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How did
**HEALTH
CARE**
get to this
point?

Government announcement

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Fragrant impacts

Consider giving your practice a nose job

How did HEALTH CARE get to this point?

Recounting the steps that have brought
health care to this state

By **Lucien W. Roberts, III, MHA, FACMPE**

I have been fretting about Congressional dysfunction and, selfishly, about its impact on physician practices. Every year, too much time is spent on the short-term crisis (e.g., Medicare's 3.4% cut to physician reimbursement) and too little time on a long-term fix. How did we get to this myopic and demoralizing state of affairs? Here's my take.

Medicare was established back in 1965. Akin to Social Security, Medicare was designed as a "pay it forward" program. Workers and employers contributed to a pool of money to provide care to those on Medicare and Social Security, with an understanding that future generations would do the same for them. It made a lot of sense. Unfortunately, both the Medicare trust fund and Social Security

are slated to run out of funds in the next decade, leaving future generations to hold the bag. What went wrong?

Life expectancy – Medicare was set up to provide health care for seniors for a dozen or so years. But seniors are living 4-plus years longer than they did in 1965. The model hasn't accounted for this increase of 25% and more in longevity. There will be a net increase of 10,000 Medicare enrollees every day between now and 2030.

The worker-senior ratio – When Medicare was created, there were about four U.S. workers for every senior drawing on Medicare and Social Security. The ratio has fallen to 2.8 workers for every senior. It's a function of smaller families (from 3 children per family down to 1.6) and the aforementioned longevity.

Technology – My dad died in 2020 after drawing on Medicare for 25 years. In his final decade, he had multiple joint replacements, a transcatheter aortic valve replacement along with other cardiac procedures, numerous MRIs, CT scans and probably a PET scan or two. All were things that either did not exist in 1965 or would never have been done on someone his age.

Pharmaceuticals – Again using Dad as an example, he was on a slew of medications in his final years for hypertension, joint pain, arrhythmias, anxiety and the like. None of the expensive medications he took every day existed back in 1965. Advances in pharmacology have kept people alive for longer, and the longer one lives, the more parts there are that fall apart and need mending.

HOW DID HEALTH CARE GET TO THIS POINT?

Bureaucracy – Health care has become a bureaucracy. About 30% of the excess money spent on health care in the U.S. can be attributed to administrative layers, per the Commonwealth Fund. Every layer we add between patients and clinicians adds expense.

Tort reform – Tort reform no longer gets the attention it deserves, unfortunately. Defensive medicine has become a given, an expensive given still in need of true reform. It remains a significant cost driver, in my estimation. A patient going to the emergency room with a headache may get an electrocardiogram to rule out something cardiac related, an MRI or CT to rule out a stroke, and a carotid doppler ultrasound to rule out a blockage. Ka-ching! Good care, yes. Necessary care? Not necessarily.

Keeping up with the Joneses

– Many years ago, a hospital CEO wanted my practice to lease an office in a monument he had built to health care excess. He wanted our front door to be across the lobby from a two-story waterfall surrounded by custom stonework. When I told him no, that I didn't want our patients to think their copays were paying for his extravagance, he thought I was an idiot. I wasn't; access trumps excess every time.

Kicking cans down the road –

Politicians kick cans down the road; it's key to reelection. They have known since the early '70s that the pay it forward basis of Medicare and Social Security was collapsing under societal trends and medical advances. What have they done? Kicked the can down the road. At 61 years of age, I figure both systems

will be there for me, but I know neither will exist for my children or grandchildren unless critical, albeit unpopular, decisions are made.

That's how we got here. Where do we go from here? I am not sure.

Rationing is a bad word, but I think it has a place in our future provided tort reform goes hand in hand. Not to be trite or glib, but "we" kept my dad alive five years past his ideal "sell by" date. Hundreds of thousands of dollars were spent keeping him with us in an ever-declining but always-in-pain state. I love Dad and miss him, but I also know it was a huge waste of money.

National health insurance? Possibly. We need to take a hard look at what value health insurance companies bring to the table, particularly given their staggering profits. Perhaps it is time to turn everything upside down and start serving patients rather than stockholders.

I am throwing spaghetti at the writing on the wall. I know. Nothing will happen until Congress unites to address the issues. Wait, I just saw a pig fly overhead. Made you look. Congress is incapable of putting our country ahead of reelection, bipartisanship, and fealty. I know. So do you. But as soon as I advance from knowing the causes to knowing how to fix the problem, you will be the first I call. Promise.

Lucien W. Roberts, III, MHA, FACMPE, is a semiretired practice administrator and long-time writer for *Physicians Practice* and *Medical Economics*®. In his semiretired kind of life, he is fortunate to be part of an infusion center with a simple measure of success, one happy patient at a time.



Government announces 2023 False Claims Act recoveries

U.S. Department of Health and Human Services also is emphasizing cybersecurity

By **Rachel V. Rose, JD, MBA**

It's that time of year again. Typically, in February of each year, the U.S. Department of Justice (DOJ) announces settlements and judgments under the False Claims Act (FCA) for the previous fiscal year. For fiscal 2023, these recoveries exceeded \$2.68 billion and were the result of the highest number of settlements and judgments in a fiscal year to date – 543 total. Notably, this metric is distinct from the overall annual recovered amount. Not surprisingly, the health care sector topped the list of sectors that contributed to the 2023 recoveries. Some key highlights include the following:

- Over \$1.8 billion related to matters that involved the health care industry, including managed care providers, hospitals, pharmacies, laboratories, long-term acute care facilities and physicians;
- The \$1.8 billion reflect recoveries arising only from federal losses, but in many of these cases, the DOJ was instrumental in recovering additional amounts for state Medicaid programs; and
- Recoveries reflect DOJ's focus on key enforcement priorities, including fraud in pandemic relief programs and alleged violations of cybersecurity requirements in government contracts and grants.

An FCA case can either be initiated by the government or brought under the statute's "qui tam" provision, which is when a person represented by a licensed attorney is known as a whistleblower. A whistleblower is required to substantiate that a claim was filed or money was wrongfully received and there is a duty to return the funds to



the government. In fiscal 2023, **“[w]histleblowers filed 712 qui tam suits ..., and this past year the Justice Department reported settlements and judgments exceeding \$2.3 billion in these and earlier-filed suits.”** This serves as a reminder that a comprehensive compliance program is critical for avoiding an FCA case and the potential associated liability. Continued areas of focus for the DOJ are cybersecurity, health care and procurement fraud.

Switching gears to the U.S. Department of Health and Human Services (HHS), on February 21, the Office for Civil Rights (OCR) announced its second ever ransomware cyberattack under the Health Insurance Portability and Accountability Act (HIPAA) against Green Ridge Behavioral Health (GRBH), a practice in Maryland that provides psychiatric evaluations, psychotherapy and medication management. Although the payment amount is low by health care recovery standards, at \$40,000, there was also a corrective action plan. As the Resolution Agreement states, **“Factual Background and Covered Conduct.** On December 12, 2019, OCR initiated an investigation of GRBH pursuant to a Breach Report dated February 11, 2019. OCR’s investigation revealed that GRBH was subject to a ransomware attack that resulted in the acquisition of the protected health information of over 14,000 patients. The evidence gathered by OCR during the investigation indicates GRBH’s non-compliance with the Privacy and Security Rules. HHS’ investigation indicated potential violations of the following provisions (“Covered Conduct”):

a) The requirement to conduct an accurate and thorough risk analysis of the potential risks and vulnerabilities to the confidentiality, integrity and availability of all of its ePHI. (See 45 C.F.R. § 164.308(a)(1)(ii)(A).)

- b) The requirement to implement security measures sufficient to reduce risks and vulnerabilities to ePHI to a reasonable and appropriate level. (See 45 C.F.R. § 164.308(a)(1)(ii)(B).)
- c) The requirement to implement policies and procedures to regularly review records of information system activity, such as audit logs, access reports and security incident tracking reports. (See 45 C.F.R. § 164.308(a)(1)(ii)(A).)
- d) The requirement to not use or disclose protected health information except as permitted by the Privacy Rule. (See 45 C.F.R. § 164.502(a).)”

As both the FCA and HIPAA items illustrate, compliance is critical for mitigating risk and an adverse outcome in a government enforcement action or case. Moreover, it is possible for HIPAA violations to form the basis of an FCA case, as I addressed in a recent Physicians Practice article. Being proactive and fostering a culture of compliance is critical to mitigating the risk of fraud, waste and abuse, as well as cybersecurity violations under HIPAA, the Health Information Technology for Economic and Clinical Health Act, and the 21st Century Cures Act.

Rachel V. Rose, JD, MBA, advises clients on compliance, transactions, government administrative actions and litigation involving health care, cybersecurity, and corporate and securities law, as well as False Claims Act and Dodd-Frank whistleblower cases.

This serves as a reminder that a comprehensive compliance program is critical for avoiding an FCA case and the potential associated liability.

Consider giving your practice a nose job

What impact does your practice's smell have on your staff and patients?

By Neil Baum, M.D.

I have previously written about identifying your practice's UVP or unique value proposition. This is based on differentiating your practice from others in the community or the region. According to a recent article in the *Wall Street Journal* on Feb. 22, workplaces are pumping fragrances into offices to make them smell better. The article focused on Hines' real estate properties in Manhattan trying to

lure renters back to the workplace after the pandemic. Hines populated offices with sensory-stimulating designs such as greener space, natural light and soothing white noise. Their offices offer a unique scent containing Asian jasmine, Indian sandalwood and Italian pine. They believe that the custom-made fragrance improves happiness and confidence and decreases fatigue.

When we were selling our home, the real estate agent would bring freshly baked chocolate chip

cookies into the kitchen right before potential buyers looked at our house. The agent said the cookies would give the home a happy, lived-in appeal.

Evidence of the positive impact of pleasant scents

There are large numbers of people who practice aromatherapy, and they report mood elevation and stress reduction.

The U.S. Food and Drug Administration does not approve aromatherapy to treat any medical



CONSIDER GIVING YOUR PRACTICE A NOSE JOB

condition. Many clinicians may be reluctant to recommend aromatherapy in their practices. The evidence to show that it works needs to improve, as most of it is anecdotal.

Alan Hirsch, M.D., who is the director of the Smell and Taste Treatment and Research Foundation in Chicago, published a paper that showed that more than 80% of study participants were more likely to purchase Nike sneakers in a room scented with a mixed-floral aroma versus those who were in an unscented room. Hirsch pointed out that companies should avoid the combination of lavender and pumpkin pie because of its sexual arousal effect. He studied the impact of odors on penile blood flow and found this combination increases the flow.

Impact of pleasant scents in the workplace

Pleasant smells can positively affect mood and emotions, leading to increased feelings of happiness and well-being. This, in turn, can boost productivity and creativity among employees.

Certain aromas like lavender or

citrus are known for their stress-relieving properties. Introducing these scents in the workplace can help reduce stress and create a more relaxed atmosphere.

Proponents of using fragrances suggest that certain scents, such as peppermint, may help improve concentration and mental clarity. This can be beneficial in tasks that require focus and attention to detail, which is very important in a medical office.

Pleasant smells can contribute to a positive impression of the medical practice. This can be particularly important for practices that want to create a welcoming environment for patients and their families.

Scents in the medical office

What doctor doesn't remember the stench of formaldehyde in the first-year anatomy lab that would linger on clothing until we could shower at the end of the day? As a urologist with over 45 years of experience, I recall the foul odors in our office that were secondary to the cleaning agents, i.e., Cidex, used to soak urologic instruments for sterilization.

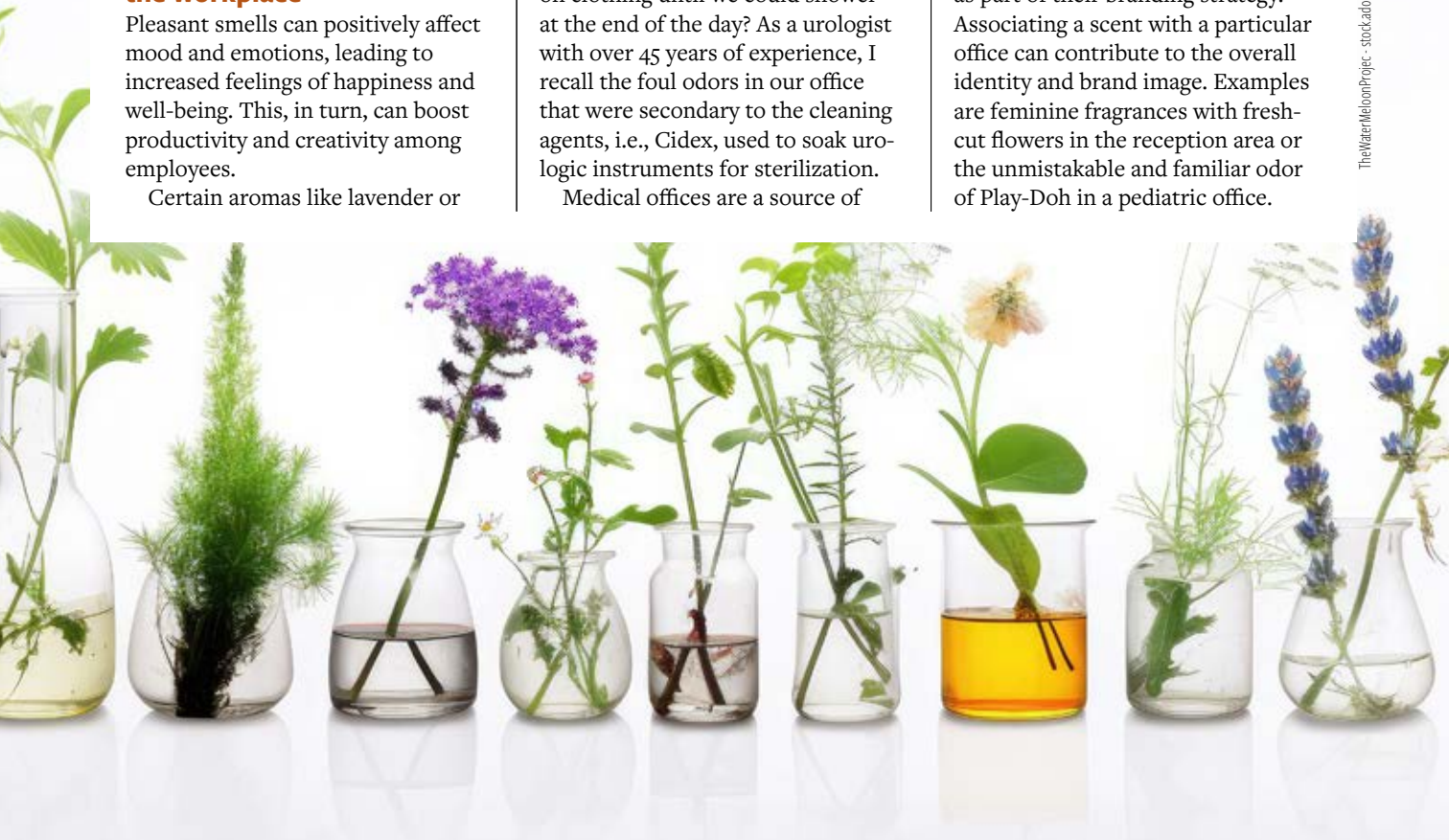
Medical offices are a source of

potential foul odors. Sources include biological waste such as spilled urine or feces in the restrooms, dirty laundry, and food or drink spills in the reception area and employee lounge. Smells can also emanate from infections.

Because odors in a medical office can arise from various sources, it is essential to promptly identify and address these issues to maintain a clean and comfortable environment for patients and staff. Introducing favorable smells can help mask unwanted odors, creating a more pleasant environment.

A pleasant and comfortable work environment contributes to a positive employee experience. This can factor in employee satisfaction and engagement, and even in employee retention and reducing costly employee turnover.

Some practices use specific scents as part of their branding strategy. Associating a scent with a particular office can contribute to the overall identity and brand image. Examples are feminine fragrances with fresh-cut flowers in the reception area or the unmistakable and familiar odor of Play-Doh in a pediatric office.



TheWaterMeloonProject - stock.adobe.com

My research on this topic reveals that Hasbro, the manufacturer of Play-Doh, has trademarked its scent. Hasbro describes its unique scent as a combination of a sweet, slightly musky, vanilla-like fragrance, with slight overtones of cherry and the natural smell of a salted, wheat-based dough, which makes the Play-Doh brand one of the few active and undoubtedly most famous scent trademarks in the country.

It is essential to consider individual preferences and sensitivities when introducing scents in the workplace. Additionally, moderation is important, as excessive use or strong scents may have the opposite effect and become distracting or even unpleasant for some individuals.

Addressing these issues promptly through proper cleaning, waste disposal, ventilation and maintenance can help maintain a hygienic and pleasant environment in a medical office. Regular inspections and adherence to sanitation protocols are essential for preventing foul odors and ensuring a positive patient experience.

Here are some suggestions for enhancing your workplace:

Aromatherapy

Essential oils and diffusers can be used to introduce pleasant scents. Scents like lavender, peppermint, citrus and eucalyptus are known for their calming or invigorating properties.

Fresh flowers and plants

Live plants and flowers add beauty and contribute natural, subtle fragrances to the environment. Consider plants with fragrant flowers or herbs.

Neil Baum, M.D., is a professor of clinical urology at Tulane University in New Orleans, Louisiana. Dr. Baum is the author of several books, including the best-selling “Marketing Your Medical Practice: Ethically, Effectively, Economically,” which has sold over 225,000 copies and has been translated into Spanish.

Scented candles

Scented candles can provide a cozy and pleasant atmosphere. Opt for natural, nontoxic candles with scents that promote focus and relaxation.

Air purifiers with fragrance options

Some air purifiers come with the option to add fragrance pods. This not only improves air quality but also introduces pleasant scents.

Regular cleaning

A clean workplace contributes to a fresh-smelling environment. It is important to take out the trash to maintain a pleasant atmosphere.

Ventilation

Ensure proper ventilation in the workplace to allow fresh air to circulate. Fresh air can help dissipate lingering odors.

Scented air fresheners

Consider using discreet and non-overpowering air fresheners in common areas.

Be mindful of the preferences, allergies and sensitivities of employees. Consider seeking their input or having various options available to accommodate different preferences.

BOTTOM LINE Improving the ambiance and overall experience at a medical practice is essential for patient and employee satisfaction and comfort. Although the term “nose job” is typically associated with cosmetic surgery for the nose, this blog is referring to enhancing the atmosphere or “scent” of the medical practice.

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