

## Surgical monitoring firms receiving scrutiny for doctor

By: Mary Ann Roser, American-Statesman Staff

Some companies that insert needles to monitor a patient's nervous system during a delicate operation are setting up complex business deals with surgeons, raising concerns about sky-high bills and potential overuse of the monitoring.

The lead lawyer for Aetna, the third-largest health insurance company in Texas, said he is concerned about the moneymaking arrangements, along with their potential to drive up health coverage costs for those with commercial insurance.

"When people wonder why insurance is so high, this can contribute to it," said Paul Weller, executive director and senior counsel for Aetna's litigation team. "There are a lot of providers that follow the rules ... and there are always going to be bad actors who are going to take advantage of it."

From what he has learned, Weller said, "some of the medical necessity of the monitoring is in question," but Aetna hasn't determined whether any of the arrangements are fraudulent. "You've got to look at the facts of the specific case," he said.

Brain and spine surgery are among the operations that generally require nervous system monitoring. Surgeons, hospitals and surgery centers contract with companies that provide equipment and trained staff who place needle electrodes in the patient's scalp, skin and muscles. The monitoring is done to help avoid neurological damage. The risk of injury from a needle insertion is small, but infection, bleeding or worse complications are possible.

Weller and others said they are aware that some neuromonitoring companies are setting up business arrangements with surgeons that enable billing at far higher rates because they aren't in the patient's health insurance network. The surgeon gets a share of the proceeds from the out-of-networking billing, which Weller called "the linchpin to the scheme."

In the past couple of years, Aetna has sued hospitals and other facilities for alleged fraud involving out-of-network billing and kickbacks. Around the country, some compounding pharmacies, surgery centers, home health agencies and labs, including those that do regular blood tests and those that perform drug toxicology screens, offer physicians a chance to

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"invest" with the understanding the doctor will be financially rewarded for referring patients.

The Coalition Against Insurance Fraud began to focus on out-of-network billing and the impact on patients last year, coalition Executive Director Dennis Jay said. In a common scenario, a patient goes to a hospital in their health plan but is treated by an emergency physician or consulting doctor who is outside the patient's network. Often the consumer doesn't even know that has happened until the bill arrives, Jay said.

Such "surprise bills" have been getting media attention as health care costs continue to rise.

"We're planning a consumer education program about asking the right questions so as not to get hit with surprise, out-of-network charges," Jay said. "A lot of insurance plans have been eating some of these costs."

The charges can be up to 50 times higher than the in-network charge, he added.

Some companies don't bill Medicare, Medicaid and other government-sponsored coverage to avoid violating the federal Stark Law, which prohibits kickbacks.

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