

Kickback Scheme Earns Pain Management Doctor 8-Year Prison Sentence

Recent sentencing in a healthcare fraud case drives home how insidious a problem it can be, and how seriously the justice system takes it.

Atif Babar Malik, 48, of Germantown, Maryland, was sentenced to eight years in federal prison for his part in defrauding the government of healthcare reimbursements and tax revenue. Chief U.S. District Judge James K. Bredar handed down the sentence, which includes three years of supervised release following the prison term. Additionally, Bredar ordered Malik to pay \$75,000 in fines, \$175,000 in restitution, and to forfeit more than \$240,000.

Malik, a physician specializing in pain management, partnered with Dr. Sandeep Sherlekar (a co-defendant in the case, now deceased) nearly a decade ago to form Advanced Pain Management Services, LLC (APMS), with offices in Maryland and New Jersey. More than a year after opening its doors, APMS began doing business as American Spine Center, LLC (APMS/ASC).

Lab approached doctors with idea

Court transcripts reveal that a marketing professional with Accu Reference approached Muhammad Ahmad Khan and Vic Wadhwa, the CEO and CFO of APMS/ASC, respectively, and suggested that they should begin sending their patients' urine specimens to Accu Reference. (Because APMS/ASC required that patients receiving controlled substances for pain management undergo regular toxicology screening to keep watch on the medication levels in their systems, there were plenty of opportunities for those transactions.)

The proposal included the enticement of illegal kickbacks in return for the urinalysis referrals. Malik and Sherlekar allegedly agreed to the scheme, and thereafter all patient urine samples were directed to Accu Reference.

According to evidence presented during Malik's 13-day trial, APMS/ASC referred on average 700 to 1,300 urine screens to Accu Reference every month beginning in April of 2011 and ending in July of 2012. Consequently, Accu Reference took in around \$4.4 million from Medicare and private insurers in urinalysis reimbursements. Accu Reference turned around and shared its profits with the four APMS/ASC principals, for a total of nearly \$1.4 million in illicit kickbacks (although it was later revealed that Khan and Wadhwa apparently held back more than their share of the spoils).

Claims forms didn't always tell the whole truth

The fraudulent activity didn't end there, however. Trial evidence outlined an anesthesia billing scheme perpetrated by APMS/ASC in addition to the urinalysis kickbacks. Allegedly, from 2010 through 2012, fraudulent claims were submitted to Medicare and private insurers, asserting that two doctors had administered pain management and anesthesia, when in truth only one had. This "upcoding" resulted in unearned payments from insurers.

An illustrative example given to the court involved an incident in January of 2012 when Sherlekar administered anesthesia and nerve blocking spinal injections to patients; he texted Malik, who was not at that location on that day: "I am using your name today as surgeon as we have 34 procedures here [in the Frederick facility] and 20 in Waldorf," to which Malik responded "ok." (Malik worked at his office in Hackettstown, New Jersey on the day in question.)

Defendant admitted to defrauding the IRS



Malik's sentencing included more than healthcare fraud. In June the pain management physician pleaded guilty to conspiracy to defraud the government through tax evasion. He admitted to underreporting his taxable income by nearly \$3.5 million from 2009 to 2012. This income omission resulted in over \$1.1 million in his pocket that should have been paid to the IRS.

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