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JANICE MAYS,
MINORITY CHIEF COUNSEL

April 26, 2012

The Honorable Daniel R. Levinson
Inspector General
Office of Inspector General
Department of Health and Human Services
Room 5541, Cohen Building
330 Independence Ave SW
Washington, DC 20201

Dear Inspector General Levinson:

I am forwarding for your review and investigation an article published in the *New York Times* that I found horrifying. The article outlines abusive debt collection tactics undertaken by a hospital contractor; tactics that may be in violation of several federal laws, including the Emergency Medical Treatment and Active Labor Act (EMTALA) and the Health Insurance Portability and Accountability Act (HIPAA). This contractor is already being investigated by the Attorney General in at least one state. I ask that you also investigate the contractor mentioned in the article, Accretive Health, for possible violation of federal law. To the extent these activities violate federal law, I request that you report back to me on federal enforcement measures that CMS can and will undertake. Presuming you find these activities violate federal law, I recommend an immediate bulletin or other communication be sent to all Medicare participating hospitals making clear the illegality of this behavior and warning them of possible enforcement action.

Sincerely,

Pete Stark
Ranking Member
Subcommittee on Health

Identical Letter sent to Acting Administrator Marilyn Tavenner, Centers for Medicare and Medicaid Services

New York Times
April 25, 2012

Debt Collector Is Faulted for Tough Tactics in Hospitals

By JESSICA SILVER-GREENBERG

Hospital patients waiting in an emergency room or convalescing after surgery are being confronted by an unexpected visitor: a debt collector at bedside. This and other aggressive tactics by one of the nation's largest collectors of medical debts, **Accretive Health**, were revealed on Tuesday by the Minnesota attorney general, raising concerns that such practices have become common at hospitals across the country.

The tactics, like embedding debt collectors as employees in emergency rooms and demanding that patients pay before receiving treatment, were outlined in hundreds of company documents released by the attorney general. And they cast a spotlight on the increasingly desperate strategies among hospitals to recoup payments as their unpaid debts mount.

To patients, the debt collectors may look indistinguishable from hospital employees, may demand they pay outstanding bills and may discourage them from seeking emergency care at all, even using scripts like those in collection boiler rooms, according to the documents and employees interviewed by The New York Times.

In some cases, the company's workers had access to health information while persuading patients to pay overdue bills, possibly in violation of federal privacy laws, the documents indicate.

The attorney general, Lori Swanson, also said that Accretive employees may have broken the law by not clearly identifying themselves as debt collectors. Accretive Health has contracts not only with two hospitals cited in Minnesota but also with some of the largest hospital systems in the country, including Henry Ford Health System in Michigan and Intermountain Healthcare in Utah. Company executives declined to comment on Tuesday.

Although Ms. Swanson did not bring action against the company on Tuesday, she said she was in discussions with state and federal regulators about a coordinated response to Accretive Health's practices across the country. Regulators in Illinois, where Accretive is based, are watching the developments closely, according to Sue Hofer, a spokeswoman with the State Department of Financial and Professional Regulation.

"I have every reason to believe that what they are doing in Minnesota is simply company practice," Ms. Swanson said in an interview, but declined to provide details.
In January, Ms. Swanson filed a civil suit against Accretive after a laptop with patient information was stolen, saying that the company had violated state and federal debt collection laws and patient privacy protections. That action is still pending.

An Accretive spokeswoman declined to comment on whether other states were looking into its practices and issued a brief statement, "We have a great track record of helping hospitals enhance their quality of care." In its annual report, the company said it was cooperating with the attorney general to resolve the issues in Minnesota.

As hospitals struggle under a glut of unpaid bills, they are reaching out to companies like Accretive that specialize in collecting medical bills.

Hospitals have long hired outside collection agencies to pursue patients after they have left hospital facilities. But financial pressures are altering the collection landscape so that they are now letting collection firms in the front door, according to Don May, the policy adviser for the American Hospital Association, a trade group.

To achieve promised savings, hospitals turn over the management of their front-line staffing — like patient registration and scheduling — and their back-office collection activities.

Concerns are mounting that the cozy working relationships will undercut patient care and threaten privacy, said Anthony Wright, executive director of Health Access California, a consumer advocacy coalition. "The mission of these companies is in direct opposition to the supposed mission of these hospitals."

Still, hospitals are in a bind. The more than 5,000 community hospitals in the United States provided $39.3 billion in uncompensated care — predominately unpaid patient debts or charity care — in 2010, up 16 percent from 2007, the hospital association estimated.

Accretive is one of the few companies specializing in hospital debt collection that is publicly traded. Last year, it reported $29.2 million in profit, up 130 percent from a year earlier.

Late last month, Fairview Health Services, a Minnesota hospital group that Accretive provided services to, announced it was canceling its contract with Accretive for back-office debt collection. After Accretive informed investors, its stock plunged 19 percent in a day. On Tuesday, the company's shares closed at $18.49, down 2.7 percent.

Accretive says that it trains its staff to focus on getting payment through "revenue cycle operations." Accretive fostered a pressurized collection environment that included mandatory daily meetings at the hospitals in Minnesota, according to employees and the newly released documents. Employees with high collection tallies were rewarded with gift cards. Those who fell behind were threatened with termination.

"We've started firing people that aren't getting with the program," a member of Accretive's staff wrote in an e-mail to his bosses in September 2010.

Collection activities extended from obstetrics to the emergency room. In July 2010, an Accretive manager told staff members at Fairview that they should "get cracking on labor and delivery," since there is a "good chunk to be collected there," according to company e-mails.

Employees were told to stall patients entering the emergency room until they had agreed to pay a previous balance, according to the documents. Employees in the emergency room, for example, were told to ask incoming patients first for a credit card payment. If that failed, employees were told to say, "If you have your checkbook in your car I will be happy to wait for you," internal documents show.

Employees at Accretive's client hospitals ask patients to make "point of service" payments before they receive treatment. Until she went to Fairview for her son Maxx's ear tube surgery in November, Marcia Newton, a stay-at-home mother in Corcoran, Minn., said she had never been asked to pay for care before receiving it. "They were really aggressive about getting that money upfront," she said in an interview.
Ms. Newton was shocked to learn that the employees were debt collectors. "You really feel hoodwinked," she said.

While hospital collections at Fairview increased, patient care suffered, the employees said. "Patients are harassed mercilessly," a hospital employee told Ms. Swanson.
Patients with outstanding balances were closely tracked by Accretive staff members, who listed them on "stop lists," internal documents show. In March 2011, doctors at Fairview complained that such strong-arm tactics were discouraging patients from seeking lifesaving treatments, but Accretive officials dismissed the complaints as "country club talk," the documents show.

Ms. Swanson said that the hounding of patients violated the **Emergency Medical Treatment and Active Labor Act**, a federal law requiring hospitals to provide emergency health care regardless of citizenship, legal status or ability to pay.

In the January lawsuit, Ms. Swanson said that by giving its collectors access to health records, Accretive violated the **Health Insurance Portability and Accountability Act**, known as Hipaa (pronounced HIP-ah). For example, an Accretive collection employee had access to records that showed a patient had **bipolar disorder, Parkinson's disease** and a host of other conditions.

In addition, she said, the company broke state collections laws by failing to identify themselves as debt collectors when dealing with patients.

Late Tuesday afternoon, Accretive announced it won a contract to provide "revenue cycle operations" for Catholic Health East, which has hospitals in 11 states.

This article has been revised to reflect the following correction:

Correction: April 24, 2012

An earlier version of this article misstated a measure of Accretive Health's financial performance. Last year the company reported net income — not revenue — of $29.2 million. An earlier version also misspelled the name of Marcia Newton's son. His name is Maxx, not Max.