

# CALIFORNIA LEGISLATURE

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

Mike Boswood  
President and Chief Executive Officer  
Truven Health Analytics  
777 E. Eisenhower Parkway  
Ann Arbor, MI 48108

Via Facsimile: (734) 913-3700

Dear Mr. Boswood:

We are writing to voice our concerns about the integrity of Truven's *Top 100 Hospitals* and *Top 15 Health Systems* programs and the implications this may have for healthcare consumers in California. Truven's glowing evaluation of Ontario, California-based Prime Healthcare Services – awarding Prime eight of California's fifteen *Top 100 Hospital* places and one of just two *Top 15 Health Systems* honors – is so at odds with the company's reputation and record in California as to strain Truven's own credibility.

As Chairs of the Senate and Assembly Health Committees, and as medical professionals ourselves, it is deeply important to us that California consumers have the best possible information available as they make critical healthcare decisions for themselves and their families. To this end, we are writing to ask Truven to take a thoughtful look at the data Prime Healthcare submitted to Medicare and which you rely on for your ratings programs, and provide updated ratings to consumers as appropriate. Please do accept this letter and our questions in the spirit of respect with which it is written – for your 20 years of work in this field, and in appreciation of our shared interest in measuring, recognizing and promoting the highest quality health care.

Prime Healthcare disclosed in January, 2013 that it is the target of a federal investigation for alleged Medicare upcoding. Prime's Medicare billings were the subject of a year-long investigation<sup>1</sup> by *California Watch*, who won last year's Polk Award in the Medical Reporting category for the series *Decoding Prime*, which revealed implausibly high rates of serious conditions reported by Prime in its Medicare bills. Medical conditions billed to Medicare by Prime at implausible rates include septicemia,

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<sup>1</sup> <http://californiawatch.org/prime>

Kwashiorkor, nutritional marasmus, encephalopathy, autonomic nerve disorder and malignant hypertension. It is our understanding that these Medicare bills serve as the very same data Truven uses to assess the quality and efficiency.

High profile news about Prime's Medicare bills and other troubling practices have run in numerous venues, including *PBS Newshour*<sup>2</sup>, the *Los Angeles Times*, the *Orange County Register*, the *San Diego Union-Tribune*, the *Riverside Press-Enterprise*, the *San Francisco Chronicle* and the *Sacramento Bee*. The *Los Angeles Times*, *California Watch* and others have further reported on troubling emergency room business practices at Prime, as well as Prime's intentional violation of a patient's privacy aimed at suppressing a report about the company's Medicare bills. In the case of Prime's patient privacy violations, its practices led California regulators to fine the system \$95,000 for an unauthorized disclosure of medical records. In June 2013, Prime Healthcare agreed to pay \$275,000 to settle a federal investigation into this same disclosure. Furthermore, our own legislative committees heard deeply troubling testimony about Prime Healthcare's record with patients, managed care plans and Medicare at a joint informational hearing held on February 24, 2012.

Because Truven markets itself as a leader in healthcare analytics, and even markets specific products and services to help government and others detect medical claims for fraud and abuse, your researchers are in a unique position to evaluate the concerns raised by Prime Healthcare's detractors with respect to suspicious statistical patterns in Prime's Medicare billing data.

Prime's Medicare bills for Kwashiorkor make for a striking example. Kwashiorkor is a form of severe malnutrition typically found among starving children in famine-struck regions and rarely found in the United States. But in 2010, Prime's Shasta Regional Medical Center diagnosed 20% of Medicare seniors with Kwashiorkor. Another 12% had other forms of severe malnutrition according to the hospital's 2010 Medicare bills – on the strength of which Shasta Regional Medical Center was named a Truven *Top 100 Hospital* in 2013.

The American Hospital Association's definitive *Coding Clinic for ICD-9-CM*, third quarter 2009, states that coders should not report ICD-9-CM code 260 (Kwashiorkor) unless the provider has specifically documented Kwashiorkor; yet in a January recording, Prime's chairman Dr. Prem Reddy acknowledged that, "none of our doctors really wrote Kwashiorkor in the charts."

Prime's effort to suppress a news report about the 1,000+ cases of Kwashiorkor at Shasta Regional led to sanctions in California<sup>3</sup>, and a \$275,000 settlement with the federal government, after the hospital's CEO and CMO reviewed a Kwashiorkor-diagnosed patient's unredacted medical record with the editor of her hometown newspaper, without her permission<sup>4</sup>. The officials, together with top officials at Prime's home office, also shared protected health information about the patient, Darlene Courtois, with hundreds of hospital staff members and several members of the press.

More broadly, our Senate and Assembly Health committees heard lengthy testimony at a February 24, 2012 joint informational hearing<sup>5</sup>, raising grave concerns about Prime Healthcare's practices. Compelling

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<sup>2</sup> <http://goo.gl/UioSm>

<sup>3</sup> <http://goo.gl/Dn06W>

<sup>4</sup> <http://goo.gl/XQ1X5>

<sup>5</sup> <http://shea.senate.ca.gov/2012informationalhearings>

testimony came from prominent managed care providers, a physician, family members and healthcare advocates. Witnesses raised serious concerns about Prime's emergency room practices, including the possibility that patients were being admitted unnecessarily, as well as statistical patterns indicative of potential upcoding.

Our concerns were heightened following a February 6, 2013 report<sup>6</sup> concerning a recorded talk that Dr. Reddy gave physicians at a recently-acquired hospital in Weslaco, Texas this January:

According to an hour-long recording of his presentation, Reddy encouraged the doctors to augment their patients' charts with multiple secondary diagnoses for what he called "comorbid conditions." Medicare pays hefty treatment bonuses worth thousands of dollars per case for treating patients who suffer from specified "major complications and comorbidities," federal records show.

Reddy also urged the doctors to find reasons to admit Medicare patients to the hospital rather than treating them as outpatients, saying the Medicare payouts would triple.

Prime hospitals report very high acuity levels, yet also report shorter-than-average hospital stays<sup>7</sup>. A hospital with higher acuity levels, if accurately diagnosed, would be expected to report higher-than-average length of stays. A high acuity case-mix at Prime is especially surprising given allegations<sup>8</sup>, corroborated by Dr. Reddy's own, aforementioned speech, suggesting that Prime hospitals may admit relatively low acuity patients who could be treated on an outpatient basis. Yet six of the ten hospitals with the highest MS-DRG case-mix in the United States<sup>9</sup> were all operated by Prime Healthcare. Five of the six were named *Top 100 Hospitals* by Truven in 2013.

We question whether overstated patient acuity may make it difficult or impossible to accurately measure and compare the quality and efficiency of care. If patients are not as sick as reported to Medicare, doesn't that lead to better-than-expected outcomes when the patients are discharged more quickly than expected, and die less frequently?

Take a final example from a *California Watch* analysis<sup>10</sup> showing that one Prime hospital, Chino Valley Medical Center, saw 442 Medicare cases for patients who (according to the hospital's Medicare bills) had *both* acute heart failure *and* septicemia. That figure represents 7.8% of the hospital's Medicare patients from 2008-2010, 15 times the statewide proportion. Of these 442 patients, 99 were discharged alive, to their homes, after hospital stays of two days or less. UCLA heart specialist Dr. Gregg Fonarow questioned the outcomes reported to by Prime to Medicare, telling *California Watch*, "A very short (hospital stay) with discharge to home for septicemia alone or with AHF are very unlikely for patients that meet clinical criteria for these diagnoses."

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<sup>6</sup> <http://goo.gl/LxNpS>

<sup>7</sup> <http://goo.gl/TkuhK> (pg 9)

<sup>8</sup> See, e.g., <http://goo.gl/kmWkn>

<sup>9</sup> The data purports to show the ten hospitals with the highest MS-DRG case-mix index among general medical inpatients aged 65 and older in 2010, from Medicare MedPAR dataset.

<sup>10</sup> <http://goo.gl/fl3fD>

If the reported diagnoses were accurate, the outcomes would be remarkable indeed – even miraculous – and Prime’s quality awards would be well-deserved. But questions about Prime’s Medicare bills have triggered a federal probe and Truven’s credulous use of the same billing data may reflect poorly on the quality of information your *Top 100* and *Top 15* programs provide to California consumers.

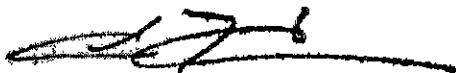
Truven’s Statement of Study Integrity<sup>11</sup> states your intention, “to revoke a 100 Top Hospitals award if a hospital is found to have submitted inaccurate or misleading data to any 100 Top Hospitals data source.” Yet even in the presence of two federal investigations, an award-winning investigative series and your own ability to replicate the data analyses that led both news reports and one of the investigations, you have recognized Prime Healthcare above any other California provider, bestowing upon it one of California’s two *Top 15* honors, and eight of our state’s fifteen *Top 100* awards.

We ask that you please scrutinize the data and provide updated information to California consumers if appropriate. We also ask that you provide us with answers to several questions we have about the data and your findings.

- How would quality rankings be affected if a hospital or health system systematically exaggerates patient diagnoses?
- How would quality rankings be affected if a hospital or health system unnecessarily treats low-acuity patients on an inpatient basis, then subsequently records high-acuity diagnoses?
- Are the statistics reported by *California Watch* consistent with your own extensive review of 2010 and 2011 Medicare data? In particular:
  - Among general medical patients do any Prime Healthcare hospitals bill Medicare for markedly higher-than-average acuity?
  - Do any Prime hospitals report that an unusual number of patients suffer from Major Complications or Comorbidities, as defined by Medicare?
  - Do any Prime hospitals report markedly high rates of kwashiorkor, nutritional marasmus, encephalopathy or autonomic nerve disorder?

Thank you for your prompt attention to this matter.

Sincerely,



**ED HERNANDEZ, O.D.**

Chair, Senate Committee on Health



**RICHARD PAN, M.D.**

Chair, Assembly Committee on Health

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<sup>11</sup> [http://www.100tophospitals.com/about\\_us/study\\_integrity.aspx](http://www.100tophospitals.com/about_us/study_integrity.aspx)