

# ‘Bad Apples In A Barrel’: How Fraudsters In Home Health Care Impact The Entire Space

By [Joyce Famakinwa](#) | July 19, 2024

The home health industry has its very own boogeyman — the bad actor.

However, there’s a difference between providers that have made errors in claims processing or quality of care provisions versus those taking part in purposeful fraudulent activity, according to National Association for Home Care & Hospice (NAHC) President William A. Dombi.

“The outright fraud, where it’s very overt and purposeful, is the greatest concern,” he told Home Health Care News. “What makes a bad actor is a party that gets into home health care for purposes of stealing from Medicare, Medicaid and others. Their goal is not to provide care, in contrast to those who may make mistakes, but still have a goal to provide compliant high-quality care.”

Put simply, the bad actor is the type of provider that regulators want to drive out of home health care, and the type that industry peers work to avoid being associated with.

## The history of fraudsters in the space

In terms of the prevalence of bad actors in the industry, home health care has gone through phases.

In the 1990s bad actors were pervasive in home health, particularly in certain parts of the country, Dombi noted.

“South Florida was an area that drew a lot of attention,” he said. “It reached a point where the Department of Justice actually composed inter-agency hit squads to go after home health, and it included everybody from the Federal Trade Commission to the U.S. mail service, bringing all resources to bear. There were lots of prosecutions, many convictions and guilty pleas with significant amounts of jail time and financial penalties assessed.”

Over the next two decades, the presence of bad actors in home health care would lessen, but these kinds of operators didn’t completely disappear from the space.

In the early 2000s, one scheme that became common was creating a home health agency for the sole purpose of selling inventory instead of delivering care.

“That’s not the kind of roll up that some investors may look at,” Dombi said. “This is where they were just trying to create an inventory, as if it were a convenience store, to sell things off the shelf. We’re seeing a bit of a rebirth of that in home health, but also the same

concept is coming into hospice in the [Los Angeles] area. When we're looking at those [agencies], they have some of the same kinds of identifiers of risk, as we have seen from years past."

Though the hospice is the focus of fraud in the California area, [home health care might not completely be in the clear](#).

"We've heard, anecdotally, that in California, they were switching patients between [home health and hospice] settings, in order to get reimbursement on both sides of the payment system," Katy Barnett, director of home care and hospice operations and policy at LeadingAge, told HHCN. "I would say that fraud in that way is more prevalent than we might know because nobody has really dug into the data. To be fair to the researchers out there, CMS' information on surveys of agencies hasn't been updated since quarter two of 2022."

### **Industry-wide impact**

While in theory it may seem easy for providers that are operating in good faith to just stay on the right track, the actions of bad actors impact the entire industry.

Oftentimes, the result of these actions are the implementation of regulation with broad-based application that creates administrative burdens for honest providers.

"We would much prefer to see a targeted capability applied," Dombi said. "They have that capability to target these providers, whether it's special rules for new providers of services, or just saying, 'We're choosing to do an audit, we're choosing to do a survey of you' because there's nothing that prevents them from doing an audit, or a survey, when suspicions arise or otherwise."

The presence of bad actors also has the ability to taint home health's reputation at large.

"In the 90s, I was in a taxi in Boston and the taxi driver asked me, 'What do you do?'" Dombi said. "I explained, and he goes, 'Isn't that where all the health care fraud is?' When it gets to a discussion level from a taxi driver in Boston, you know reputations are being harmed. This might not matter as much in a conversation with a taxi driver in Boston, but when that reputation finds its way to Congress, which we have had to deal with time and time again, they become very hesitant to believe anything that the community offers to them."

Dombi noted that this becomes a roadblock when industry advocates try to inform Congress about access-to-care issues.

"Their minds divert to, 'Oh there's a fraud problem out there, and we can't trust these people,'" he said. "There's nothing worse than being distrusted because of the acts of some bad apples in the barrel."

Arguably, one of the biggest impacts that bad actors have had on the home health space is the implementation of the Patient-Driven Groupings Model (PDGM), in the place of the former Prospective Payment System (PPS).

“That was because a lot of bad actors were trying to prioritize profit over providing for patients, and were gaming the system in order to increase their profits,” Barnett said. “That was the impetus for changing to a different system that didn’t reward the number of therapy visits.”

Despite the detrimental impact of bad actors, good actors aren’t letting them drive the narrative.

“I think there is an effort on the side of good actors to try and elevate themselves and speak out about the issues in the system, and to talk more about the good work that is going on in home health,” Barnett said.

Ultimately, the presence of bad actors has contributed to greater collaboration among good actors.

“I think it has pulled the home health care community together to act in a high level of collaboration, in order to demonstrate to both Congress and CMS that we can be effective, and trustworthy partners,” Dombi said. “Likewise, we’ve seen the same thing happen on the hospice side of it. It has helped unite providers of services.”