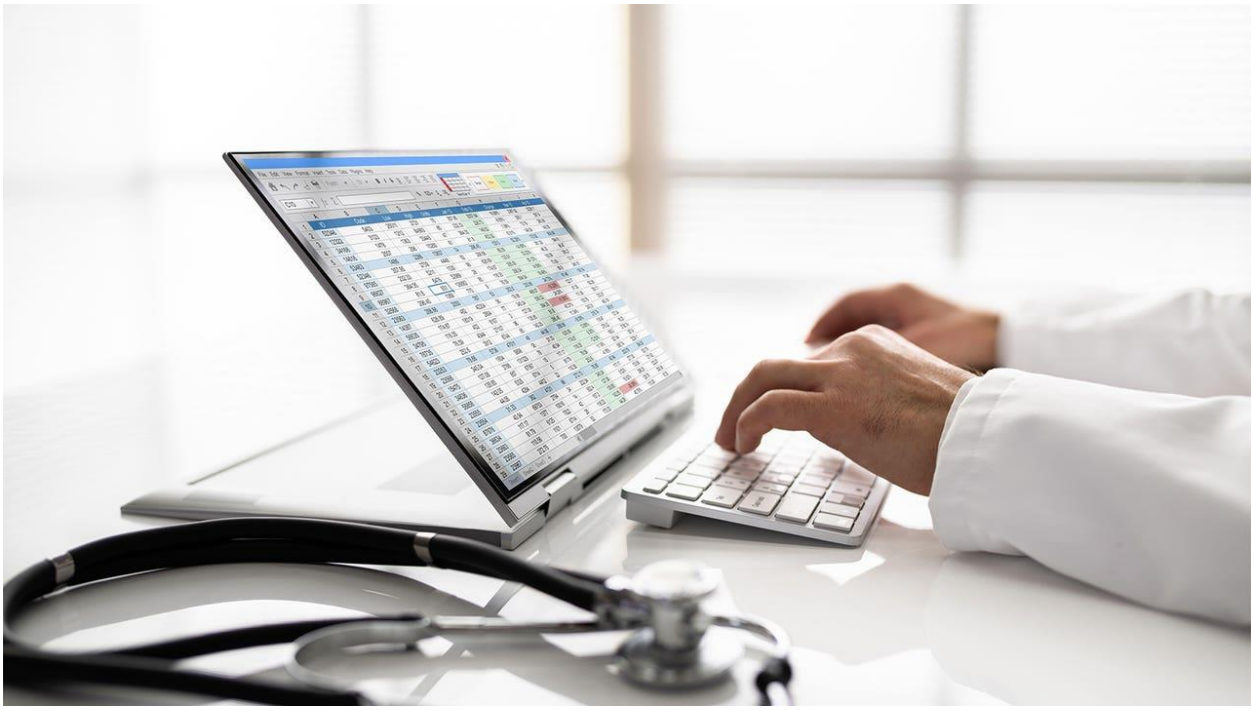
The Trouble With Upcoding Extends Far Beyond Ethics

— The practice reminds us that our healthcare system is failing patients and clinicians alike

by Robert Devereaux, MDNovember 11, 2024



Devereaux is a retired board-certified family physician.

After a long day in my primary care practice in rural southwest Virginia, I still had one more task to complete. As an employee of a healthcare corporation that provided care for Medicare patients, I was required to review and add additional "suggested" diagnoses to each Medicare Advantage encounter.

I later learned that this practice, known as "upcoding," is a means to make patients appear "sicker" and thus increase the annual capitation payment that the Medicare Advantage plan receives to insure these patients. The extra revenues were then shared with our employer in the form of "bonuses." We

were told that these payments would help keep our department solvent and that our compliance with this coding practice would be reflected in our compensation.

This practice seemed harmless enough. However, I later learned that upcoding is responsible for $12-25 billion in overpaymentsopens in a new tab or window to Medicare Advantage insurers each year, enough to provide free vision and hearing care to every senior over age 65. I was involved in a practice that, at best, was billing in a way that increased our income a bit and, at worst, was defrauding taxpayers and contributing corporate profits to both insurers and healthcare companies. This was a moral dilemma that was quite different than those I studied in my medical school medical ethics class.

I now live in Charlottesville, Virginia, the headquarters of University of Virginia (UVA) Health. It recently came to light that administrators at UVA Health received a letteropens in a new tab or window about a year ago from 128 employed physicians, alleging that the leadership pressured them to engage in fraudulent billing practices and created a toxic work environment that endangered patients. Subsequent reportingopens in a new tab or window quoted physicians who were fearful of fines or even prosecution for complying with practices that they felt were unethical.

Whether or not physicians should engage in these practices in order to generate funds to provide patient care while increasing corporate profits seems to me a false choice. The question we should really ask is whether for-profit healthcare serves the best interests of patients and physicians. Is there a better way to build the system?

The rest of the world seems to think so. Most other major industrialized countries provide universal care more cheaply and effectively than the care system in the U.S., with far better outcomes. They do this with systems where administrative costs are low and opportunities for profit are limited due to a combination of strict regulation and government funding. In the U.S., an estimated 30% of excess health spendingopens in a new tab or

window covers administrative costs of insurance and administrative costs borne by clinicians -- these are expenses much of the rest of the world has already decided should not be part of their system.

Other developed countries have plans that are structured in a way where doctors are not required to engage in coding and creative billing. Hospitals in Canada are paid by their provincial governments who fund their operating budgets, obviating the need to bill for services, resulting in administrative costs half of those in the U.S.opens in a new tab or window Most other major industrial countries finance their healthcare systems through tax revenues, thereby sharply limiting the impact of insurance companies and the profits their shareholders expect.

Reform of our system is not just about saving money. According to a Commonwealth Fund analysisopens in a new tab or window of 10 wealthy industrialized countries, we rank dead last in health outcomes despite spending twice as much per capita compared to the other countries in the survey. For-profit medical care is bad for our patients' health.

Wasting resources that could go to providing more and better healthcare is not the only negative consequence of our free-market system. Every day physicians face ethical conflicts with pressure to engage in "creative billing" and "upcoding," practices that increase premiums, and the tax burden for all of us, while increasing profits that benefit only those at the very top.

The extra time physicians spend on prior authorization requests and appeals of denials of care contributes to stress and burnout while taking away from time with patients. In 2021, U.S. physicians spent at least 11.1 million hoursopens in a new tab or window on prior authorization requests for Medicare Advantage alone. Furthermore, an American Medical Association physician survey indicated that 35% of physiciansopens in a new tab or window said that prior authorization criteria used by insurers rarely or never followed evidenced-based guidelines approved by medical specialty societies.

Does it really have to be this way? When I started practicing family medicine in the 1980s there was little in the way of for-profit healthcare. Services were provided by locally owned hospitals with a mission to serve their communities. In our practice, we largely used only two treatment codes for all our patient visits. A management consultant later told us we had been leaving money on the table, but the physicians in our group still managed to earn a comfortable living. I know we can't return to that era, but do we have to be part of a system that pressures physicians to cross uncomfortable ethical boundaries on a daily basis?

When asked, patients and physicians alike agree that a government-financed system that provides universal coverage is the best way to achieve reformopens in a new tab or window. The Medicare for All Actopens in a new tab or window, as proposed in House and Senate (with 127 cosponsors), could go a long way toward achieving these aims. Of course, the Donald Trump election victory and the likely party alignment in Congress is not an environment conducive to healthcare reform. Nonetheless, physicians should be clear-eyed that without changes, the current system of free-market healthcare will continue to generate harm both to physicians and their patients.

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