

## **Be aware of billing companies offering patient referrals to out of network ASC's**

It is difficult drawing new patients to out of network ambulatory surgery centers (ASC's) and other similar out of network facilities as patients are becoming increasingly more educated that having surgery at such facilities could result in huge cost share in the tens of thousands of dollars. Thus, out of network ASC's and other facilities fear that lack of patient volume will result in poor profitability. Exploiting on these fears are certain billing companies that charge higher than ordinary contingency fees for billing services (upwards of 20% to 30% of collections). These billing companies and their producers promise double and even triple patient volumes in exchange for higher contingency billing fees. What the ASC and facility owner may not know, is that these billing companies and consulting firms are paying very high referral fees to referring doctors disguised as legitimate consulting or other legitimate services. The billing company and consulting firms argue that the referring doctors are performing services in exchange for the fees they pay them, but in most instances the fees are ten to one hundred times the going rate for such services.

An example of this is the recent charges filed in New York against several doctors and a pharmaceutical sales manager for conspiracy and violation of the anti-kickback law. This Long Island sales manager offered five physicians alleged "speaker fees" and other incentives for them to over prescribe a fentanyl spray. The speaker fees were used to create a "veneer of commercial legitimacy on what were essentially bribes to influence prescription habits. The doctors all face fines and 30 years in a federal prison. <https://www.newsday.com/news/new-york/doctors-fentanyl-scheme-roper-1.17429882>

This fraud scheme is the same as offering an out of network ASC struggling to bring on new patients, a steady stream of new patients. The referring doctors are offered consulting fees to review records or some other service which creates "a veneer of legitimacy" whereas the fees are merely bribes to doctors to get their patients referred to a particular ASC. Be careful. This is a slippery slope and all participants to such a scheme, the referring doctors, the ASC owners and billing company, could face still jail sentences for violation of the anti-kickback federal law. If anyone has any questions or concerns about these type of scenarios, or has been approached to participate in such a scheme, please contact Thomas Force, Esq. at The Patriot Group at (631) 870-4040 or by email at [tforce@patriotcompli.com](mailto:tforce@patriotcompli.com)