

# Medicaid Compliance for the Dental Professional



Lynn Douglas Mouden, DDS, MPH  
Chief Dental Officer  
Centers for Medicare & Medicaid Services

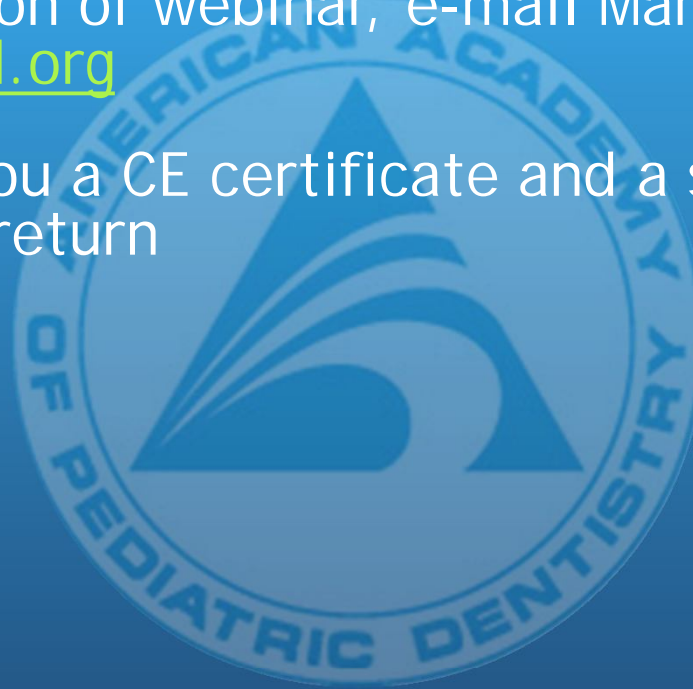


December 12, 2013  
American Academy of Pediatric Dentistry

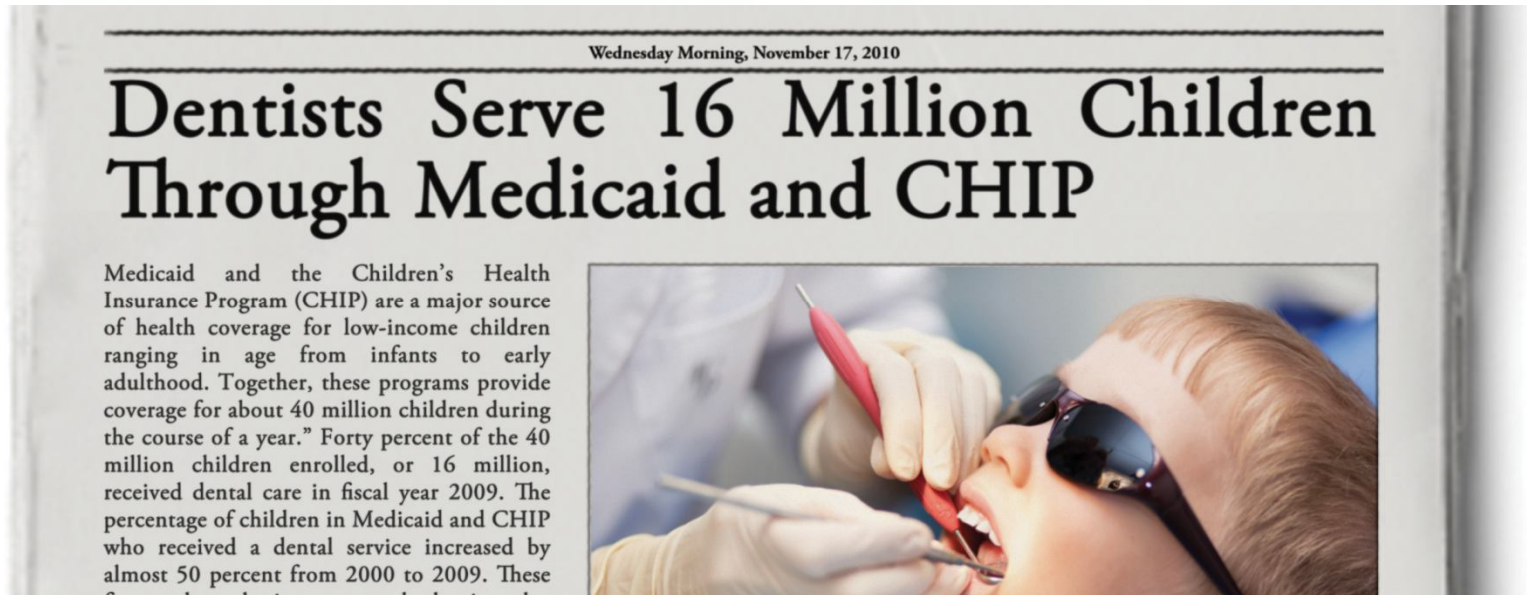
# One Hour of CE if You

- Upon completion of webinar, e-mail Mary Essling at [messling@aapd.org](mailto:messling@aapd.org)
- We will send you a CE certificate and a survey to complete and return

THANK YOU!!!



# Introduction



- Dentists are critical partners in the success of Medicaid and the Children's Health Insurance Program (CHIP)
- Dentists have helped increase the number of children receiving dental services through these programs by 50 percent from 2000 to 2009

# Media Scrutiny of Children's Dental Care

## Dental Abuse Seen Driven by Private Equity Investments

By Sydney P. Freedberg - May 16, 2012 11:01 PM CT - Provided By Bloomberg.com



Isaac Gagnon stepped off the school bus sobbing last October and opened his mouth to show his mother where it hurt.

She saw steel crowns on two of the 4-year-old's back teeth. A dentist's statement in his backpack showed he had received two pulpotomies, or baby root canals, along with the crowns and 10 X-rays -- all while he was at school. Isaac, who suffers from seizures from a brain injury in infancy, didn't need the work, according to his mother, Stacey Gagnon.

"I was absolutely horrified," said Gagnon, of Camp Verde, Arizona. "I never gave them permission to drill into my son's mouth. They did it for profit."

Isaac's case and others like it are under scrutiny by federal lawmakers and state regulators trying to determine whether a popular business model fueled by Wall Street money is soaking taxpayers and having a malign influence on dentistry.

Isaac's dentist was dispatched to his school by ReachOut Healthcare America, a dental management services company that's in the portfolio of Morgan Stanley Private Equity, operates in 22 states and has dealt with 1.5 million patients. Management companies are at the center of a U.S. Senate inquiry, and audits, investigations and civil actions in six states over allegations of unnecessary procedures, low-quality treatment and the unlicensed practice of dentistry.

Allegations like Gagnon's "are not representative" of the more than 500 cases handled by ReachOut affiliates in Isaac's school district, said Mickey Mandelbaum, a company spokesman.

***“I never gave them permission to drill into my son's mouth. They did it for profit.”***

# Government Scrutiny of Children's Dental Care—Attorneys General



## Attorney General Bondi's Office Arrests West Palm Beach Dentist on Medicaid Fraud and Grand Theft Charges

Attorney General Pam Bondi News Release | Media Contact: Molly McFarland Phone: (850) 245-0150

TALLAHASSEE, Fla. —Attorney General Pam Bondi announced today that her office has arrested a West Palm Beach dentist on charges of Medicaid fraud, grand theft, and employing a person to perform duties outside the scope of their license. Dr. Thomas Floyd, 61, surrendered and was taken into custody following an investigation by the Attorney General's Medicaid Fraud Control Unit.

"Employing a person to perform duties outside the scope of their license and billing Medicaid for those services is endangering patients and stealing from the Medicaid program," stated Attorney General Pam Bondi.

Medicaid Fraud Control Unit investigators allege that between 2008 and 2012, Floyd employed an unlicensed dental hygienist and allowed her to perform periodontal root cleaning and scaling on 71 different children. Under Florida law, this procedure is only authorized to be performed by a licensed dentist or dental hygienist. Floyd then billed the Medicaid program for these procedures.

Floyd is charged with one count of Medicaid fraud, one count of grand theft and one count of employing a person to perform duties outside the scope of their license, all third-degree felonies. If convicted, he faces up to 15 years in prison and more than \$30,000 in fines. The case is being prosecuted by the State Attorney's Office for the 15th Judicial Circuit.

“Employing a person to perform duties outside the scope of their license and billing Medicaid for those services is endangering patients and stealing from the Medicaid program...”

Attorney General  
Pam Bondi

# Government Scrutiny of Children's Dental Care—Office of the Inspector General

- Report on pediatric dental claims in five states
- Thirty-one percent of services billed resulted in improper payments
- Eighty-nine percent of improper payments were due to errors in documentation

# Goals

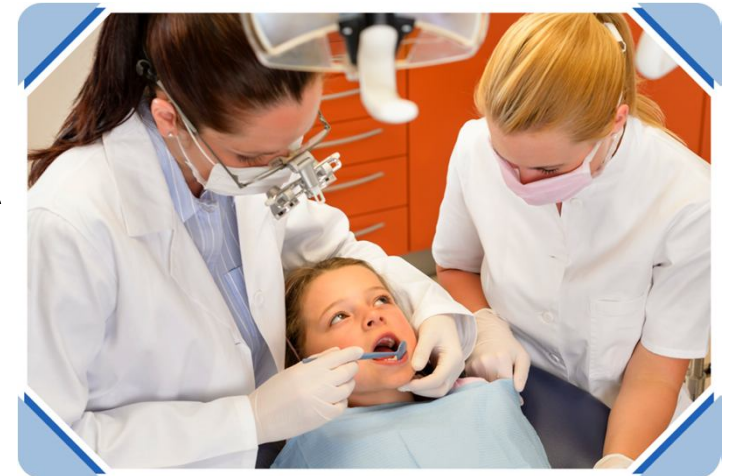
At the conclusion of this presentation, participants will be able to:

- Explain how to document “medical necessity” for dental procedures
- List at least two ways in which a compliance program can benefit a dental practice
- Identify the seven elements of a compliance program and how each element can be applied to a dental practice
- Recall where to report suspected issues of fraud, waste, and abuse

# Medical Necessity

Under the mandatory Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit, children in Medicaid are entitled to “dental care at as early an age as necessary, needed for[:]

- [R]elief of pain and infections
- [R]estoration of teeth and
- [M]aintenance of dental health.”\*



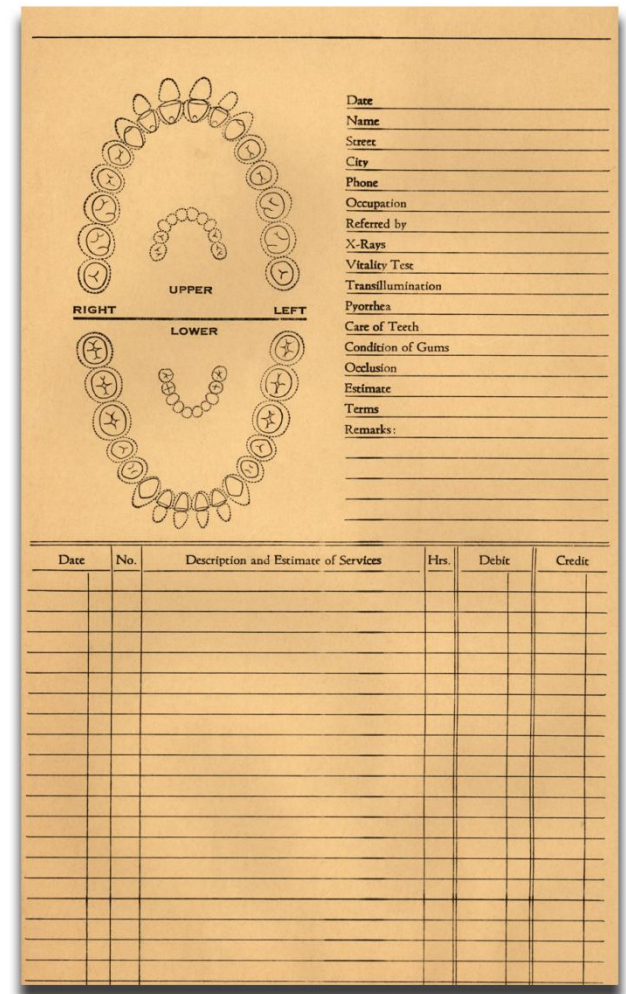
\*42 C.F.R. § 441.56(c)(2). Required Activities.



# Documenting Medical Necessity

Adequate documentation of medical necessity can help avoid questions about:

- Multiple treatments on the same tooth
- Treatment more expansive than the treatment plan



**Date** \_\_\_\_\_  
**Name** \_\_\_\_\_  
**Street** \_\_\_\_\_  
**City** \_\_\_\_\_  
**Phone** \_\_\_\_\_  
**Occupation** \_\_\_\_\_  
**Referred by** \_\_\_\_\_  
**X-Rays** \_\_\_\_\_  
**Vitality Test** \_\_\_\_\_  
**Transillumination** \_\_\_\_\_  
**Pyorrhea** \_\_\_\_\_  
**Care of Teeth** \_\_\_\_\_  
**Condition of Gums** \_\_\_\_\_  
**Occlusion** \_\_\_\_\_  
**Estimate** \_\_\_\_\_  
**Terms** \_\_\_\_\_  
**Remarks:** \_\_\_\_\_

Date	No.	Description and Estimate of Services	Frs.	Debit	Credit

# Why Is Having a Compliance Program Important?

“All health care providers have a duty to ensure that the claims submitted to Federal health care programs are true and accurate.”\*

ADA Dental Claim Form (2012 © American Dental Association) Completion Instructions  
Page 2 of 17

ADA American Dental Association® Dental Claim Form

**HEADER INFORMATION**

1. Type of Transaction (Mark all applicable boxes)  
 Statement of Actual Services  Request for Pre-determination/Preauthorization  
 EPD01/196 XX

2. Pre-determination/Preauthorization Number

**INSURANCE COMPANY/DENTAL BENEFIT PLAN INFORMATION**

3. Company/Plan Name, Address, City, State, Zip Code

**POLICYHOLDER/SUBSCRIBER INFORMATION (For Insurance Company Named in #3)**

12. Policyholder/Subscriber Name (Last, First, Middle Initial, Suffix), Address, City, State, Zip Code

13. Date of Birth (MM/DD/YYYY) 14. Gender  M  F 15. Policyholder/Subscriber ID (IDN or IDN)

16. Plan/Group Number 17. Employer Name

**PATIENT INFORMATION**

18. Relationship of Policyholder/Subscriber to #12 Above  Self  Spouse  Dependent Child  Other  Deceased (For Future Use)

19. Name (Last, First, Middle Initial, Suffix), Address, City, State, Zip Code

21. Date of Birth (MM/DD/YYYY) 22. Gender  M  F 23. Patient ID/Account # (Assigned by Dentist)

**RECORD OF SERVICES PROVIDED**

18. Procedure Code (MMEDCCYY)	19. Date of Procedure (MM/DD/YYYY)	20. Tooth Number (or Letter)	21. Tooth Surface	22. Procedure Code (ADA CDT)	23. Description	24. Fee

**AUTHORIZATIONS**

36. I have been informed of the benefits plan and procedure fees. I agree to be responsible for all charges for dental services and materials not payable by my dental benefit plan, unless prohibited by the terms, conditions or dental procedure fee schedule. I agree to cooperate with the plan regarding all dental health care requests. I understand my responsibility to pay for dental services not covered by my dental benefit plan. I understand that my dental benefit plan may be terminated at any time and I agree to pay for dental services not covered by my dental benefit plan.

37. I hereby authorize direct payment of the dental benefits otherwise payable to me, directly to the below named dentist or dental entity.

38. Patient Signature: \_\_\_\_\_ Date: \_\_\_\_\_

39. Subscriber Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ANGILLARY CLAIM/TREATMENT INFORMATION**

40. Is Treatment for Orthodontics?  No (File #142)  Yes (Complete 41-42)

41. Date Appearance Placed (MM/DD/YYYY)

42. Months of Treatment:  No  Yes (Complete 44)

43. Replacement of Prosthesis (Remerence)  No  Yes (Complete 44)

44. Date of Prior Placement (MM/DD/YYYY)

45. Treatment Resulting from:  Occupational/occupational injury  Auto accident  Other accident

46. Date of Accident (MM/DD/YYYY)

47. Auto Accident State

**BILLING DENTIST OR DENTAL ENTITY (Leave blank if dentist or dental entity is not submitting claim on behalf of the patient or insurance/subscriber)**

48. Name, Address, City, State, Zip Code

49. NPI 50. License Number 51. SSN or TIN

52. Phone Number ( ) - ( ) - ( ) 53a. Additional Provider ID

**TREATING DENTIST AND TREATMENT LOCATION INFORMATION**

53. I hereby certify that the procedures as indicated by date are in progress for procedures that require multiple visits or have been completed.

54. NPI 55. License Number

56. Address, City, State, Zip Code 56a. Provider Specialty Code

57. Phone Number ( ) - ( ) - ( ) 58. Additional Provider ID

©2012 American Dental Association  
J4500 (Same as ADA Dental Claim Form - J450, J451, J452, J453, J454)  
To receive call 800.547.4748 or go online at [ada.org](http://ada.org)

\*U.S. Department of Health & Human Services, Office of Inspector General

# Benefits of a Compliance Program

Benefits of an effective compliance program include:

- Ensuring true and accurate claims are submitted
- Identifying and correcting issues before they become big problems
- Placing a dental practice in a better position to respond to oversight agencies



# Compliance Program Goals

Goals of a compliance program include:

- Providing high quality, medically-necessary services
- Adequately documenting dental services
- Appropriately billing for services rendered



# Compliance Program Elements

The seven elements of a compliance program can be summarized as:



Written policies



Designation of compliance officer/contact(s)



Training



Communication



Monitoring



Enforcing disciplinary standards



Responding promptly



## Written Policies

The written policies of a dental practice should refer to:

- Medicaid program requirements
- State dental laws and regulations
- Current Dental Terminology codes



# Written Policies—False Claims

Any entity receiving or making payments of \$5 million or more annually under the State Medicaid program must have written policies that provide detailed information on:

- The False Claims Act
- Administrative remedies for false claims
- State laws pertaining to false claims
- Detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse
- Whistleblower protections

This information must be included in any existing employee handbook.



## Designate a Compliance Officer or Contacts

To ensure implementation of the compliance program, the practice may wish to assign:

- Overall responsibility for the compliance program to a compliance officer
- Responsibility for specific compliance tasks to different individuals



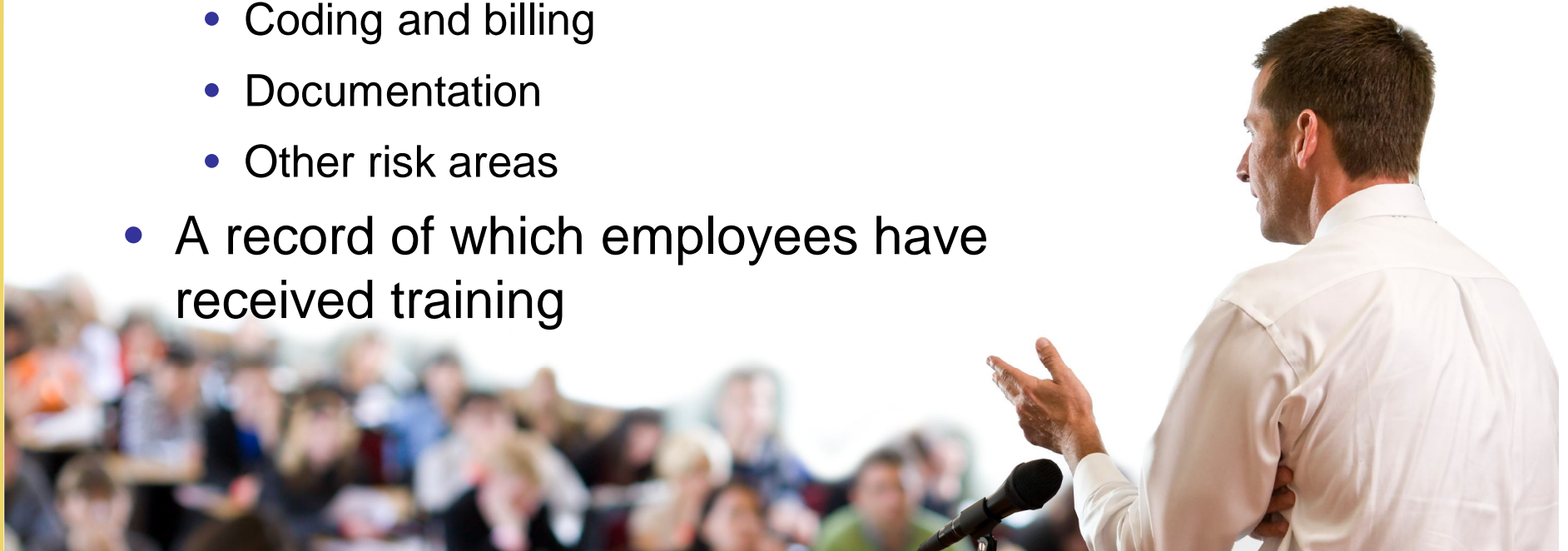




# Training

An effective compliance program should require:

- Recurrent training on:
  - The compliance program
  - Applicable statutes and regulations
  - Coding and billing
  - Documentation
  - Other risk areas
- A record of which employees have received training





# Why Are Open Lines of Communication Important?

Internal reporting from employees lets the dentist:

- Find out about the problem
- Correct the problem before the practice is at risk





# What Methods Can Be Used for Effective Communication?

Encourage internal reporting of compliance issues by:

- Having an open door policy
- Having a mechanism for anonymous reporting
- Discussing compliance issues in staff meetings

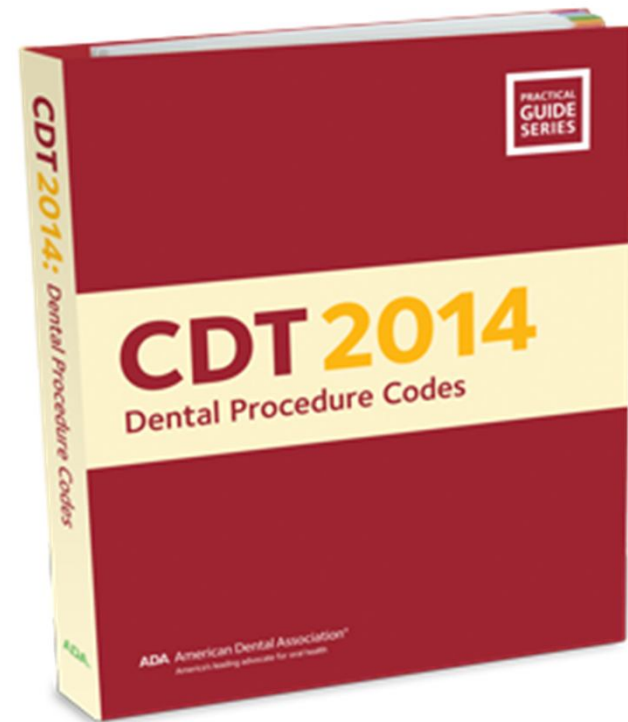




# Conducting Internal Monitoring and Auditing

An effective compliance program can monitor for changes in:

- Government regulations
- Professional standards
- Billing codes





# Monitoring for Licensure

Monitor to ensure licenses or certificates are:

- Current for persons performing specified services
- Displayed as required by State law



# Monitoring for Exclusions

Screening for exclusions is important because:

- Excluded employees cannot participate in Federal healthcare programs
- Federal healthcare programs cannot pay for any items or services that are furnished, ordered, or prescribed by an excluded individual

“Furnished” includes items or services provided or supplied, directly or indirectly.



## How to Monitor for Exclusions

Ensure you do not employ excluded individuals.

Check the List of Excluded Individuals/Entities at <http://exclusions.oig.hhs.gov/> on the U.S.

Department of Health & Human Services, Office of Inspector General (HHS-OIG) website.



# Monitoring for Documentation of Medical Necessity

Dental practices should monitor for failure to document the medical necessity of services rendered

CONFIDENTIAL

**PROGRESS NOTES**

DATE \_\_\_\_\_ SS / HIC / PATIENT IC# \_\_\_\_\_

PATIENT NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

DATE	M	F	AGE	HT	WT	BMI	B	P	RESP	TEMP	PULSE	LMP	MEDICAL ALLERGY ALERT

DATE | PLEASE DATE AND INITIAL EVERY ENTRY


*SAMPLE*



# Monitoring for Documentation of Informed Consent

## Document:

- Name and date of birth
- Authority to consent for child
- Description of procedure
- Known risks
- Alternative treatments
- Opportunity to ask questions
- Signature and witness

[http://www.aapd.org/media/Policies\\_Guidelines/G\\_InformedConsent.pdf](http://www.aapd.org/media/Policies_Guidelines/G_InformedConsent.pdf)

**Consent for dental procedure**

Dentists, hygienists or staff have explained to me the following procedure, or treatment to be undertaken:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I am aware that alternative treatments/procedures may be available, as well as the option not to proceed with the recommended treatment/procedure. I also understand that there are inherent risks to this recommended treatment/procedure as well as to any alternant treatment/procedure, as well as postponing or declining this recommended treatment/procedure. Those risks may include but are not limited to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In addition, my dentist or his/her staff has offered me a more detailed explanation of this recommended treatment/procedure – if I so desired, I am fully satisfied with the description and information given, and all of my questions/concerns have been satisfactorily answered.

I acknowledge that no guarantee or warranty has been made to me about the results of any of the above recommended choices. Therefore, I freely give my consent to this above recommended treatment/procedure.

\_\_\_\_\_ Date \_\_\_\_\_

*Patient signature/legally authorized representative*

\_\_\_\_\_ Relationship \_\_\_\_\_

*Printed name if signed on behalf of the patient*

\* \*This slide is presented by AAPD. It has not been reviewed or approved by the Centers for Medicare & Medicaid Services.



## Monitoring Other Risk Areas

Some other risk areas a dental practice could monitor may include:

- Unnecessary pulpotomies
- Too many or too few X-rays
- Inappropriate use of protective stabilization devices

This is not an exhaustive or comprehensive list.



## Monitoring—Issues in Recent Cases

Review issues identified in recent settlements and prosecutions. Some examples are:

- Unnecessary services: Nationwide dental management company
  - <http://www.justice.gov/opa/pr/2010/January/10-civ-052.html>
- Upcoding: New Haven pediatric dentist
  - <http://www.justice.gov/usao/ct/Press2011/20111011.html>
- Patient Recruiting: Brooklyn dentist
  - <http://www.ag.ny.gov/press-release/ag-schneiderman-and-comptroller-dinapoli-announce-guilty-plea-brooklyn-dentist-who>



## Monitoring—Other Recent Cases

Additional issues detected in recent cases include:

- Services not rendered: Illinois dental management company, Texas dentist
  - <http://www.justice.gov/dea/pubs/states/newsrel/chicago041408a.html>
  - <https://www.oag.state.tx.us/oagNews/release.php?id=3855>
- Unbundling: New York dental center
  - <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-325000-medicaid-fraud-settlement-erie-county-dental-clinic>
- Lack of documentation: Texas dental center
  - <https://www.oag.state.tx.us/oagnews/release.php?id=3997>



# Enforcing Disciplinary Standards

Disciplinary standards should be enforced through:

- Simple and available disciplinary guidelines
- Timely and consistent disciplinary action

There should be an expectation that compliance concerns will be reported.





# Prompt Responses and Corrective Action

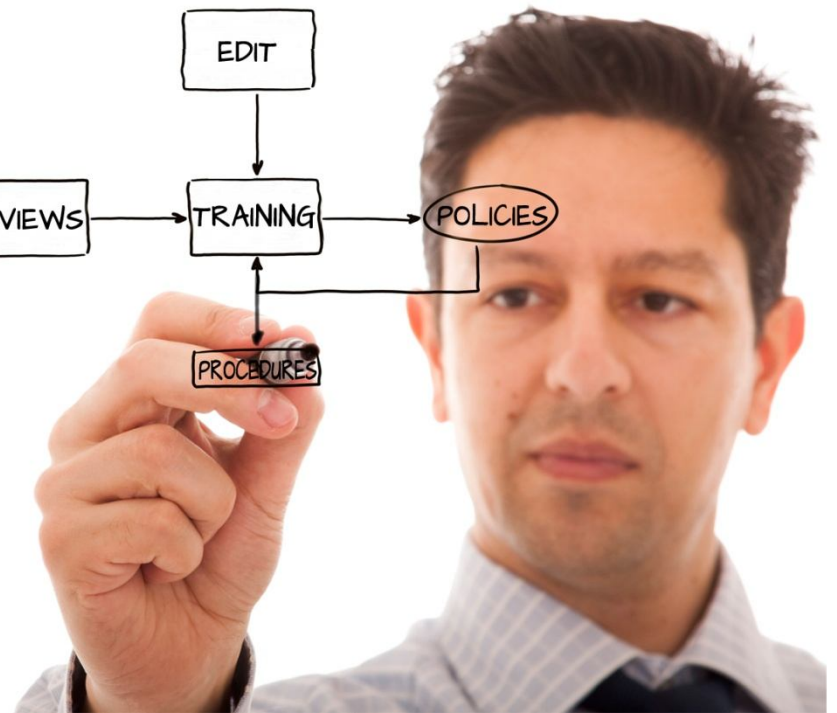
- Examine the issue
- Collect relevant documentation
- Identify the standard that applies





# Prompt Responses and Corrective Action

- Return any funds improperly paid
- Take internal corrective action
- Report to the State Medicaid agency (SMA) or other government agency, as appropriate



# Program Integrity Landscape— Federal Agencies

- Centers for Medicare & Medicaid Services (CMS)
  - Payment Error Rate Measurement (PERM) program
  - Medicaid Integrity Contractors (MICs)
- HHS-OIG
- Federal Bureau of Investigation (FBI)
- Federal prosecutors' offices



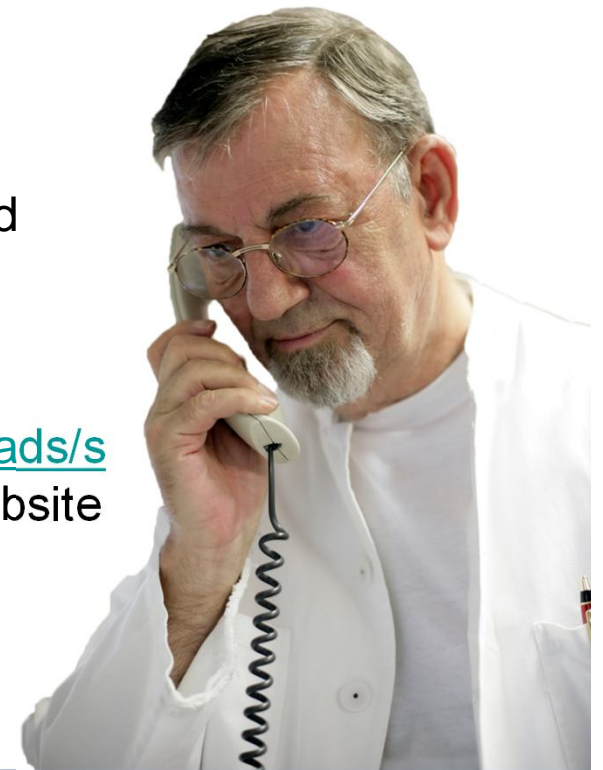
# Program Integrity Landscape— State Agencies

- SMAs
- Medicaid Recovery Audit Contractors (RACs)
- Medicaid Fraud Control Units (MFCUs)
- State prosecutors' offices



Report suspect practices by other providers to:

- SMA
- MFCU
  - Contact information for SMAs and Medicaid Fraud Control Units is available at <http://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/Downloads/smafraudcontacts-april2013.pdf> on the CMS website
- HHS-OIG
  - 1-800-HHS-TIPS



# Conclusion

A compliance program can protect your practice by:

- Ensuring that patients receive high quality care
- Finding and correcting problems before the government does
- Having well-documented files in the event of a government investigation
- Resolving employee concerns before those concerns result in:
  - A complaint to a government agency
  - A whistleblower lawsuit

# Disclaimer

This presentation was current at the time it was published or uploaded onto the web. Medicaid and Medicare policies change frequently so links to the source documents have been provided within the document for your reference.

This presentation was prepared as a service to the public and is not intended to grant rights or impose obligations. This presentation may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. Use of this material is voluntary. Inclusion of a link does not constitute CMS endorsement of the material. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

December 2013

# For More Information

**Lynn Douglas Mouden, DDS, MPH**  
Chief Dental Officer  
[lynn.mouden@cms.hhs.gov](mailto:lynn.mouden@cms.hhs.gov)  
410-786-4126

