CRIME IN THE HOME HEALTH CARE FIELD

ABOUT THE AUTHOR

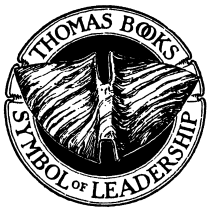
Brian K. Payne received his Ph.D. in Criminology from Indiana University of Pennsylvania in 1993. He is currently an associate professor in the Department of Sociology and Criminal Justice at Old Dominion University. He has published over forty articles in scholarly journals on topics such as elder abuse, white-collar crime, and methods of social control. He is the author of *Crime and Elder Abuse: An Integrated Perspective, Incarcerating White-Collar Criminals,* and co-author of *Family Violence and Criminal Justice: A Life Course Approach.* He is a member of the Virginia Coalition for the Prevention of Elder Abuse and the National Committee for the Prevention of Elder Abuse.

CRIME IN THE HOME HEALTH CARE FIELD

Workplace Violence, Fraud, and Abuse

By

BRIAN K. PAYNE, PH.D.
Department of Sociology and Criminal Justice
Old Dominion University
Norfolk, Virginia



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Dedicated to Kathleen, Chloe, and Charles.

PREFACE

Over the past couple of decades, individuals have come to rely more on home health care visits for their health care needs. While there have been decreases in hospital stays and in the percentage of older persons living in nursing homes, the consequence has been the emergence of a new type of occupational crime–home health care abuse. This new type of offense can be categorized as both an occupational crime *and* a type of elder abuse. Traditionally, both occupational crime and elder abuse have been seen as insignificant in the eyes of many academics, policy makers, and citizens. For those directly involved in the fight against home health care abuses (e.g., the victims, potential victims, and criminal justice officials), the seriousness of home health care abuses is clear.

There have been very few studies on crime and victimization in the home health care industry. A quick review of reports in the media, and government reports, shows that home health care misconduct has emerged as a serious social concern. As an illustration, between 1987 and 1993 only 23 cases of home health care fraud were described in the *Medicaid Fraud Report,* a report describing the activities of Medicaid Fraud Control Units throughout the nation. Between 1993 and 2000, over 273 cases were described in the same report. Of course, these cases are not the only ones that occurred in that timeframe, but the escalation in the number of incidents described in the fraud report is very telling.

In considering offending in the home health care industry, it is important to focus on crimes by and against home health care professionals. The intent of this book is not to suggest that home health care is a dangerous field for workers and consumers; rather, the intent is to shed some light on the types of misconduct found in home health care. Most home health care professionals are honest, trustworthy employ-

ees (just as most clients are not threatening). The few providers and clients who violate occupational norms create enormous problems that could potentially tarnish the image of this important service industry.

This book is one of the first manuscripts to fully address abuses occurring in the home health care industry. It is intended for criminal justice officials, health care professionals, academics, and researchers who want to better understand the nature of offending in the home health care industry. It is also intended for use in criminal justice, sociology, and white-collar crime courses exploring crime in the workplace as well as courses examining the home health care field.

BRIAN K. PAYNE

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Finally, I am indebted to Kathleen, Chloe, and Charles for giving me perspective.

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Chapter 1

HOME, HOME, ON THE RANGE: WHERE HEALTH CARE IS PROVIDED AND CRIMES ARE COMMITTED

INTRODUCTION

Walt Whitman once said, "Now hear me well. Out of every fruition of success, no matter what, comes forth something to make a new effort necessary." In many ways, the advancement of technology allowing for the administration of health care in the home can be seen as a success. As Walt Whitman would have predicted, along with the advances in home health care have come the need to respond to fraud and abuse in the home health care field. Indeed, a new effort has become necessary.

As an illustration of this need for a new effort to respond to home health care fraud and abuse, at a recent congressional hearing Health and Human Services Inspector General June Gibbs Brown described the following incidents occurring in the home health care field:

- A former owner of a Texas home health agency received a 27-month prison sentence after she pled guilty to submitting bills to Medicare for visits her company never provided. The former owner was in business for only six months and managed to falsely bill Medicare for $49,000.
- An accountant pled guilty to his part in a fraudulent home health care scheme after a home health agency owner reported being approached with a scheme in which the accountant offered to make false entries on the owner's cost report as bonuses paid to employees, and the employees would provide kickbacks to the owner.
- The owner and operator of nine home health agencies received a

15-month jail sentence to be followed by 18 months of supervised probation after he pled guilty to filing false Medicare claims, paying kickbacks, and filing false tax returns. His false claims netted him an overpayment of $3.5 million.

- The owner of a home health and limited care agency was found guilty in a jury trial of filing false Medicare claims and transferring operating and services costs from the non-certified limited care agency to her certified home health agency so that the services of the limited care agency would be paid by Medicare. She stole nearly $65,000 in this scheme.
- A home health agency owner from Texas and her family funneled their profits through home health care accounts and eventually into the family's bank account. Once convicted, she was sentenced to 42 months in prison and 3 years probation and ordered to make restitution totaling more than $2.26 million and fined $111,540. She was further ordered to make immediate payment of more than $66,370, which was the profit from sale of her residence, and to forfeit two parcels of property, estimated at $300,000, to be paid to the Department.
- In June 1996, a home health agency owner filed a cost report with more than $500,000 in unsubstantiated costs, most of which were payroll and related costs never paid. The following month, he filed an amended report claiming another $62,000 in consulting fees, allegedly paid in cash which could not be substantiated. Later, the owner used false Internal Revenue Service forms to try to convince an auditor about the unsubstantiated costs, and tried to convince a Government witness to accept responsibility for them. His meeting with the witness was video-taped by investigators. In April 1998, he was sentenced to 18 months in prison and ordered to make restitution of $312,800.
- The former administrator/owner of a Maine home health care agency filed false cost reports that were based on fictitious invoices for office improvements, supplies, computer software development, equipment purchases and rent.
- Mother and daughter home health agency owners received overpayments in the amount of $67,000 by making false statements about home health visits. The mother, who was an administrator of a home health agency, directed the daughter, who also worked there, to falsify Medicare claims for visits not made. They both

entered the Pre-Trial Division Program and were each ordered to make restitution of $8,041.

- The former owner of a now-defunct home health agency pled guilty in Texas to conspiracy to defraud Medicare. She falsely claimed more than $3.6 million in Medicare cost reports. As part of her plea agreement, full restitution will be made. (U.S. House of Representatives, 2000, p. 74)

Clearly, fraud or at least the response to fraud in the home health care field has become a major issue for society, federal and state investigators, and home health care officials and consumers. Little has been written, however, about the nature of crime in this industry. This book fills that void by examining (1) the various forms of crime that arise in the home health care field, (2) the strategies used to respond to these offenses, (3) and the methods that have been shown to be successful in preventing misconduct. It is important to note that a number of different types of offenses both by and against home care officials occur. To provide a framework for understanding crime in this industry, an introduction to the home health care field is warranted. In the following section, the nature, history, structure, and importance of the home health care industry is discussed. This will be followed by an overview of the various crimes that have arisen in the home health care field.

THE NATURE OF HOME HEALTH CARE

Home health care is what it implies–the provision of health care in one's home. The type of health care that can be provided in one's home has grown exponentially along with technological advances so it is prudent to recognize that in many ways the home has taken the place of the hospital. The purpose of home health care, according to Home Care Clinical Specialist Robyn Rice, (2001: 19) is "to provide patients (and caregivers) with the understanding, support, treatment, information, and caring they need to successfully manage their health care needs at home." Howe and Dalton (1997: 17) seem to agree with Rice's characterization of the purpose of home health care as they point out that home care is designed to provide services "to the patient in the home setting for the purpose of restoring and maintaining his or her maximum level of health, function, and comfort." The following list provides the main advantages of receiving home health care as

opposed to institutional care:

- The care is delivered at home.
- Family ties remain intact.
- The client maintains his or her independence.
- Individuals are believed to heal quicker at home.
- Personalized attention is provided to the patient.
- Caregiver stress experienced by family members is reduced.
- Quality of life for the patient and the family is improved. (Spratt, Hawley, and Kolf, 1997)

In essence, home health care services intend to help individuals become, and remain, as healthy as possible. The services may be provided on an intermittent or continuous basis. Intermittent services generally entail periodic visits over an extended period of time. The health care worker spends a limited amount of time with the patient and then moves on to the next patient. Continuous services are provided when the health care employee spends a large chunk of his or her time with a specific patient on a regular basis. Whether a service is intermittent or continuous is dependent on the type of care needed as well as the type of reimbursement provided. If a family does not have insurance to cover longer visits, they may have to rely on intermittent services simply because it is all they can afford.

Current estimates suggest that between seven and eight million individuals receive some form of home health care each year from over 20,000 home care agencies (*American Medical News,* 1998b; National Association of Home Care, 2001; Scher, 1998). As such a huge business, home health care has become an integral part of the health care delivery system. To better understand how the industry became so large, an introduction to the history of the home health care field is warranted.

THE HISTORY OF HOME HEALTH CARE

In *The Sociological Imagination,* C. Wright Mills (1959) skillfully argues that an individual's or an organization's structure, purpose, and overall reality cannot be understood without a basic understanding of the individual's or the organization's past. Just as certain events in an individual's childhood help to shape that individual as an adult, events