Compliance Today - September 2018
Hospice fraud: The ultimate betrayal of trust

by David R. Hoffman, JD, FCPP

David R. Hoffman (dhoffman@dhoffmanassoc.com) is Practice Professor of Law, Drexel University Kline School of Law and President of David Hoffman & Associates, PC in Philadelphia.

When you hear the word hospice, what is your reaction? A difficult end-of-life decision needs to be discussed; caring and compassionate healthcare personnel will be providing compliant care; the death of a loved one will occur with dignity. I have engaged in this decision-making process and that is why I was so disturbed when two published articles appeared within days in October 2017—one detailing a $75 million settlement with Vitas Hospice Services, LLC and Vitas Healthcare Corporation[1] and the other describing how hospice patients are being "abandoned" by hospice providers.[2]

The fraud settlement resolved allegations that "between 2002 and 2013 Vitas knowingly submitted or caused to be submitted false claims to Medicare for services to hospice patients who were not terminally ill."[3] The government also alleged that the defendants "rewarded employees with bonuses for the number of patients receiving hospice services without regard to whether they were terminally ill and whether they would have benefited from continuing curative care."[4]

The government also alleged false claims submission based on the billing of continuous home care services, the highest reimbursable daily rate that Medicare pays to hospice providers, for patients who did not experience acute medical symptoms causing a brief period of crisis. The allegations stated that goals were set for the number of continuous home care days billed to Medicare and that "aggressive marketing tactics" were implemented while staff were "pressured…to increase volume of claims, without regard to whether the patients actually required this level of crisis care."[5] The defendants denied any liability pertaining to any of the alleged conduct.