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# Point of View

## Texas medics can play the hero in detecting fraud

By Bob Kellow



*Kellow*

**For too long,  
we've remained**

**silent** about the Medicare and Medicaid fraud committed by some of Texas' ambulance providers. From what I've heard, fraud and abuse have sometimes

been a topic of conversation among Texas medics, who could be witnesses to it. To open up a frank discussion and to really tackle fraud in Texas, I've put down some activities and actions that medics can use as a jumping-off point for knowing when to refuse and what to report.

A great amount of the ambulance fraud perpetrated in Texas is the result of inappropriate billing for transport. Medics are often the most credible—and sometimes the only—eye-witnesses to a patient's condition at the time of transport. You are required to document your observations about the patient on a patient care report (PCR), and you should be held accountable for documenting a true and accurate account of the patient's condition using the context of the patient's physical setting. This condition can be key in identifying the difference between legitimate and fraudulent transport.

For example: Let's say you're dispatched to transport Mr. X for dialysis treatment. Upon arrival at his home, you observe Mr. X rocking in his rocking chair on his front porch. How would you describe that situation in your narrative? Or, would you document it at all?

### **Fraudulent activities medics should report**

- Billing Medicare for medically unnecessary routine repetitive transports, such as dialysis patients

who do not meet medical necessity criteria.

- Upcoding the level of ambulance transport that was provided. For example, upcoding basic life support transport to advanced life support transport to get a higher allowable base rate from Medicare even though not all of the criteria for an ALS transport were met.
- Charging for supplies and services that were not actually provided to patients in the ambulance, such as oxygen and/or cardiac monitoring.
- Back-room deals between nursing homes and ambulance companies. In these "swapping arrangements," ambulance companies agree to provide low-cost ambulance services in exchange for guaranteed referrals of non-emergency discharge patients for ambulance transports that are billable to Medicare and Medicaid.
- Billing Medicare or Medicaid for stretcher ambulance services when patients can walk. These services can cost \$300 to \$400 per trip, while patients transported by wheelchair are billed at less than \$50. Unethical companies systematically defraud the Medicare system by billing Medicare the stretcher transport rate for patients who can walk.
- Providing cash or cash-equivalent kickbacks to medical facility nursing staff and others in exchange for the referral of dialysis and other repetitive transport patients. For example, your boss has asked you to deliver a \$500 Wal-Mart gift card (or similar unusual item) to a nurse at a nursing home.
- Active recruiting of unqualified

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patients at dialysis centers, wound care facilities and so on.

### **Fraudulent orders you should refuse to follow**

If you are asked to perform or participate in a fraudulent activity, you have the right to refuse. The federal “False Claims Act” and “Anti-Kickback Statute” outline activities that are considered fraudulent and provide protection for employees to report the fraud. The following are examples of activities that medics should refuse to participate in.

- Your boss has informed you that you are *never* to write anything on a PCR that suggests a patient is ambulatory.
- You’ve been called to the office and told to re-write your PCR narrative to reflect that a patient was bed-bound. Or, you have been asked to add any other language that would (falsely) establish medical necessity.
- You or someone you know was threatened, retaliated against or fired because he or she refused to falsely alter initial patient observations on a PCR.
- Your PCRs are written by someone other than yourself and require only your signature.
- You and your co-workers are told, as a matter of company policy, that you are to write every dialysis patient’s PCR exactly the same way.
- Your company requires that a 12-lead EKG or (TKO) IV be performed on every patient you transport—without exception.
- You’ve been posted at a dialysis center for the purpose of patient recruitment regardless of the prospective patients’ physical conditions.

I’m certain there are many more examples, but these come immediately

to mind. If you have *credible evidence* that any of the above is happening in your organization, or if someone has requested you participate in any of the above, you have a professional obligation to report him or her to federal and Texas law enforcement authorities. Although medics may fear retaliation or termination for reporting potential fraud, the federal False Claims Act does provide whistleblower protection for those who report.

It’s equally important to guard against false reporting. Wrongly accusing an ambulance provider of fraudulent business practices is a serious allegation. It should not be used as a means to get back at employers. Hearsay or rumors, such as “everyone knows they’re crooks,” do not constitute credible evidence. If proven, fraud can lead to lengthy federal prison sentences and enormous fines, so be sure to exercise your professional discretion.

I would love to see the nearly 60,000 Texas medics, fully informed about fraud and actively engaged in rooting out ambulance fraud in Texas. To report ambulance fraud using your name or even anonymously, call or write the Health and Human Services, Office of the Inspector General’s fraud Hot Line:

Phone: 1-800-HHS-TIPS (1-800-447-8477)  
FAX: 1-800-223-8164  
Mail: Office of the Inspector General  
Department of Health and Human Services  
ATTN: HOT LINE  
P.O. Box 23489  
Washington, DC 20026

*Bob Kellow is a member of the Texas EMS Integrity Coalition, which is a group of concerned Texas ambulance providers who are dedicated exclusively to the eradication of ambulance fraud in Texas. He is also a 44-year Texas EMS veteran.*