

# Orthopedic Fraud and Compliance: Recent Cases and Key Takeaways



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Orthopedics is an important medical specialty that serves patients of all ages. It is also an area that has seen its share of compliance enforcement. Let's look at some of these cases that involved the orthopedic specialty.

## **MODIFIERS, "INCIDENT TO," LACK OF MEDICAL NECESSITY AND MORE:**

A Florida orthopedic specialty practice agreed to pay the government \$4.48 million to settle allegations of multiple inappropriate billing practices which included:

- Billing claims as "incident to" physician supervision when no physician was present as required to bill "incident to."
- Billing evaluation and management (E/M) services with coding modifier -25 on the same day as a procedure when a separate E/M was not appropriate to bill.
- Scheduling post-operative visits in a way so that the visits would occur outside of the global surgical period so they could be billed when payment for such services is included in payment for the surgery itself.
- Unbundling procedures and billing them with coding modifier -59 to receive more reimbursement than appropriate.

- Routinely billing for ultrasound-guided injections that were not medically necessary.

## **CASES:**

- A Florida orthopedic specialty practice agreed to pay the government \$4.48 million
- A health system, hospital, and physician services group agreed to pay \$36.5 million
- An orthopedic physician from Missouri agreed to pay \$471,000
- An orthopedic surgeon in California was found guilty of defrauding Medicare and California's Medicaid program. After a two-week jury trial, the doctor was convicted of 10 felony counts of health care fraud

## **STARK AND ANTI-KICKBACK STATUTE VIOLATIONS**

A health system, hospital, and physician services group agreed to pay \$36.5 million to settle allegations of violating the Stark Law and the Anti-Kickback statute. A whistleblower brought the information to the government's attention.

The government alleged there was an unlawful contractual payment structure between the hospital and health system and the orthopedic physician practice, whereby the physicians' compensation was tied to the volume or value of the practice's referrals. The compensation was alleged to be in the form of bonus payments to the physicians.

## **ORTHOPEDIC PHYSICIANS AND COMPOUNDED DRUGS**

An orthopedic physician from Missouri agreed to pay \$471,000 to resolve allegations of accepting kickbacks to write prescriptions for expensive compounded pain creams. It was reported the kickbacks were in the form of medical director fees that were supposed to be paid per hour but were prearranged payment amounts.

In a similar but separate case, a Memphis orthopedic physician and his clinic paid \$540,000 to resolve allegations it

inappropriately billed Medicaid for use of compounded steroids. Specifically, it was reported the doctor purchased a compounded version of the steroid triamcinolone acetonide from compounding pharmacies, injected them into Medicaid patients, and billed for the higher cost, FDA-approved, commercially available version of triamcinolone acetonide.

## X-RAYS AND GUILTY VERDICT

An orthopedic surgeon in California was found guilty of defrauding Medicare and California's Medicaid program. After a two-week jury trial, the doctor was convicted of 10 felony counts of health care fraud for administering excessive and medically unjustifiable X-rays to his patients.

Investigators discovered the doctor would administer X-rays even in routine office visits and would X-ray multiple parts of a patient's body — regardless of whether it had any relation to a patient's medical condition. Evidence presented at the trial demonstrated that during a nearly four-year period, the doctor subjected ten individual patients to hundreds of unnecessary X-rays at his clinic.



These cases demonstrate there are many ways orthopedic physicians and hospitals can run afoul of coding, billing, Stark and Anti-Kickback rules, and laws.

## CONCLUSION

Orthopedics professionals and service providers are not immune to compliance woes. These cases demonstrate there are many ways orthopedic physicians and hospitals can run afoul of coding, billing, Stark and Anti-Kickback rules, and laws. Compliance professionals would be wise to review these cases and assess whether their orthopedic services maintain compliant practices.





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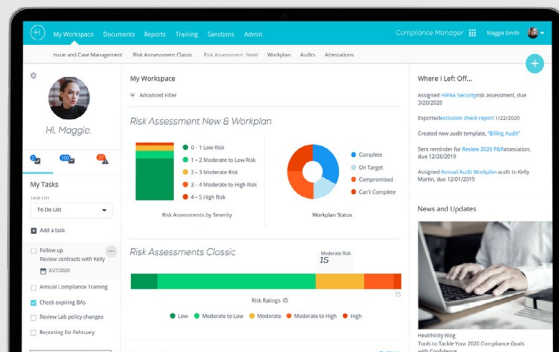
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CJ Wolf is a healthcare professional with more than 20 years of experience in hospital and physician revenue cycle, practice management, compliance, coding, billing, and client services. He has provided healthcare consulting and solution services to hospitals and physician organizations throughout the country.



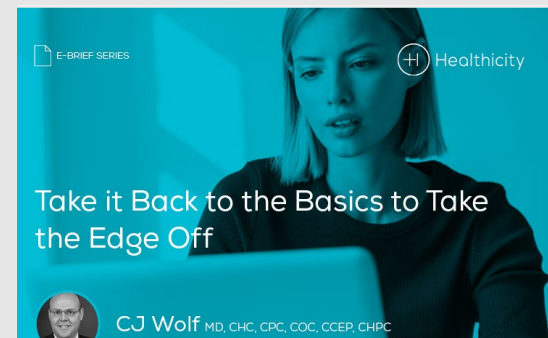
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