



Uncovering Illegal Referrals

Presented to the Texas Association of Special Investigation Units

- I. Introduction – Examples of Illegal Referrals
- II. The Financial and Social Impact of Illegal Referrals
 - A. Dollars redirected and misappropriated.
 - B. Legitimate medical care compromised.
 - C. Dangers and waste from phantom patients, conditions or treatments.
- III. Stark Law: Federal Protections against Physician Self-Referrals
 - A. Navigating the labyrinth of Stark regulations.
 - B. Safe Harbor provisions.
 - C. Revisions to Stark under recent health care reform.
- IV. Health Insurance Policy Language Supporting Coverage Denial when Illegal Referrals and other Violations occur
- V. Red Flags to pay attention to
 - A. Suspicious pattern of referrals.
 - B. Pattern of similar therapeutic and other treatments.
 - C. Unusual business and financial relationships.
- VI. Investigative Tools to Uncover Illegal Referrals
 - A. Data analysis to separate legitimate activity from intentional illegal acts.
 - B. EUOs and document requests.
 - C. Subpoenas and other forms of discovery.

- VII. Litigated Cases and Settlements arising under Common Law, Stark, Kickbacks, and Qui tam under the Federal False Claims Act (FCA)
 - A. Allstate awarded 5.8 million in Texas Chiropractic common law fraud lawsuit involving, among other claims, unnecessary referrals. (2004)
 - B. South Texas Health System \$27.5 million settlement with the federal government over illegal kickbacks and patient referrals. (2009)
 - C. Blue Cross Blue Shield of Texas enters settlement with state over improper referrals. (2010)
 - D. U.S. ex rel. *Thompson v. HCA Healthcare Corp.* 20 F.Supp.2d 1017 (1998). Stark and anti kickback allegations under FCA.

- VIII. Conclusion – Summary of Best Practices for SIU, Question and Answer