



Medical kickbacks

#chiropractors matter: A letter

JC Smith

Medical kickbacks

Good morning, Lois.

I enjoyed your exposé this morning about medical kickback scheme, **'Doctor alleged fraud schemes stuck patients and government with hefty bills,'** which is nothing new, especially in the spine surgery field. Let me share with you some facts about this corruption in medicine that nearly everyone faces.

Basking in the medical monopoly enjoying the fruits of the biggest lobby in America, spine care professionals have become the most powerful cartel guarding its Bastille with little accountability as attorney Steven Brill mentioned in his TIME cover article, **'Bitter Pill: Why Medical Bills Are Killing Us.'** Mr. Brill discussed how badly the medical system is broken due to the lack of free enterprise in healthcare:

'It's about facing the reality that our largest consumer product by far, one-fifth of our economy, does not operate in a free market ... We've created a secure, prosperous island in an economy that is suffering under the weight of the riches those on the island extract. And we've allowed those on the island and their lobbyists and allies to control the debate ...' (1)

'We spend \$85.9 billion trying to treat back pain, which is as much as we spend on all the country's state, city, county, and town police forces. And experts say that as much as half of that is unnecessary.' (2)

It is time to change the control of this debate; it is time to take healthcare back from those who 'reap large profits' as former Sec. Alex Azar also warned in his 2018 HHS Report, **Reforming America's Healthcare System Through Choice and Competition:**

'While American consumers and many providers would significantly benefit from the reforms laid out in this report, there are entrenched and powerful special interest groups that reap large profits

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from the status quo. It will take bold leadership to confront these incumbents and implement reforms ...'

There is no group more entrenched, richer, and more resistive to reform than spine surgeons and their cohorts such as hospital administrators, device manufacturers, imaging centers, and Big Pharma. The recent [Dr. Death series streaming on Peacock](#) revealed the corruption enjoyed by all in spine surgery, except the victims.

The AMA is well aware hospitals also profit from unnecessary surgery, particularly heart, (3, 4) and spine surgeries, (5) so administrators offer bribes to fill beds and allow kickbacks by device manufacturers to keep surgeons happy. (6)

The pattern of illicit practices in spine surgery again came to light again with numerous DOJ investigations into [False Claims Act](#) allegations relating to illegal payments/kickbacks to spine surgeons to induce the use of certain medical devices, in violation of the Anti-Kickback Statute, (7) as well as claims for medically unnecessary surgeries.

'Physicians who accept kickbacks and perform unnecessary surgeries put their patients at risk and increase healthcare costs for everyone,' said Acting Assistant Attorney General Brian M. Boynton of the Department of Justice's Civil Division. (8)

Yet the greed factor in spine care continues unabated to this day as the list of DOJ cases increase. Dr. Richard Deyo, a medical professor at Oregon Health and Science University put it aptly, *'More people are interested in getting on the gravy train than on stopping the gravy train'* [9] and that medical train has nearly bankrupted this country as President Barack Obama stated, *'If we do not fix our health care system, America may go the way of General Motors; paying more, getting less, and going broke.'* (10)

This is especially true for medical spine care, the leading expense in medical costs with the worse outcomes. Neck and back problems rank as the greatest expense today in healthcare at an estimated US\$134.5 billion in 2016 among 154 conditions, more than cancer, heart disease, or diabetes. Other musculoskeletal disorders (including joint and limb pain, myalgia, and arthritis, much of which can be helped by manipulation) constituted the second highest spending category at US\$128.9 billion. (11)

As a result, spine care has become the most expensive and least effective segment of American healthcare where 50% of back surgery are ineffective (12) and 94.0% of cases were given unnecessary or wrong recommendations initially upon review by expert neurosurgeons themselves. (13)

Editor Mark Schoene in his article, *'U.S. Spine Care System in a State of Continuing Decline'* spoke of the dangerous treatments offered by primary care physicians, pain management clinic, and surgeons:

'Medical spine care is the poster child of inefficient care...such an important area of medicine has fallen to this level of dysfunction should be a national scandal. In fact, this situation is bringing the United States disrespect internationally.'

In fact, our *'national scandal'* in spine care is due to the anticompetitive actions of the medical monopoly to suppress the chiropractic profession leading to outrageous expenses and to the boycott in hospitals thereby disallowing choice and access by patients to an effective nondrug, nonsurgical solution to the pandemic of back pain.

My two reports show what I perceived were numerous illegalities drawing praise from Wilk antitrust attorney Georgia McAndrews who told me, *'This report is tremendous. You should have been an attorney!'* (while appreciated, at 73 I am too old to change professions):

- TRICARE & FECA at Robins Air Force Base: [PUTTING PATIENTS AT RISK: AN APPEAL TO THE AIR FORCE INSPECTOR GENERAL](#)
- Georgia State Workers' Compensation: [REFORMING GEORGIA'S WORKERS' COMPENSATION PROGRAM THROUGH CHOICE, COMPETITION, & CHIROPRACTIC CARE](#)

However, in both cases my efforts fell on deaf ears by the status quo despite the obvious RICO violations, legal obfuscation, (14) and lingering effects of medical anticompetitive behavior noted by Judge Getzendanner of the Wilk antitrust lawsuit.

Is this a scandal worth fighting? As *Senior Editor for Investigations* at *The Atlanta Journal-Constitution*, is this issue worth a Pulitzer?

Enjoy ...

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2. Steven Brill, America's Bitter Pill; Money, politics, backroom deals, and the fight to fix our broken healthcare system, Random House, NY, 2015
3. [Stents and bypass surgery are no more effective than drugs](#), by Carolyn Y. Johnson, Washington Post, November 16, 2019
4. [Misconceptions About Heart Disease Are Widespread in United States](#)
5. [Are recommended spine operations either unnecessary or too complex? Evidence from second opinions](#)
6. [11 Statistics and Facts About Orthopedics and Orthopedic Practices](#)
7. The Anti-Kickback Statute prohibits offering, paying, soliciting, or receiving remunerations in exchange for the referral of or arranging for or recommending the ordering of items or services payable under federal health care programs.
8. [Neurosurgeon and Two Affiliated Companies Agree to Pay \\$4.4 Million to Settle Healthcare Fraud Allegations](#)
9. Reed Abelson, Financial Ties Are Cited as Issue in Spine Study, NY Times, January 30, 2008
10. [Text of President Obama's health-care speech](#), Jun 15, 2009, by MarketWatch
11. Dieleman JL et al. [US Health Care Spending by Payer and Health Condition, 1996-2016](#)
12. 2012: A study in the British Journal of Pain, [The Economic Impact of Failed Back Surgery Syndrome](#), found up to 50% of patients may have an unsuccessful outcome following lumbar spinal surgery.
13. [Are recommended spine operations either unnecessary or too complex? Evidence from second opinions](#) found of 183 second opinions seen over 20 months, the second opinion surgeon documented that previous spine surgeons recommended "unnecessary" (60.7%), the "wrong" (33.3%) or the "right" (6%) operations. This study suggests 94.0% of cases were given unnecessary or wrong recommendations.
14. Obfuscate Law and Legal Definition. Obfuscate means to make obscure or unclear. It is the concealment of intended meaning in communication, making communication confusing, intentionally ambiguous, and difficult to interpret. It can be deliberate confusing in order to conceal the truth.