

# Be Careful Who You Work for — AND Where You Spend Your Dues Money

Andy Walker, MD FAAEM  
Editor, *Common Sense*



*In the November 11, 2015, issue of Emergency Physicians Monthly, Dr. Greg Henry wrote a column on fraud revolving around the use of PAs and nurse practitioners in emergency departments. Because he omitted a critical and fundamental part of the problem from his analysis, just two days ago I wrote the letter to the editor of EP Monthly you see below. Since I have no idea if my letter will be published at all, much less in its entirety, I wanted to make sure you read it by publishing it in Common Sense.*

*The PA/NP supervision-fraud issue is just one of the problems that arise when emergency physicians don't own and control their own practices. It's not that emergency physicians who are owner-partners in democratic groups cannot commit fraud, but when they do it is because they have chosen to and the fault is their own — they deserve what they get when they are found out. On the other hand, when EPs work for corporate staffing companies they are routinely kept completely in the dark about coding, billing, and collections; are sometimes told to sign the charts of PAs and NPs whether they provided real-time supervision to those providers or not; and are powerless to change things because they can be fired without cause and without due process — and are often coerced with restrictive covenants as well. Despite all that, those emergency physicians are just as legally liable for the fraud they unknowingly commit as those rare emergency physicians who commit fraud deliberately. So, let's be careful out there.*

In his column, "The Truth About APPs," Greg Henry is quite right to say we have a problem with the supervision of nurse practitioners (NPs) and physician assistants (PAs), but things are even worse than he realizes. Dr. Henry identifies only one aspect of the problem when he says, "What we are lacking is a clear vision as to what supervision of non-physician clinicians means." In regard to the supervision of NPs and PAs and the avoidance of fraud, emergency physicians are lacking a great deal more than that.

What many of us lack is any say at all in how NPs and PAs are supervised, much less actual control of that decision. What many of us lack is any knowledge at all of how patients and insurers are billed for our own services, much less the services of NPs and PAs. Only those emergency physicians who own their practices, as part of an equitable and democratic group, get to decide for themselves how the PAs and NPs in their department are supervised (or employed at all) and how their professional services are coded and billed.

Submit a "Letter to the Editor" at [www.aaem.org/publications/common-sense/letters-to-the-editor](http://www.aaem.org/publications/common-sense/letters-to-the-editor).

The growing number of emergency physicians who work for corporate staffing companies (aka contract management groups or CMGs), like those whose ads fill the last few pages of every issue of *Emergency Physicians Monthly*, have no idea what is billed or collected for their professional services by the CMG. In fact, any attempt to find out usually results in the emergency physician being fired, since CMG employment contracts practically always allow for termination without cause and require emergency physicians to waive any right to due process before termination. If we can't decide for ourselves what proper supervision means, we can't prevent fraud. If we can't see what is billed and collected in our names, we can't recognize fraud after it happens. Yet, as long as our names are on the chart, we are still legally liable for any fraud that occurs.

Thus, when a plaintiff's attorney asks those questions Dr. Henry talks about, the honest answer is "I have no idea how our NPs and PAs are screened and credentialed, because I have no role in that or in their hiring. I have no idea if fraud was committed in my name, because I am not told how my charts are coded and billed, or how much money is actually collected. If I try to find out, I will be fired. I have no choice but to sign the charts as I am told, or I will be fired. I have only two choices: do as I am told and operate in the dark, or work somewhere else — and because of the nationwide dominance of the CMG I work for, 'somewhere else' is a small and ever-shrinking place far away."

How did we wind up in such a situation? First, since CMGs control so much of the emergency medicine job market, many emergency physicians have little choice but to work for one. They have little choice but to sign a contract that allows for termination without cause and without due process, even after a reasonable probationary period. They have little recourse when they are told part of the job is signing the charts of PAs and NPs, even though there isn't enough time during a shift to provide proper supervision. In short, they have little control of their own professional practice — at least the business and financial end of it. Second, in my opinion they have been left largely undefended by our specialty's oldest and largest professional society, ACEP, which seems to me to serve corporate interests over the interests of individual emergency physicians. So, I must disagree with Dr. Henry's statement that "ACEP has no choice but to deal with this issue." Until ACEP pays more than lip service to protecting emergency physicians from predatory employment practices and those who profit from them, it can never deal adequately with this issue. ■

## AAEM Antitrust Compliance Plan:

As part of AAEM's antitrust compliance plan, we invite all readers of *Common Sense* to report any AAEM publication or activity which may restrain trade or limit competition. You may confidentially file a report at [info@aaem.org](mailto:info@aaem.org) or by calling 800-884-AAEM.