

JUSTICE NEWS

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United States Files False Claims Act Complaint Against Compounding Pharmacy, Private Equity Firm, and Two Pharmacy Executives Alleging Payment of Kickbacks

The United States has filed a complaint in intervention against Diabetic Care Rx LLC d/b/a Patient Care America (PCA), a compounding pharmacy located in Pompano Beach, Florida, alleging that the pharmacy paid illegal kickbacks to induce prescriptions for compounded drugs reimbursed by TRICARE, the Department of Justice announced today. The government has also brought claims against Patrick Smith and Matthew Smith, two pharmacy executives, and Riordan, Lewis & Haden Inc. (RLH), a private equity firm based in Los Angeles, California, which manages both the pharmacy and the private equity fund that owns the pharmacy, for their involvement in the alleged kickback scheme.

TRICARE is a federally-funded health care program for military personnel and their families. The government alleges that the Defendants paid kickbacks to marketing companies to target TRICARE beneficiaries for prescriptions for compounded pain creams, scar creams, and vitamins, without regard to the patients' medical needs. According to the complaint, the compound formulas were manipulated by the Defendants and the marketers to ensure the highest possible reimbursement from TRICARE. The Defendants and marketers allegedly paid telemedicine doctors to prescribe the creams and vitamins without seeing the patients, and sometimes paid the patients themselves to accept the prescriptions. The scheme generated tens of millions of dollars in reimbursements from TRICARE in a matter of months, according to the complaint, which alleges that the Defendants and marketers split the profits from the scheme.

"The Department of Justice is determined to hold accountable health care providers that improperly use taxpayer funded health care programs to enrich themselves," said Acting Assistant Attorney General for the Justice Department's Civil Division Chad A. Readler. "Kickback schemes corrupt the health care system and damage the public trust."

"Providers and marketers that engage in kickback schemes drive up the cost of health care because they focus on their own bottom line instead of what is in the best interest of patients," said Executive Assistant Randy Hummel of the United States Attorney's Office for the Southern District of Florida. "We will hold pharmacies, and those companies that manage them, responsible for using kickbacks to line their pockets at the expense of taxpayers and federal health care beneficiaries."

“The Defense Criminal Investigative Service (DCIS) is committed to protecting the integrity of TRICARE, the military health care program that provides critical medical care and services to Department of Defense beneficiaries,” said Special Agent in Charge John F. Khin, of the Southeast Field Office. “In partnership with DOJ and other law enforcement agencies, DCIS continues to aggressively investigate fraud and corruption to preserve and recover precious taxpayer dollars to best serve the needs of our warfighters, their family members, and military retirees.”

The lawsuit, *United States ex rel. Medrano and Lopez v. Diabetic Care Rx, LLC dba Patient Care America, et al.*, No. 15-CV-62617 (S.D. Fla.), was originally filed in the U.S. District Court for the Southern District of Florida by Marisela Medrano and Ada Lopez, two former employees of PCA. The lawsuit was filed under the qui tam or whistleblower provisions of the False Claims Act, which permit private parties to sue for false claims against of the United States and to receive a share of any recovery. The Act permits the United States to intervene in such lawsuits, as the United States has done in this case.

This matter was investigated by the Civil Division’s Commercial Litigation Branch, the U.S. Attorney’s Office for the Southern District of Florida, the Defense Criminal Investigative Service, the U.S. Food and Drug Administration’s Office of Criminal Investigations, and the U.S. Army Criminal Investigation Command’s Major Procurement Fraud Unit.

The claims asserted against the defendants are allegations only; there has been no determination of liability.

Topic(s):

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Health Care Fraud

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