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Park Ridge owner agrees to $115M fine

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The corporate owner of Park Ridge Health has agreed to pay a $115 million fine for filing false or inflated insurance claims and paying kickbacks to physicians for hospital referrals in violation of state and federal law, according to a settlement agreement filed Monday in a whistleblower case originally brought by three Park Ridge employees.

Adventist Health System Sunbelt Healthcare Corp., the Orlando-based owner of Park Ridge and 43 other hospitals in 10 states, agreed to the fine in exchange for an agreement by U.S. and state prosecutors to drop further civil actions arising from alleged false claims, inflated bills and kickbacks to referring physicians in four states.

The settlement came in a case first brought in December 2012 by three whistleblowers who were Park Ridge employees with inside knowledge of physician recruitment, billing practices and compliance issues. They were Michael Payne, a risk manager who had worked there for nine years; Melissa Church, executive director of physician services and an employee for 15 years; and Gloria Pryor, a compliance officer who had worked at the Fletcher hospital for 19 years. The three employees filed the complaint under the federal False Claims Act, which protects whistleblowers and rewards those whose complaint results in the recovery of government money. In 2013, Sherry Dorsey, a corporate vice president who joined Adventist in 2012, filed a second whistleblower lawsuit under the federal False Claims Act.

Among the types of whistleblower cases that have produced fines or recovered funds are complaints involving Medicare and Medicaid fraud, defense contractor fraud and other cases of false or inflated claims.

In their original complaint, Payne, Church and Pryor alleged that Adventist knowingly defrauded the U.S. government and the states of North Carolina, Florida, Tennessee, Georgia, Texas and Illinois in connection with Medicare, Medicaid and other federal health insurance programs by engaging in “a scheme to pay improper compensation to physicians to induce them to illegally refer patients” to its hospitals for inpatient and other services.

“Companies that financially reward physicians in exchange for patient referrals – as the government contended in this case – undermine the physicians’ impartial medical judgment at the expense of patients and taxpayers,” Derrick L. Jackson, special agent in charge of the U.S. Department of Health and Human Services Office of Inspector General in Atlanta, said in a news release. “We will continue to investigate such wasteful business arrangements.”

In a statement, Adventist said that the settlement “fully resolves issues AHS voluntarily disclosed to the United States government in early 2013 involving its implementation of certain physician employment compensation models and highly technical physician billing and coding issues.” The hospital chain said it had instituted reforms such as a centralized process to set physician salaries.

“Adventist Health System regrets these oversights,” the statement said, “and while some of its hospitals had no violations, the organization has improved monitoring and business practices system-wide as a result of lessons learned from this experience so that it can continue to uphold the highest standards of compliance with regulations.”

Referral driven compensation'

Specifically, the whistleblower complaint said, the hospitals offered pay far above market value and tolerated losses among the physician practices because the losses were more than covered by the referrals. The “referral-driven compensation” included a variety of kickbacks, they said, including “hefty annual salaries” for part-time or nonproductive work, “excessive bonuses” based on hospital revenue and sharing of excess revenue “from known overbilling by employed and contracted physicians.” The arrangements, the lawsuit said, violated the federal Stark Act, which prohibits hospitals from submitting Medicaid or Medicare claims on behalf of doctors who have an improper financial relationship with the hospital; the federal Anti-Kickback Statute and the federal False Claims Act.
According to the complaint, Adventist in the early 1990s “initiated an aggressive strategy” in which it encouraged AHS hospitals to buy as many physician practices as they could in order to control referrals for both inpatient and outpatient services. To sweeten the deal, the employees said, AHS hospitals paid physicians with “excessive compensation, perks and benefits.” Although many of the hospital-owned practices lose money, the loss is made up by referrals to hospital services, then billed by the hospital, often at higher rates than would have been charged had the procedures been done at the doctors’ offices, the whistleblowers said. In summary, their lawsuit added, “Defendants are making excessive and referral-volume-based payments to their employee and contract physicians for the purpose of inducing referrals” to the hospital. Hospital executives turned a blind eye to this “upcoding and overbilling,” the Park Ridge employees said, because to stop the arrangement would strain relations with physicians and reduce the hospital’s revenue. At Park Ridge specifically, the employees said, the hospital’s losses in physician-owned practices totaled $5 million in 2010, $5.2 million in 2011 and $6.6 million in 2012. Church said that her bosses from Adventist Health had told her that other AHS units accepted similar losses because they regarded each practice as a “cost center” that contributed to hospital revenue through referrals.

CFO 'worried about going to jail'

One example of excessive pay, the whistleblowers said, was an arrangement Park Ridge made with Jay Levy, a pediatric urologist. Levy, who maintains a second home here, wanted to work three days a month

for $10,000 a day, they said. Though the rate was “admittedly a stretch” based on fair market value, a Park Ridge finance manager calculated that Levy’s “downstream value” would net the hospital revenue. It agreed to a $300,000 a year contract for three days a month, the whistleblowers said.

After orthopedic surgeon Chris Estes tendered his resignation in November 2012, Park Ridge CFO Karsten Randolph — alarmed at the loss of Estes’s $1.2 million “contribution margin” — instructed Church, director of physician services, to find out what it would cost to keep him. Estes asked for an increase of base salary to $300,000, a $3,000 a month stipend for emergency room coverage, $1,500 a month for travel and forgiveness of $190,000 in debt. To keep his referrals, “Park Ridge officials acceded to almost all his demands.”

A similar economic model allowed Park Ridge to accept losses of $2.5 million to $3 million per year by its Southeastern Sports Physician Services because the practice delivered a “contribution margin of $3.6 million.”

Some of the losses by physicians in their practices were so high that they triggered giveback clauses, the complaint said. Those were often ignored because the doctors' referrals more than made up for the large losses.

Another kickback scheme to maximize revenue involved physicians and non-physician practitioners referring patients to Park Ridge for procedures that could have been done in a doctors’ office for a lower reimbursable rate. In exchange, the medical providers received a cut of the higher rate. The lawsuit listed 52 physicians and 10 non-physician practitioners who “are known to have been compensated in this manner.”

The hospital’s practice of channeling Medicare “Part A” payments to doctors concerned CFO Karsten Randolph to the point that he confided in Church that he was “worried about going to jail,” the lawsuit said. “Despite knowing that these payments are improper,” it said, “Randolph has said he has no intention of reporting the issue to CMS (the federal Centers for Medicaid and Medicare) because the amount of money due to the government would be ‘insane.’”

The payments went on despite warnings from within and from the home office that the “part A” payments were improper. Brian Stiltz, a senior vice president of physician enterprise at AHS, told Park Ridge administrators in August 2012 that the Part A payments “had to stop because it was a clear violation of the Stark Act,” the whistleblowers said. Even as they began to heed the warnings, Park Ridge executives devised other payment schemes to continue rewarding the highest producing referrers, the complaint said. An oncologist received a $25,000 bonus if he saw at least 900 patients per quarter, $50,000 if he saw 1,350.

Some of the compensation paid to the best revenue producers were less conventional. Park Ridge covered the Mustang and BMW lease payments for Dr. Estes for years, the employees' complaint said. Dermatologist Timothy Highley ran a practice independent of his Park Ridge work while the hospital covered his staff and equipment and paid his medical malpractice premiums. A 2007 contract required Dr. Mikhail Vinogradov to devote “substantially all his professional time” to the practice of oncology at Park Ridge. He managed to do so, the whistleblowers said, while working 20-24 hours a week and taking 50 vacation days per year.

A “bonus structure” for high revenue producers resulted in extra payments to surgeons ranging from $63,000 to $490,000 (for Dr. Michael Stalford, an otalaryngologist, double his base salary of $250,000).

When Pryor, whose job was to monitor adherence to health care regulations, warned Park Ridge's Compliance Committee that "billing issues abound," higher-ups brushed her off her as too "compliance conservative" and urged her to leave the matter alone.

Park Ridge also created a revenue center through its geriatrics practice, the lawsuit said. Made up of 30 physicians who primarily treated the elderly, the practice generated revenue of $250,000 a month, in part with excessive doctor visits. Patients who would typically warrant 10 to 12 doctor checkups a year instead got three to four times that many. In one six-month stretch, four patients were seen more than 20 times and 99 were seen at least 10 times, resulting in a stack of Medicare and Medicaid bills for "unneeded visits," according to the complaint.

By the fall of 2012, the geriatrics unit collapsed under the weight of the fraud, the complaint asserted. In September, Church, in a meeting with Park Ridge CEO Jimm Bunch, CFO Randolph and Vice President Jason Wells, "fully explained numerous issues plaguing the geriatrics practice." Instead of fixing it, the administrators decided to shut down the unit, the whistleblowers said, reasoning that the problems were too great, an audit was too risky and the unit was generating too little revenue to cover the salaries of the overpaid physicians.

Practices 'undermine patients' care'

"Adventist-owned hospitals, such as Park Ridge, allegedly paid doctors' bonuses based on the number of tests and procedures they ordered," Jill Westmoreland Rose, the acting U.S. Attorney for the Western District of North Carolina, said in a statement. "This type of financial incentive is not only prohibited by law, but can undermine patients' medical care."

The settlement was signed by prosecutors with the U.S. Justice Department and North Carolina and Florida attorney general's offices, the inspector general offices of the U.S. Department of Health and Human Services and state regulators, Adventist attorneys and the whistleblowers and their attorneys. According to the settlement agreement, a month after the first whistleblower case was filed, Adventist disclosed to the U.S. Justice Department that it had submitted Medicare claims "that were potentially in violation of federal law." The hospital chain subsequently disclosed that it had submitted claims based on illegal referrals at hospitals in North Carolina, Florida, Tennessee and Texas.

The government also said that Adventist's compensation arrangements with "certain employed physicians, as well as a space lease with an immediate family member of an employed physician," violated the federal physician self-referral law. Federal court documents did not disclose whether the illegal arrangements involved Park Ridge physicians. Adventist also admitted that it had submitted falsely coded Medicare claims, according to the settlement agreement. The violations the investigation documented included claims for a higher level of service than was supported by clinical documentation and claims for services by a non-physician practitioner billed under a physician's provider number, the government said.

The settlement did not amount to "an admission of liability" by the health care corporation nor was it a concession by the government that its "allegations are not well founded," the agreement said. Both sides agreed that the settlement would enable all parties to avoid the "delay, uncertainty, inconvenience and expense" of protracted litigation.

"Unlawful financial arrangements between heath care providers and their referral sources raise concerns

about physician independence and objectivity," Benjamin Mizer, head of the U.S. Justice Department's Civil Division, said in a news release. "Patients are entitled to be sure that the care they receive is based on their actual medical needs rather than the financial interests of their physician."

Adventist also agreed to pay $3.7 million to the four states that were party to the agreement. That included $198,454 to North Carolina, the state's share of Medicaid payments that prosecutors said violated the Physician Self-Referral Law and North Carolina false claims act.
Adventist declared in the agreement that it is currently solvent and would remain solvent after it pays $118.7 million to the U.S. Justice Department and four states where the illegal conduct took place. The settlement bars Park Ridge from deducting the value of pending state Medicaid claims that the state has denied. While the agreement blocks further civil sanctions rising from the whistleblowers' complaint, it also bars Adventist from using a "double jeopardy" defense in the event of any criminal prosecution or administrative action. Nor would could the health care corporation use the payment as a defense against any Internal Revenue Service action.

The settlement agreement is "the largest of a Stark case involving a hospital chain," said Peter Chatfield, the attorney for the Park Ridge whistleblowers. Payne, Church and Pryor, he added, "for years tried to get these things corrected without much success." Park Ridge put all three on leave once it was known they were whistleblowers. After negotiating a severance package they left their hospital employment in November 2013.

"There eventually will be a reward paid to the whistleblowers out of the proceeds" from the $115 million fine, Chatfield said. The defendants also will be required to pay attorney fees, which will be a sum above the $118.7 million Adventist has already agreed to pay. Chatfield said he knows of no criminal investigation and given the breadth of the settlement doubted that one was under way.

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