of how they listen to the gun go off and how they get to a good take-off at the start. They track their habits around their consistency in their running and the kind of workout they do and the results they get. They're not tracking whether they're a good athlete or not, or their wins and losses during training.

CCH: So how do we apply this to workplace accountability?

Samuel: You talk about the legal issues, legal compliance. We need to develop and conform our habits to the activities of discovering when we are out of compliance, and then develop and conform our habits to resolving the compliance problem. We need to change our habits from avoiding awareness to seeking awareness before the problem gets out of control and hurts others and ourselves. That's all habit.

CCH: OK, so you're saying I could be full of integrity and ethics as a person, or as a shortstop even, but if I don't have the habit built in to execute those values and those traits, those values and ethics don't mean anything.

Samuel: Right—doesn't matter.

CCH: Those habits include how we communicate those values and ethics to others, the habits of delineating an ethical vision. . .?

Samuel: Well, and ultimately, those individuals who have the strongest commitment to those values will leave the organization that doesn't. They can't work for an organization that doesn't share their values in the way the organization functions. Because these people ultimately have to go home and sleep at night with what the organization is doing that flies against their ethics and values, and they won't be able to do it. So, guess what, you, the corporation, end up losing your highest performers, those with the highest integrity, and then, you end up hiring back in people who don't mind lying, are out for themselves, they're out to look good at any cost. How many of us tell the boss just what they want to hear so that we can either avoid conflict or get ahead in our careers?

CCH: So what is your response to the Sarbanes-Oxley Act, in terms of Congress's effort after Enron and WorldCom, to make the high-level executives and their boards of directors seemingly more accountable on their financial statements and in dealings with investors?

Samuel: Well, I think if you look at the personal accountability model, on the victim side, the first two positions of victim mode are "ignore" and "deny." So those are among the easiest ways to not be accountable, i.e., "I don't see it" and "It's not my job to see it." So, by having the high-level officers sign off on financials is to restrict their abilities to shift into these modes. Granted, it's a punitive method. Now, again, that's really going to work well for those who lack integrity in the first place, by giving them an external system they must obey. Is that going to help the entire organization be accountable? No.

CCH: Because it's a punishment game?

Samuel: Well, because it's not getting at the root cause which is: "What were your values and who are you willing to hurt to be successful?" You asked before about the root cause of unaccountable conduct, and I said fear. Another root cause of it is a sense of lack. People who think that they can't be successful if this other person is successful, pitting one against the other, are leading from a sense of lack. Is it possible for one consulting firm to be successful and for mine to be successful at the same time? How can we develop greater collaboration, cooperation, and joint sharing of resources and success with an ongoing sense of lack?

CCH: That's a pretty deep concept, fear of lack, or a sense of lack, that drives competitors to the point of losing their ethics and integrity.

Samuel: That's the ongoing human dilemma, for example, the person who fears that they are not making enough money, so they lie on their income tax, just to cling onto a few more bucks. Lack and fear, going hand in hand, drive us to unreliable, unaccountable, even illegal, activities.

CCH: Tell me about your first book, *The Accountability Revolution: Achieving Breakthrough Results in Half the Time.*

Samuel: Sure. I wrote *The Accountability Revolution* to help organizations to learn how to make changes in a way that support the better culture so that we have more effective change more quickly. Right now, when we make changes in our organization, there is such a cost on the human element, and it doesn't have to be that way. We do a lot of things out of trying to make people comfortable, when in fact, doing that only causes more pain. So I wrote the book to give people the idea that true accountability is having an environment where we can count on each other, one of growth and learning, which is not always necessarily comfortable. We need to provide our people with a safe environment in which there is safety to make mistakes, safety to learn, safety to recover when things don't go the way we expect them to, rather than an environment in which we have to hide and cheat and blame. The book is really intended to get leaders, managers, and change agents on a different track of creating change in the organization with accountability methodologies rather than punishing/blame or comfort oriented methodologies.

CCH: And that book was published in 2000, before all the corporate scandals. OK, now tell me about your new book.

Samuel: It's called *The Power of Personal Accountability: Achieve What Matters to You* and it's due out in May 2004. It is designed for people in all positions and places in life, even for high school and college students to retirees. It's a crossover between a business book and a personal growth/self-improvement book, and it focuses on our most popular model to date, our personal accountability model. It really provides a lot of guidance for how do I, as an individual, fit into that accountability loop. This is the double loop concept, with one loop being the victim/blame loop and the other being the personal accountability loop.

CCH: Can you tell me a little more about those?

Samuel: Sure. The victim loop is one where people ignore situations, hoping other people take care of it for them or it solves itself, blaming others, rationalizing and justifying their inaction, resisting change or any challenge to the way they do things, and ultimately hiding from those people that are going to hold me responsible. Like Enron, people just went into hiding, then came out later blaming everyone else. This helps people visualize the process of how we normally go through the victim/blame cycle, so people can identify the behaviors that they perpetuate a lot.

CCH: This loop doesn't really lead to insight, creativity, industry, effort, or good performance, or ultimate success, does it?

Samuel: No, it doesn't. The accountability loop is one where we recognize problems, we recognize that we're not perfect. We take ownership for our part of it. And we always play a part in a situation, whether it's a one percent or ninety percent part. What's essential about taking ownership is, once you do it, you have to have 100 percent willingness to solve it. You can't say: "I just caused one percent of the problem, so I will give one percent to solve it."

CCH: It doesn't work that way.

Samuel: Absolutely not. The third piece in the accountability loop, and it's not a business word, but if you're going to have accountability, you have to have it—forgiveness. There has to be forgiveness because we're humans first, we're going to make mistakes. And if you're not forgiving, what you're doing is blaming. And even achievers will recognize problems, take ownership, and then beat themselves up for making a mistake. They'll blame themselves, and rationalize that they should have known better, that they shouldn't be making that mistake. But while you're doing that, you're still not learning, so what good is it?

CCH: You've recognized a problem, you've owned your responsibility in it, but you've started blaming yourself and you're learning nothing from the mistake. So you're only two-thirds of the way there.

Samuel: That's right. So you have to forgive so that you can move to a neutral position so that we can then perform a proper self-examination and start asking ourselves questions, like: "How did we create this situation?" Or, "How are we promoting it? How are we allowing a bad situation to continue?" And we're not just accountable if we create the problem, that's the other piece that we're all conditioned to think. That is, if you're not getting good grades, you do your homework. If your room is messy, you are the one who has to clean it up. The problem is, we sort of grew up thinking: "Well, if I didn't create the problem, it's not my problem." Well, that's not true. I may not have created the water shortage, but if I don't start conserving water, we're going to run out. I've got to be part of the solution.

CCH: Regardless of who started it.

Samuel: Right, that's another piece of accountability. I'm accountable even if all I'm doing is allowing a questionable situation to go on unnoticed. In small ways, in the meetings we go to, someone brings up a new idea and someone else has an objection but they don't say anything until after the meeting. But, that's no different than the same habits where we see there is a legal issue that is not being responded to, and we don't say anything. There are internal feelings, a breakdown of some sort, and still, we don't say anything.

CCH: So what is the step beyond self-examination?

Samuel: Then you take action on what you've learned. Otherwise, all you've done is gather data, and that's not real learning. Learning happens when we make it ours, and integrate it for ourselves, which only happens when we take action. And the whole centerpiece of accountability is intention. Are we clear on our intentions? If you have no clear intentions, then there is no way to be accountable.

CCH: Do you have an example?

Samuel: Sure. There is so much talk about good patient care or good customer service. I hear organizations that talk about how dedicated they are to patient care or customer service. So we hold them accountable for, let's say, patient care. But my concern is, I don't think you have a clear intention yet. Because, what does that mean to have good patient care? Does it mean that I'm making eye contact? Does it mean that I'm finding out what your needs are? Does it mean that I'm really taking the time to be concerned about you as the patient? Or is it just filling out the order right in the record and handing it off to the next staff member? What is good patient care? Until you define that intention, that, no, our intention is that we really care about patients by looking at them, shaking their hand, asking them what they need, providing the needed services in a timely way—all those descriptors are what the real intention is. Patient care is the label we give it. Until you define what that label really means, you don't have clear intentions. And again, without clear intentions, you can't hold someone accountable for it. Here's another example. If our intentions aren't clear about our communications with each other, there's nothing wrong with my yelling at you as a coworker, assuming we haven't established a clear intention that yelling at each other is unreasonable and undesirable. I can even justify it, saying, "Well, I yell at people who don't get good results, and your results are poor, so I can yell at you."

CCH: What would be an example of laying out a clear intention in that case?

Samuel: A clear intention might be that we support and come to the assistance and coach our teammates instead of blaming and yelling at them.

CCH: So, we simply acknowledge that the results weren't good, we acknowledge that there were problems in our execution and implementation, and we discern what the problems are, creating an action plan, and then, take action.

Samuel: Right. But that is a clear intention for problem-solving. But how many times has that become defined in an organization?

CCH: Oh, you can hear people talk about it all the time.

Samuel: Right again. But the talking about it without doing it becomes the habit in the organization. A company needs to define intention, then the habit, however, instead of just talking about proposed actions. Is my action going to be consistent with my intention? I can ask that and live my life accordingly, once my intentions are clearly set.

CCH: It's also about communication. About being able to communicate that clear intention, because if I can't convey it to my team members as well, we're back at square one, aren't we?

Samuel: Well that's the problem with the promotion of some top performers to management. So often, they've got it inside themselves to be top performers, but they don't know how to communicate what they do to others to give other employees the picture of top performance. It comes so naturally to some of them, they don't know how to delineate what they do in a clear intentional fashion so that others can pick up on it and use it. We've found this a lot with engineering companies that try to convert to teamwork. Engineers are used to working autonomously. So, you end up promoting into management that one engineer who is a great team player by natural skills and abilities, and now that new manager is trying to move the others into a team environment, holding them accountable for results, and

the other more autonomous engineers don't even know what that means. The manager thinks it's so simple, he does it all the time. But he can't explain how he does it. Until it's broken down into behaviors, like, being a team member means saying "Hi" to each other in the halls, answering someone when they ask you a question. Once you define the habits of the intention, i.e., the clear intentions of becoming a team player, the goal of becoming a team player alone is just not clear enough.

CCH: Is there anything else you would like people to know about personal or professional accountability?

Samuel: All we control is our own individual selves. The new book is about the importance of defining what's important to you personally. Professionally, what's important to you about good performance, serving your customers, having good integrity? The next question is, are you taking actions consistent with that, and if not, what are you doing to either prevent or get out of victim mode? The truth is, everyone does fall into the victim mode. We all wake up on one of those days and say: "I don't want to deal with it, I don't want to talk with this person, I don't want to look at it." The question to ask is: "How do I recover from that and get myself back on track as soon as possible?" To me, it's about how do we create a society where people are clear about their intentions, where people are taking actions consistent with their intentions, and they have recovery plans to get them out of victim mode.

CCH: So, you're talking about a system for living, a way of life, a consciousness, even. If we realize accountability consistently in all of our systems and environments, what can we expect to see?

Samuel: We'll have higher standards. We'll be performing at higher levels, we're going to have higher morale, better service, more ethical behavior in- and outside of work.

CCH: Will we need more laws, like a generation of Sarbanes-Oxley-type acts, to make it all work?

Samuel: I don't think so. Being accountable creates a lot more safety. One of the best examples was when I went to Venezuela and took a taxi from the airport to the hotel. The driver didn't stop at red lights. Now, we all generally take that for granted that we're accountable for stopping at red lights. We trust each other on that. Can you imagine what it would be like if we were inconsistent? If we aren't consistent, because of that lack of accountability, most people are going to end up going slower, becoming fearful, there will be more accidents and some people will be hurt. And not knowing what to do, we're going to have to spend more money to hire traffic cops to watch the situation and punish people because people aren't lined up behind the intention and therefore, aren't being accountable.

CCH: It's a breakdown in the agreement, and the clear intention is starting to get murky.

Samuel: Yeah, and the bottom line for an organization is, it costs you money when people aren't accountable. It costs you morale, because people don't have the safety they need to effectively communicate and perform their jobs. It costs you performance, because everyone is watching out, caught in the covering themselves syndrome. It costs in creativity because no one feels safe enough to take any risks.

CCH: Anything else?

Samuel: It takes courage. It takes a courageous person to lead an organization through accountability. And you've got to be accountable, because you are constantly having to make a choice: "Do I go the easy, comfortable route, or do I stretch myself to higher standards, to higher values, to higher ideals?" And, so, to a large degree, we've lost a lot of our courage, and we need to gain it back. We have to have the courage to say to an Enron, "That's not acceptable." We have to have the courage when it's happening to say, "That's not acceptable." Otherwise, we have to spend more money and create more fear to try and correct it than we would have if we had behaved accountably, identified the problem early, and moved into recovery.

Mark Samuel is the President and Founder of IMPAQ and internationally acclaimed author of The Accountability Revolution, Achieving Breakthrough Results in Half the Time! *(Zephyr, 2002). As an independent consultant, educator and speaker since 1978, Samuel has gained a far-reaching reputation for his expertise in how accountability can improve a company's bottom line. Samuel has been recognized by CNBC,* Bloomberg, *and* Fortune *Magazine, which cited him as a top authority on "how companies can end blame in the ranks and create a place where people want to work and get results." Samuel has inspired positive, profitable improvement in companies worldwide, including Chevron Corporation, American Express, Genentech, Mervyn's of California, Nissan Corporation, Hewlett-Packard Company, Universal Studios, Pacific Bell, The Royal Bank of Canada, Dura Pharmaceuticals, The University of California at Berkeley and PDVSA of Venezuela. He holds a Bachelors Degree in Social Science from the University of California, Irvine; a Masters Degree in Management, with a special emphasis in Organizational Development, from the University of California, Irvine; and a Masters Degree in Applied Psychology from the University of Santa Monica, California. His second book,* The Power of Personal Accountability: Achieve What Matters to You, *is due out in May 2004.*

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Fraud & Abuse (cont.)

continued from page 2

passenger's seat, in multipurpose runs that were billed to Medicare and Medicaid as individual medical transports for qualified patients.

First Med EMS was fined $650,000, and its director received a one-year, nine-month prison sentence, 100 hours of community service, and three years' supervision. First Med's owner received a two-year prison sentence, 100 hours of community service, and three years' supervision. The defendants were also ordered to pay over $959,000 in restitution to the United States. The U.S. Attorney's press release is at http://www.usdoj.gov/usao/gan/press.htm. ■

CCH Chicago Bureau, April 16, 2004

HIPAA (cont.)

continued from page 3

Survey shows most organizations are HIPAA compliant

by Sharon Sofinski, Coordinating Editor

According to the results of a survey conducted by the American Health Information Management Association (AHIMA), the majority of healthcare organizations are "significantly compliant" with the HIPAA privacy rule at the one-year anniversary of the rule's implementation.

Twenty-three percent of the survey respondents said their organizations are fully compliant, and 68 percent reported they are between 85 to 99 percent compliant. Only eight percent reported compliance rates of 50 percent or less.

Problems noted. Despite the positive response, survey respondents also noted problems in complying with HIPAA privacy requirements. The most common are:

- accounting for release of protected health information (PHI);
- obtaining PHI from other providers;
- access and release of PHI to relatives or significant others; and
- business associate requirements.

More than half of the respondents (51 percent) feel that the government needs to modify the requirements for accounting for disclosures of PHI.

Those surveyed agreed that the implementation of the HIPAA privacy rule brought to light deficiencies in their business practices, such as the lack of standardized procedures for releasing information and for public access to PHI.

System changes. When asked whether HIPAA implementation required them to upgrade their electronic software/application system, 55 percent of survey participants responded affirmatively. Only 44 percent said they had to purchase new software for HIPAA compliance, however. Other questions posed to participants in the survey relate to privacy roles, staff support, patient interaction, consent, and costs of compliance.

Security. The AHIMA survey also included a few questions about the HIPAA security requirements. Participants were first asked whether their organization has established a committee or task force to address HIPAA security implementation. Eighty-two percent responded affirmatively. Eighty percent noted that an individual has been put in charge of security implementation, and 64 percent responded that that individual is the organization's CIO or IT personnel.

A total of 1,192 individuals participated in AHIMA's survey. Two-thirds work in a hospital or other healthcare setting. Fifty-eight percent are designated privacy or security officers, 11 percent are performing the functions of privacy or security officers but have different titles, and 31 percent have served on privacy and security teams or committees.

AHIMA's Web-based *The State of HIPAA Privacy and Security Compliance* survey was conducted with a third-party market research firm's help. For the complete survey report, go to http://www.ahima.org/hipaa/survey.cfm. ■

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