



The Philadelphia Examiner

WINTER 2011

ASSOCIATION OF CERTIFIED FRAUD EXAMINERS - PHILADELPHIA AREA CHAPTER

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Left to right: Panel Discussion during the Philadelphia Area Chapter All-Day Conference in December; Charles H. Ramsey, Police Commissioner for the City of Philadelphia; Group photo during the Philadelphia Area Chapter All-Day Conference

18th Annual All-Day Fraud Training Conference

On December 6, 2010, the Philadelphia Chapter of the ACFE provided an entire day of fraud training.

This event brought together some of Philadelphia's most interesting and distinguished fraud fighters which made the day a huge success. In addition, the day provided CFEs with their annual ethics credits required by the ACFE.

The day started off with an interesting panel discussion regarding Consumer Fraud in the Electronic Age. The panel included Joel Sweet, Assistant U.S. Attorney, Cynthia Merritt, Assistant Director of Retail Payments Risk Forum for the Federal Reserve Bank of

Philadelphia, Howard M. Langer, Esq., Consumer Class Action Counsel for Langer, Grogan & Diver, PC, and Wayne D. Geisser, CPA, CVA, CFE, Managing Director of Nihill & Riedley.

Each panel member presented fascinating details from their prior case work and insight on how technology has allowed such schemes to not only exist but thrive. These cases included a third party payment center not only making illegal payments but making arrangements with a large bank to continue processing these payments in anticipation of high return rates and their associated fees. The use of these types of electronic payment arrangements, and manipulation of recorded consumer conversations allowed the company and bank involved to make millions at the expense of

the victims, many of whom were elderly retirees.

Our esteemed keynote speaker for the day was **Charles H. Ramsey**, Police Commissioner City of Philadelphia. Commissioner Ramsay spoke about his Department's efforts to decrease crime in the City of Philadelphia including white collar crime. He indicated that the Police Department's primary focus was on reducing violent crimes in the City. The Commissioner brought with him two Detectives from the Department's White Collar Crime Fraud Unit. They cited examples and statistics relative to their fight against consumer fraud, embezzlement and other white collar crimes in concert with other State and Federal law enforcement agencies.

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Summary of 18th Annual All-Day Fraud Conference and a host of other upcoming seminars and training events.



Chapter news, highlights, upcoming events, and more.



Workers' Compensation Fraud: Tilting at Fraud Mills No Longer Quixotic

by Mark Gordon, Esquire
Douglas K. Rosenblum, Esquire, CFE

Most employers and their insurers at one time or another have been adversely impacted by the submission of false or fraudulent claims.

Only on rare occasions is the perpetrator caught and successfully prosecuted. Even when the prosecution is successful, more often than not the perpetrator does not have the financial means to return the funds that were fraudulently extracted from the employer and/or its insurer. In many instances, the employee's medical provider is complicit in the fraudulent conduct. Indeed, it is not uncommon for the medical provider to incentivize the fraudulent conduct.

The major casualty insurers are now targeting medical providers for fraudulent practices. The industry recognizes that a successful prosecution of a medical provider plays an exponentially greater role in the effort to reduce the adverse financial impact of fraud in a given geographical region than the effort of identifying, investigating and prosecuting a claim of fraud against an isolated employee.

Medical Provider Fraud

Traditionally workers' compensation carriers have significantly underutilized tools to investigate fraud, waste, and abuse. Perceived expense or risk might have deterred carriers, but the resources available and potential benefits are extraordinary.

Larger carriers can service a huge number of claims. By establishing a database of claimant physicians, rudimentary statistical analyses can identify physicians that tend to have a greater number of claims, say, for a geographic area, or higher costs for certain classes of injuries. Of course, no claim is

identical to others, but the submission of high volumes of claims from a practitioner/practice in a given geographical area, compared with those that would be anticipated based upon submissions by other practitioners/practice groups in that same geographical area, should raise concerns. Alternatively, one may see a disproportionate amount of alleged complications and an alleged need for more complex and frequent treatment than would be statistically anticipated. Outlier physicians can consequently be flagged for more comprehensive review and increased scrutiny.

Typically there are multiple types of fraud. A non-exhaustive list of examples of physician-based fraud include 1) the unwitting claimant; 2) claimant as a willing participant in the fraud from the start; and 3) the provider that persuades the claimant to participate in the fraud.

The first type, the unknowing claimant, treats with the physician-provider and willingly goes back to work. However, the physician bills the workers' compensation carrier for work that he or she did not perform, or upcodes, exaggerating the type of work done. The physician might bill for multiple visits or treatments, when only one might have, in fact, occurred.

The second type, the claimant as willing participant, involves a physician/claimant partnership in defrauding the carrier. A claimant might hear, via word of mouth, that a certain provider "goes easy" on workers' compensation claimants. This reputation for acquiescing in submitting fraudulent claims benefits both the claimant and the physician.

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Executive Board 2011

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Stay Connected



Visit our Chapter Website

Please continue to visit our informative website at www.philacfe.com to review "What's New", renew your membership and register for upcoming events. We hope to make improvements to our website and add new features to continue to bring you the latest in fraud awareness and prevention.

Get Involved with a Committee

The Philadelphia Area Chapter always welcomes all members to volunteer their time to participate in Chapter activities, serve on a committee, or volunteer their services in any other form. Contact us at info@philacfe.com.

Have an Idea or Recommendation that you would like to Share?

As demonstrated by our 2007 "Chapter of the Year" and 2008 "Newsletter of the Year" awards, we continually aim to offer the best resources for the fraud fighting community. Contact us with your ideas and suggestions as our Chapter strives to maintain our elite status in 2011!

Speak at One of Our Events

If you have a topic that you think would make an interesting presentation, let us know as we are always looking for individuals to participate in our speakers' forum!

Philadelphia Area Chapter Association of Certified Fraud Examiners

c/o WithumSmith+Brown
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Workers' Compensation Fraud: Tilting at Fraud Mills No Longer Quixotic

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The physician understands that the patient desires the benefit of a diagnosis that will keep him/her out of work for an extended period of time, while simultaneously receiving benefits. The patient understands that the doctor desires the benefit of a patient willing to undergo treatment for an extended period of time that is excessive and unwarranted to allow the billing to continue. Whether the two openly discuss their mutual interests or not, they clearly understand the nature of their deceptive relationship.

The third type, the persuaded participant, might be the most nefarious, from the perspective of the medical community. A physician receives a patient in his office and persuades the patient that it is in the patient's best interest to submit a fraudulent claim to the workers' compensation carrier. The patient benefits by receiving a weekly benefit and a financial source of retreatment that may be required. The physician realizes a financial source for his services that otherwise would not be available to him. The workers' compensation carrier unwittingly pays for the services.

Theory Into Action

Identifying and pursuing medical fraudsters can be an expensive and daunting task. However, there are tools available publicly, and especially online, to assist carriers in reducing fraud, waste, and abuse. Carriers, small and large, should have the capacity to view claims data on a macro level: the number of claims, for what services, and to which providers. Outliers should be readily apparent. If they are not, however, comparing macro data to national averages and/or regional averages is very helpful.

The National Health Care Anti-Fraud Association is just one organization that provides such resources to members of the industry. A very helpful publication is *MLN Matters*, published by the Centers for Medicare and Medicaid

Services (CMS). Included in this government publication are coding updates and coding guidance, similar to local coverage determinations. This will assist carriers in assessing whether providers have improperly coded for services rendered. If a carrier does not have the desire or capacity to engage in the above analysis itself, contractors are available to help. A simple online search reveals software packages available to conduct statistical analysis and identify outliers.

Once outliers have been identified, the investigative work begins. If the scheme includes unwitting patients, insurance companies might easily develop their cases by interviewing the patients to verify what services they did or did not receive. One very big red flag for this strategy is communicating with a represented party. Workers' compensation claimants are usually represented by counsel, and insurance carriers and their attorneys should be sensitive to this issue.

If the potential scheme includes patients as willing participants, interviews will surely prove futile. A well-planned under-cover investigation might be the next step, with an employee or contractor of the carrier playing the role of a worker injured on the job. Be sure to consult with counsel who is knowledgeable in your jurisdiction before recording any interactions with providers.

Underutilized Litigation Tools

Insurance carriers have many tools in their litigation toolbox to pursue provider fraud. While exercising one's right to file a garden variety common law fraud action in state court is still an effective weapon to combat provider fraud, legislatures across the country have codified private causes of action tailored to this industry. Statutes vary from state to state, and the payoff can be exponentially higher (both monetarily and systemically) than pursuing claimants.

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ACFE National: Register For These Events Today!

Go to www.acfe.com today and find out more about these and other events

DATES	TOPIC	CPE	LOCATION
02/24/11 – 02/25/11	Fraud Risk Management	16	Austin, TX
02/24/11 – 02/25/11	Auditing for Internal Fraud	16	Miami, FL
03/02/11	Legal Elements of Fraud Examination	8	New York, NY
03/03/11 – 03/04/11	Conducting Internal Investigations	16	New York, NY
03/14/11	Fraud Prevention	8	Arlington, VA
03/15/11 – 03/16/11	Digital Forensics Tools and Techniques	16	Arlington, VA
03/21/11 – 03/22/11	Introduction to Digital Forensics	16	Portland, OR
3/21/11	Building Your Fraud Examination Practice	8	Chicago, IL
3/22/11 – 3/23/11	Mortgage Fraud	16	Chicago, IL



Join the ACFE
Today!

The mission of the Association of Certified Fraud Examiners is to reduce the incidence of fraud and white-collar crime and to assist the Membership in its detection and deterrence.

Pursue the CFE designation today!

Visit the ACFE website at www.acfe.com for the latest in fraud investigation, including training seminars, the fraud bookstore, community forums, and other great resources.

Association of Certified
Fraud Examiners
World Headquarters - The
Gregor Building
716 West Avenue
Austin, TX 78701-2727 USA
(800) 245-3321 (USA &
Canada only)



22nd Annual ACFE Fraud Conference & Exhibition

6/12/2011 – 6/17/2011

Earn up to 40 CPE Credits

Join more than 2,000 of your fellow anti-fraud professionals at the 22nd Annual ACFE Fraud Conference & Exhibition, to be held in San Diego, CA, on June 12-17, 2011. Address the challenges and critical issues faced by anti-fraud professionals during top-level educational sessions and participate in unparalleled networking opportunities with the premier practitioners and thought leaders in the fight against fraud.

Conference Venue:

San Diego Convention Center
111 West Harbor Drive
San Diego, CA 92101

Hotel Accommodations:

San Diego Marriott Hotel & Marina
333 West Harbor Drive
San Diego, CA, 92101
Hotel Phone: (800) 266-9432

*See Page 8 of this newsletter for group rate information and
Visit FraudConference.com for more information*

Workers' Compensation Fraud: Tilting at Fraud Mills No Longer Quixotic

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Writer's Corner...

One need not travel out of the Commonwealth of Pennsylvania to find such a remedy. Within the statute criminalizing insurance fraud, 18 Pa.C.S.A. § 4117, there lies buried within a civil cause of action:

An insurer damaged as a result of a violation of this section may sue therefore in any court of competent jurisdiction to recover compensatory damages, which may include reasonable investigation expenses, costs of suit and attorney fees. An insurer may recover treble damages if the court determines that the defendant has engaged in a pattern of violating this section.

18 Pa.C.S.A. § 4117(g).

Our neighboring state of New Jersey has a similar provision:

- (a) Any insurance company damaged as a result of a violation of any provision of this act may sue therefore in any court of competent jurisdiction to recover compensatory damages, which shall include reasonable investigation expenses, costs of suit and attorneys fees.
- (b) A successful claimant under subsection (a) shall recover treble damages if the court determines that the defendant has engaged in a pattern of violating this act.

N.J.S.A. 17:33A-7.

Fear not if you find yourself in a jurisdiction without such a statute. Most states that do not have such laws, such as New York, have Insurance Frauds Bureaus or Insurance Fraud Task Forces designed to supplement law enforcement resources to target provider fraud. New York's Insurance Fraud Bureau was established in 1981 with the mission "to effectively detect, investigate and prevent insurance fraud and to refer for prosecution persons who commit acts of insurance fraud." New York accomplishes this by working in eight specialized units, one being devoted solely to investigating policyholders, doctors, and other healthcare professionals who submit inflated bills or bills for services that were not rendered. Not only does the Bureau have the capacity to refer offenders for criminal prosecution, but it has the ability to levy civil penalties of up to \$5,000, plus the value of the claim, against any person who submits a fraudulent insurance claim.

The Future

By using data mining and other investigative strategies described above, and by investing in a proactive litigation strategy, carriers can develop a well-oiled machine to identify outlier physicians who defraud the system through one of the three schemes. Shutting down one fraudulent medical provider can eliminate the same amount of fraud perpetrated by dozens of fraudulent workers' compensation claimants. Further, a carrier may have the statutory ability to recoup its investigative and litigation fees under these statutes, along with the potential for treble damages. In an era of increased scrutiny on healthcare providers and insurance, affirmative litigation strategies using these statutes and tools will prove to be not just a possibility, but an inevitable certainty.

About the Authors:

MARK GORDON is a founding partner of Pietragallo Gordon Alfano Bosick & Raspanti, LLP and is based in the firm's Pittsburgh office. He heads the Risk Management Group of the firm and was past Chair of the Workers' Compensation Group. Mr. Gordon is available by phone at (412) 263-2000 or by e-mail at mg@pietragallo.com.

DOUGLAS ROSENBLUM is an associate and Certified Fraud Examiner in the Philadelphia office of Pietragallo Gordon Alfano Bosick & Raspanti, LLP. Mr. Rosenblum previously served as both a state and federal prosecutor. He is a member of the White Collar Criminal Defense, Federal and State Qui Tam, and Commercial Litigation practice groups. Mr. Rosenblum is available by phone at (215) 320-6200 or by e-mail at dkr@pietragallo.com.

Get Published!

Do you have an article, idea or topic that you would like to contribute to our newsletter? We are looking to you, our fellow members, to share your stories, your successes and your suggestions to continue to grow our newsletter.

Please contact Heather Craden at hcraden@lecg.com or Matt Musgnung at mmusgnung@lecg.com with any contributions or questions.

Formed in 1991, the Philadelphia Area Chapter of the Association of Certified Fraud Examiners is one of more than 100 worldwide chapters sponsored by the internationally renowned Association of Certified Fraud Examiners ("ACFE"). As a local representative of the ACFE, the Philadelphia Area Chapter supports its mission to reduce fraud through its educational programs and seminars. Join us for one of these seminars and find out what makes us a world class Chapter!



VOLUNTEERS WANTED!!



The Philadelphia Area Chapter of the ACFE is seeking CFE chapter members in good standing for Board vacancies

The Philadelphia Area Chapter is one of the most established and well-respected chapters of the ACFE as highlighted over the years through national awards and recognition. We have earned a reputation for progressive policies, responsiveness to the needs and issues of our membership/community, and relationship building with the national organization and sister chapters, as well as other professional organizations. Our Board of Directors is now offering exciting opportunities for CFE leaders who want to contribute their time and talent to further benefit our Chapter.

Requirements for candidacy include (but are not limited to):

- Dedication to the ACFE values and code of ethics
- Professional Standing within the Chapter community
- Availability to actively and regularly plan, attend and participate in Board meetings and Chapter events
- Willingness to assume the position of Chapter Secretary immediately upon selection, as well as the potential for future officer positions
- Desire and capability of assuming a leadership role in standing and ad hoc committees comprised of Board members and chapter members at large
- Availability and desire to represent and promote the Chapter through community outreach activities

We request that interested parties respond to us in writing through our website www.philacfe.com/feedback.html. Your response should be detailed as to your interest and qualifications and directed to Richard Sobine, Chapter President/Board Chair. Please include all preferred contact information. A search process will continue through April and a selection will be made shortly thereafter.

Join Us For a Day of Networking and Baseball!

Wednesday August 24, 2011
1:00pm



New York Mets vs. Philadelphia Phillies
Citizens Bank Park
Rooftop Bleachers Rows 5-7

Tickets are \$26 each and include a \$10 power ticket that can be used for merchandise or concessions.

Please note that there are a limited number of seats available. Tickets are on a first come, first serve basis.

It's Our 20th Anniversary!

Help us celebrate the 20th Anniversary of the Philadelphia Area Chapter of the ACFE at a Dinner Gala!!

**Thursday October 13, 2011
6:00pm**

**Pyramid Club
1735 Market Street, 52nd Floor
Philadelphia, PA**

Come mingle with fellow CFEs for an evening of celebration and networking. Dinner includes a cocktail hour and a four course sit down dinner.

\$100/person for members
\$150/person for non-members

Special Guest:
James D. Ratley, CFE
President of ACFE National

There are a limited number of seats available. Tickets are on a first come, first serve basis. Formal invitation to follow.

18th Annual All-Day Fraud Training Conference

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Commissioner Ramsey indicated that the Department had limited resources to pursue white collar criminals and, therefore, typically worked these cases in conjunction with the joint task force with the Federal authorities for investigation and prosecution.



The afternoon kicked off with a presentation by **Jonathan Marks, CPA, CFE, CFF**, Partner In Charge of the Fraud and Ethics Group of Crowe Horwath LLP. Mr. Marks engaged the attendees with interesting real world examples that demonstrated why the Fraud Triangle, which we have all used extensively throughout our careers in fraud detection and prevention, should be expanded into a "Fraud Diamond". Using an interactive presentation format and multi-media slide show, Jonathan stressed the importance of including in the fraud investigation process an assessment of the capabilities of the targets (the fourth point of the fraud diamond along with pressure, rationalization and opportunity).



Using actual case examples, Jonathan explained that although opportunity opens the doorway to fraud, and incentive and rationalization can draw the person

toward it, the person must have the capability to perpetrate the fraud in order for it to occur. This has been demonstrated time and time again by the large and costly frauds that have been perpetrated by individuals at the tops of organizations, including CEO's, CFO's and Presidents. These individuals should not be overlooked during the course of a fraud investigation.

The day wrapped up with **Professor Bette J. Walters, J.D., L.L.M.**, Interim Assistant Director at La Salle University School of Business, presenting on Business Ethics: Reflections on Moral, Legal and Practical Issues. Combining her vast experience in the business world with an extensive background as both a legal scholar and business educator, Professor Walters provided a comprehensive historical perspective to many recent abuses of power and fraudulent business practices, most notably with regard to premier figures on Wall Street. From Arthur Anderson to Enron and even Bernie Madoff, Professor Walters offered a lesson in what constitutes proper ethical business conduct, why some individuals and firms flout the regulations and what needs to be done to prevent future ethical and financial calamities.



Walters analyzed the investigation by Harry Markopolos, CFA, CFE, into the Madoff case, heaping praise over the thoroughness of the process and the wealth of evidence uncovered, while offering numerous critiques and

suggestions for the audience to ponder should a similar situation arise in the future. This topic morphed into a general discussion of the growing attitude on Wall Street and in many boardrooms towards an increasing disdain for further governmental regulatory action and a rising air of dismissal over the need to remain ethically vigilant in an era where morals and ethics appear to be losing ground to profit maximization. Among the many examples she offered was the recent BP oil disaster in the Gulf of Mexico, where years of lax or absent regulatory enforcement contributed to a laissez-faire attitude by corporate executives and arguably a complete disregard for the health, safety and well being of company employees and the public.

Creating numerous opportunities to engage her audience, Professor Walters sought to imbue a sense of urgency for greater oversight by regulators and a call to action for CFEs and other anti-fraud professionals to conduct themselves with even more vigor. Reminding the attendees of their Code of Ethics and professional responsibilities, she urged them to step up efforts to educate the general public about fraudulent behavior and dangerous criminal trends while at the same time striving to seek the best outcomes in their investigative endeavors.

Do You Have Documents That Need to Be Shred?

Please join the Philadelphia Area Chapter of the Association of Certified Fraud Examiners for a complimentary day of shredding and refreshments!



Saturday April 20, 2011
10am – 2pm

Tentative Location: Maple Shade Municipal Building
Maple Shade, NJ





Group Rates for the 22nd Annual ACFE Fraud Conference & Exhibition

The Association of Certified Fraud Examiners knows that chapter members are some of the most dedicated fraud fighters in the association. It is your commitment to the organization that has helped make the ACFE the leading anti-fraud association in the world.

The ACFE would like to show its appreciation to every anti-fraud professional involved in the Philadelphia Area Chapter by extending the opportunity to attend the world's largest anti-fraud conference & exhibition. The 22nd Annual ACFE Fraud Conference and Exhibition will be held at the **San Diego Convention Center** in San Diego, CA from June 12, 2011 through June 17, 2011. To help facilitate this, the ACFE has extended the Team Registration Package pricing to all members of the Philadelphia Area Chapter. Typically, the team registration pricing is for companies and/or organizations sending 3, 5, and 10 or more employees to the conference. These packages cover registration for the Full Conference, or just the Main Conference. The following is the price breakdown:

Full Conference (USD)

	ACFE Chapter Member	Affiliate Chapter Member
Three registrants	\$1,195	\$1,395
Five registrants	\$1,095	\$1,295
Ten or more	\$ 995	\$1,195

Main Conference (USD)

	ACFE chapter member	Affiliate Chapter Member
Three registrants	\$ 795	\$ 995
Five registrants	\$ 745	\$ 945
Ten or more	\$ 695	\$ 895

If you are interested in availing yourself or your organization of these discounted prices, please contact Robert Cohen at cohencpacfe@comcast.net or (215) 938-8815, no later than noon on Friday March 26th. Do not register on your own or call the ACFE. The Philadelphia Area Chapter of the ACFE must submit the registration forms at one time in order for everyone to get the appropriate discounts.

If anyone has questions about the conference or the registration, please contact Robert Cohen at cohencpacfe@comcast.net or at (215) 938-8815.



Mark Your Calendars for these Upcoming Philadelphia Area Chapter Events!



April 26, 2011 7:30am – 10:30am

Steven Latzer, Esq., Chief of Staff, Deputy District Attorney, Montgomery County, PA
“Current Trends in Pennsylvania Fraud”

June 7, 2011 7:30am – 10:30am

Matthew Musgnung, Charlie Cummiskey and Michael McCarrie
“Fraud Trends and Legal Update for the Health Care Industry”

October 4, 2011 7:30am – 10:30am

Breakfast Meeting – Speaker TBD

December 5, 2011 7:30am – 5:00pm

19th Annual All-Day Fraud Training Conference

All events to be held at the Doubletree Hotel in Philadelphia, PA
Please visit www.philacfe.com for complete details



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TO:
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