

## **Seminar Warning: "Big Brother," Not Santa, May Be Sitting Next to You, Taking Names**

Louis Sportelli, DC

It never fails! At every college or convention I speak at, I always get the same infamous questions about seminars. The doctors and students want to know which ones are good, which are the best, if attending certain seminars is really a problem, are they legal, etc. Well, here are some things to consider. This article does not point any fingers at any specific consulting companies conducting seminars, but it does point out the issues and challenges that are increasingly developing in the seminar world.

My intent is not to disparage any specific seminar, but to focus on aspects that may not be readily apparent. Additionally, to be forewarned is to be forearmed, so this information is a cautionary warning to doctors or students thinking about attending these kinds of seminars. It is important that we all understand those individuals whose job it is to regulate and monitor the activities of various professionals. It is also interesting and helpful to know what programs these investigators are attending, since they are usually designed to maximize the doctor's financial well-being, irrespective of how cleverly the seminar title is couched.

There are seminars touting license renewal credits, practice management programs, personal coaching, tips on practice-building, HIPAA compliance programs, Medicare workshops, how to build a million-dollar practice, the benefits of integrated practices, how to run a cash practice, establish a credit card practice, incorporate a new case fee practice, create a designer consigner practice - the list is endless. One only has to look at chiropractic publications or log on to the Internet to appreciate the hodge-podge of promises and marketing hype that is out there.

Want to know a little secret? Doctors wanting to "boost" their practices are not the only ones reading these advertisements with interest. The U.S. General Accounting Office (GAO), for example, recently issued a report of its investigation of health care consultants. That investigation included a clandestine surveillance and taping of seminars and workshops. The GAO hired a physician "spy" who attended two workshops and a seminar, accompanied by a criminal investigator posing as a member of her staff. They decided which programs to target based on whether they advertised "how to enhance revenue and avoid audit."

The two programs they attended were titled: "How to Run a More Profitable Practice" and "Creating a 7-Step Compliance Plan Audit/Audit-Proof Your Practice."

Do these have a familiar ring to them? Now, bear in mind that these programs were not put on by any "Johnny-come-lately," fly-by-night opportunists. The same consulting company presented both workshops and claims to have had more than 50,000 physicians and 100,000 office managers and medical assistants attend its programs over the years. One of the workshops was even sponsored by the Medical Society of the District of Columbia, and the second qualified for continuing education

credits under the auspices of the American Association of Medical Assistants.

## The GAO Report

The investigators reported that billing practices, as recommended by the consultants, could invite investigations (The full report may be found on the Web at [www.gao.gov](http://www.gao.gov): GAO-01-818). It isn't pretty reading. The advice the seminars provided was supposedly "inconsistent with guidance provided by the Department of Health and Human Service's' Office of Inspector General (OIG). Such advice could result in violations of both civil and criminal statutes."

The report was particularly critical concerning the following:

1. Overpayment "refunds." One consultant encouraged (appropriately) that practices perform a baseline "audit" as part of their implementation of a compliance plan. What obviously rankled the GAO, however, was the presenter's warning that refunding any overpayments discovered would raise a red flag that could result in an audit or investigation.

Moreover, when specifically asked the proper course of action to take if an "overpayment" is discovered, the consultant responded (again appropriately) that providers are required to report and refund overpayments. He then reportedly added, however, that instead of refunding overpayments, physician practices generally fix problems in their billing systems that cause overpayments while "keeping their mouths shut" and "getting on with life." While that observation is almost certainly true and accurate, the reporters and attendees probably all inferred that it was offered to encourage attendees to employ that same strategy themselves, rather than risking inviting an audit. All the right words were said about the proper course of action to take, but during the discussion, one could easily observe that the intent of the information was really designed to let doctors know they could "get around the issue" by fixing the problem and keeping their mouth shut. What kind of message is that sending? Well, it did not go unnoticed.

2. Unnecessary Services. "Moreover, based on advice given at workshops that we attended during the investigation, we are concerned that insurers may be paying for tests and procedures that are not medically necessary because physicians may be intentionally using such services to justify billing for evaluation and management services at higher code levels than actual circumstances warrant."
3. "Rationing" Care. Program participants were "further urged to see at least one new patient with a better-paying insurance plan each day." The consultant pointed out that, by seeing one new patient per day, a provider could increase revenue by \$6,000 per year, because the fee for a new patient visit is about \$30 more than the fee for an established patient visit. He said that over time, such measures would result in reducing the percentage of Medicaid patients seen regularly in the practice and increase the number of established patients with better-paying insurance.

## Relevance to Chiropractic?

Attendees of many chiropractic programs and "clients" of any number of chiropractic consultants may

be scratching their heads at this point, asking: "What's the big deal? That's nothing compared to some of the things I've been told to do."

Doctors are well-advised to keep in mind the pithy old saying, "You're not paranoid if everyone really is out to get you." The conclusion of the GAO report mentions somewhat too casually:

"We have discussed with the Department of Health and Human Service's OIG the need to monitor workshops and seminars similar to the ones we attended."

If the OIG follows that recommendation, and follows the same selection protocol used by the investigators doing the report (whether a particular seminar "advertised how to enhance revenue and avoid audit"), how do chiropractic seminars stack up? A quick surf of the Web yielded the following sadly representative offerings:

- "Learn 26 Ethical Ways to Provide Additional Services to Your Patients"
- "The Practice Expansion Wheel...Increase Your Practice up to 3,665%"
- "Our seminar will teach you how to get paid \$200.00 a chiropractic visit!!!"

Why is this important? A "plant" attending a seminar will be given the same attendee list in his or her "packet" as everyone else. Even if the packets contain no such list, any trained investigator, while milling around during breaks, carefully observing name tags or engaging in casual conversation, will be more than able to identify attendees. If there is advice given at such a program that encourages arguably unlawful behaviors, investigators will have a very handy "target list" of doctors who may be engaging in those suspected illegalities.

So, What Should I Do?

1. Think about the programs you've attended in the past two or three years.

If what springs to mind is something like: "Build a Million Dollar Practice by Cell Phone While Lounging in Aruba," you could have a serious problem. If you conclude that you have attended a number of programs that may already have you in someone's potential target databanks, there are a number of potentially helpful damage control measures that you can take:

1. Consider hiring a reputable organization or law firm to perform a risk assessment and a compliance program specific for your office. While that is good advice for all doctors, it makes particularly good sense for anyone who has reason to believe that he or she may have unwittingly drawn a bull's-eye on their practice door.
2. Clean up your act. If you're using many 204/214 level E&M codes or any 205/215 codes - clean up your act. In fact, it might be a great idea to review your practices in a proactive manner anyway. Regulators are often defused if they find irregularities that have already been "cleaned up" by the provider. Every day that passes after you discontinue some "questionable" practice should let you sleep a little more soundly at night.
3. Do the "right thing." The ultimate "leap of faith" is a voluntary disclosure that you've really botched up. While this is not to be done lightly and is obviously a mammoth step into the abyss, if you know in your heart of hearts that if someone comes calling with a search warrant, you will be in a world of hurt, there could be room for some partial redemption. It's definitely call-an-attorney time for you. Don't wait until the feds are at your door - it's too late then. Make your call early and get some advice before any action is taken against you.

1. Carefully consider the seminars you'll attend and use in the future.

At the very least, doctors should carefully screen all programs they are considering attending. Examine the promotional literature from the perspective of an investigator trying to find a program to attend that has the highest potential to yield a good list of candidates to investigate. If the ad sounds too provocative, don't go. Don't go because you might be setting yourself up for increased scrutiny. More importantly, don't go because you're likely to get some bad information.

I know there will be some out there who will take exception to this article. My purpose is not to identify those who are teaching processes and procedures that may be suspect on close observation, or even illegal in the worst-case scenario. One only has to read any of our chiropractic publications in the past year to see headline articles about management consultants who have been fined, arrested, jailed or are under investigation (for example, see the top story in *Dynamic Chiropractic*, Oct. 21, 2004).

If you have nothing to worry about - then don't worry! But on the other hand, if you have attended some seminars and your "visceral reaction" causes you to be uncomfortable, I suggest you listen to your gut. There are certainly good consultants and good seminars being taught in an honest, ethical and legal fashion, but unfortunately, doctors of chiropractic have fallen prey (for some reason) to those who are hell-bent on exploitation of the individual, and thus the profession.

To those who are good, I say that you will survive the test imposed by the attendees. To those who cannot pass the test, I hope you are exposed for the unscrupulous practices you promote, enabling the profession to rid itself of activities that give us a collective black eye.

So, *caveat emptor* - and not only should the buyer beware, but those who are selling should also know that Big Brother may really be watching.

*Louis Sportelli, DC*  
*Palmerton, Pennsylvania*

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