The many faces of prescription drug fraud

he numerous "patients" of Dr. Alvin Mingczech Yee could obtain illegal prescriptions from him as easily as ordering a sandwich. In October 2011, Yee, a licensed physician from Mission Viejo, California, was arrested for selling prescriptions for Oxycontin, Vicodin and Xanax at a local coffee shop for \$100 each. Yee faced a 56-count grand jury indictment of prescribing drugs "outside the usual course of professional practice and without a legitimate medical purpose." (See "Prosecutors: Doctor prescribed drugs at Starbucks," by Vik Jolly, Oct. 26, 2011, updated Aug. 21, 2013, The Orange County Register, http:// tinyurl.com/mopagmj.)

Numerous schemes like this are fueling a growing prescription drug fraud epidemic that's affecting the health care system.

According to the Centers for Disease Control and Prevention (CDC), U.S. nonmedical use of prescription painkillers results in more than \$72.5 billion annually in direct healthcare costs. (See "Prescription Painkiller Overdoses in the U.S.," CDC, http:// tinyurl.com/80fnp9y.)

In President Obama's April 25, 2011, action plan to reduce prescription abuse —"Epidemic: Responding to America's Prescription Drug Abuse Crisis" — he identified prescription drugs as the second most-abused category of drugs after marijuana. In addition, the U.S. Department of Justice Office of Inspector General (OIG) has released several reports on prescription

drug fraud in the Medicaid and Medicare Part D populations.

This epidemic has not only led to an increase in prescription drug fatalities, it's also fueled opportunities for prescribers, pharmacies, patients and recruiters to fraudulently reap billions of dollars.

Who are the offenders?

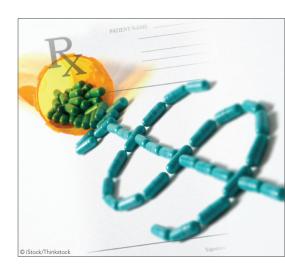
These fraudsters have many faces: patients, patients' family members, prescribers, pharmacy staff, medical

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employees, service contractors, recruiters and countless others are involved in prescription drug fraud schemes.

Patient fraud

Patients who commit prescription fraud often do so to acquire drugs to support their addictions. But prescription drugs have become a commodity with a high resale value, so fraudsters also are diverting prescription drugs for profit. Fraudsters illegally sell Oxycontin for \$1 to \$2 per milligram on the street.



Some on fixed incomes have visited physicians complaining of phantom pain so they can receive prescriptions for controlled drugs to re-sell for additional income.

Sometimes medical services' employees, patients, family members, family friends and others fraudulently acquire prescription pads. In May 2013, owners of a professional cleaning service stole prescription pads and an ink signature pad from a doctor's office they were hired to clean. (See "Owners Of Cleaning Firm Charged with Prescription Fraud," May 8, 2013, CHATTA-NOOGAN.COM, http://tinyurl.com/ q6ovfv5.) Many also have been arrested for generating false prescriptions via their computers and printers.

Some bypass obtaining prescriptions entirely by stealing controlled substances from pharmacies. Many pharmacies no longer carry selected drugs or have increased their security.

Here are other examples of the various ways individuals defraud the system:

- Doctor shopping: visiting multiple doctors in search of prescriptions.
- Pharmacy shopping: filling prescriptions at multiple pharmacies to avoid being denied service.



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- · Prescription alteration: increasing dosage, quantity or refills on existing prescriptions.
- Washed prescriptions: washing ink off written prescriptions to create blanks and fraudulently rewriting new prescriptions.
- Forged prescriptions: using copy machines or computers to create fake prescriptions.
- Fax and phone prescriptions: faxing fraudulent prescriptions to pharmacies or phoning pharmacies to call in and/or verify prescriptions.
- Illegal market: acquiring drugs from illegal sources.

Prescriber prescription fraud

Numerous prescribers have been charged with illegally prescribing drugs in 2013 and 2014. Like Dr. Yee, some have turned to selling prescriptions to patients or anyone willing to pay their fees, even when there's no medical justification for the drug therapies. As Yee demonstrated, this activity might or might not take place in the prescribers' places of business.

Prescribers of large volumes of pain drugs risk being identified as "pill mills." Pain clinics, legitimate and otherwise, often prescribe large volumes of controlled pain drugs. In several Florida cases, patients lined up outside pain clinics prior to their opening because they knew they could easily obtain prescriptions for controlled drugs. Prescribers who commit prescription fraud have turned to some of these schemes to defraud the system:

- Medically unnecessary prescribing.
- Internet prescribing.
- Self-prescribing.
- · Diversion.
- Collusion.

Pharmacy fraud

Like enterprising patients and prescribers, pharmacies that participate in

fraud schemes often do so for profit. In 2011, a southern California pharmacist, a doctor and others from Huntington Pharmacy were among the 17 arrested for "prescription harvesting." The accused fraudsters stole patients' identities to bill Medicare and Medicaid for

Prescription fraud online resources

Here are some online resources for prescription fraud information and reporting:

- U.S. Department of Health and Human Services and Department of Justice Health Care Fraud Prevention and Enforcement **Action Team**
- > hhs.gov
- National Health Care Anti-Fraud Association
- nhcaa.org
- National Association of Drug Diversion Investigators
- http://tinyurl.com/o7qdxjh
- Department of Justice and Drug Enforcement Agency Office of Diversion Control
- › deadiversion.usdoj.gov
- AWARXE campaign
- > awarerx.org
- National Alliance for Model State Drug Laws -Prescription Drug **Monitoring Project**
- http://tinyurl.com/mpmy5fg

\$18 million in illegitimate prescriptions. Approximately \$7.3 million in taxpayer dollars was lost in this scheme. (See "San Marino pharmacy shutting down after owners' arrest,"

Dec. 21, 2011, Los Angeles Times, http://tinyurl.com/o3vvwrm.)

In April 2014, a Louisiana pharmacist pleaded guilty to \$2.2 million in Medicare fraud for repackaging and selling used prescription drugs collected from clients as new between 2008 and 2013. (See FBI release, New Orleans Division, http://tinyurl.com/q6kn22r.)

Other pharmacy schemes have included:

- False claims: submitting claims for payment for which no prescription or authorization exists.
- Buy-backs: buying back prescriptions from patients — often at a discount.
- Kickbacks: receiving or providing monetary incentive for selling certain prescriptions.
- Shell or vanishing pharmacies: operating pharmacies in name only or operating pharmacies just long enough to submit false claims for
- Shell ownership: masking pharmacies' ownership to hide identities of true owners.
- Online pharmacies: selling controlled substances illegally with relative anonymity.
- Counterfeit products: knowingly dispensing counterfeit drugs.

Recruiter and conspiracy fraud

Recruiters are intermediaries who engage partners to carry out fraudulent activity. In most cases, recruiters conspire with prescribers and/or pharmacies to enlist patients to carry out their fraudulent billings and/or diversion schemes. Documented cases show that patients, prescribers, pharmacies and recruiters have conspired to submit false claims, buy-backs, kickbacks and diversions.

In August 2011, more than 80 pharmacists, physicians and others in the Detroit area conspired to establish a network of pill mills that issued

prescriptions — many for controlled drugs such as hydrocodone and oxycodone — to patients without a legitimate need. The patients used Medicaid, Medicare or private insurance coverage to pay for the drugs. The principal pharmacist, Babubhai Patel, owned and operated 26 different pharmacies. He was sentenced to 17 years in prison. (See the July Office of Inspector General report, http://tinyurl.com/nftcecy.)

Fraud detection

Many U.S. federal, state and private organizations are data mining prescription activities to detect fraud at all levels. Federal examples include the Drug Enforcement Agency, the DOJ OIG and vendor contracts. Each U.S. state (except Missouri) has a Prescription Drug Monitoring Program, which receives all information on prescription drug activity for controlled drugs from both cash and insurance prescription transactions. Also, state law enforcement and vendors provide detection activities. Health care entities in the private sector — such as health plans and other payers — sometimes perform the data mining themselves or work with vendors. Private citizens

frequently act as whistleblowers to expose fraudsters.

The entities charged with exposing schemers use numerous methods to detect fraud. Audits can be an effective detection method when conducted by trained, knowledgeable staff. Those who perform desk and onsite audits must be cognizant of activities and patterns and ensure groups are working together so leads from these audits are directed to the appropriate parties.

To identify aberrant behaviors, investigators utilize a number of different detection processes including:

- Sending letters to patients or prescribers to validate services received or rendered.
- · Analyzing patient, prescriber, pharmacy and drug activities to identify aberrant utilization, prescribing, dispensation and/or processing.
- Analyzing drug utilization by therapy classification and/or risk category.
- Reviewing prescribers by medical specialty to identify individuals prescribing outside the normal scope of their specialties.
- Focusing on geographic areas where fraud is an issue.

- · Applying geospatial analyses to determine distances traveled and identify clusters.
- Looking at historical and current patterns to anticipate future fraudulent behaviors.
- Data experts can perform many different types of analytics on prescription claim data. They use public and private data sources and sophisticated algorithms for retrospective, predictive and geospatial analyses.

An evolving issue

Prescription drug fraud goes far beyond the headlines about controlled drugs. Fraudsters also target highdollar drugs. These substances can be used for HIV, mental health, diabetes and cancer treatment.

It's imperative to be aware of past and present schemes and mindful of the changing health care environment and its vulnerabilities to keep pace with fraudsters. **FM**

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