Published on *The National Law Review* https://natlawreview.com

Going Under: Whistleblower Receives Over $1.3 Million for Reporting Anesthesia Services Kickback Scheme

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APRIL 19, 2022. What if the surgeon from whom you were about to receive care chose the anesthesia provider for your surgery not based on quality or value, but because the surgeon and anesthesia provider are in a financial arrangement that benefits them—and not you? [A whistleblower reported just that situation in Georgia.] The United States Department of Justice recently settled a case against the owners of an anesthesia services company and 18 related entities for an unlawful kickback arrangement with surgery centers, as well as submitting false claims to federal and state healthcare programs. Under the terms of the settlement, the anesthesia services companies will pay $7.2 million. The whistleblower was a C-suite executive of the company, Care Plus Management LLC (Care Plus), and they will receive $3.1 million of the government's recovery.

According to the allegations, the fraud scheme involved a symbiotic—or parasitic—relationship between Care Plus and outpatient surgery centers in Georgia, Florida, Texas, Alabama, and South Carolina. Care Plus approached surgeon/owners of ambulatory surgery centers (ASCs), particularly in gastroenterology, podiatry, and vascular surgery specialties. The anesthesia service provider paid kickbacks to surgeons for choosing Care Plus' and affiliates' services through revenue sharing for patient referrals and also by paying the surgeons subsidies for anesthesia drugs and supplies. Anesthesia services companies financially benefit from a steady revenue stream when they engage in partnerships with ASCs, and these kickback arrangements are how CarePlus secured exclusive contracts with a number of ASCs. Physician-owners already profit when they refer patients to outpatient surgery centers that they own, because the providers then share in the facility fee charged to the patient. According to the complaint, Care Plus entered into "sham joint ventures" with physicians, whereby Care Plus concealed kickbacks as "profits" of these ventures.

These allegations violate not only the federal False Claims Act, but also several state statutes, including the Georgia Taxpayer Protection False Claims Act, Georgia State False Medicaid Claims Act, several Texas fraud-related acts, and the Florida False Claims Act. In some states, whistleblowers are specifically rewarded for reporting Medicaid-related fraud, as states pay a portion of Medicaid costs.

As the Special Agent in Charge of the U.S. Department of Health and Human Services Office of

Inspector General (HHS-OIG) said about this case, “Health care providers using kickbacks to boost their profits threaten the impartiality of medical decision-making, the financial integrity of Medicaid, and the public’s trust in the health care system.” We often discuss on this blog how fraudsters relentlessly target vulnerable poor and elderly populations in order to turn a profit; few people are more vulnerable than when they are unconscious during surgery!

The whistleblower who reported this fraud received almost 20% of the settlement. The Department of Justice needs whistleblowers to report fraud involving unlawful kickback arrangements between physicians and medical services providers.

National Law Review, Volumess XII, Number 109