

Eli's Hospice Insider

Fraud & Abuse: Hospice Fraud Cases Catch Mainstream Attention In Florida, Texas

Former employee whistleblower in one case to receive \$900,000.

If you have any doubts that the feds' eyes are on hospice, two new cases should dispel those.

Haven Hospice has agreed to pay \$5.1 million to resolve allegations that Haven billed Medicare for medically unnecessary and undocumented hospice services.

Since June 2011, Gainesville, Florida-based Haven treated at least 63 patients with lengths of stay exceeding three years, the **Department of Justice** said in a release issued right before Christmas. The DOJ listed the hospice provider's flaws: "Haven's diagnoses were not adequately supported, or were supported only with inconsistent practitioner information. Many patients failed to demonstrate objective indications of decline throughout their time in the company's care, despite some being in hospice for nearly six years. Some patients had their hospice diagnoses changed after several years when they did not show decline under their original 'terminal' diagnosis."

The agreement settles a whistleblower lawsuit filed by former Haven employee Dr. **John Simons**, who will receive about \$900,000 of the settlement, according to the DOJ.

"Unfortunately, some healthcare providers seek to defraud Medicare by billing for unnecessary hospice services," said Acting U.S. Attorney **W. Stephen Muldrow** in the release. "This settlement should serve as notice to others who consider similar practices that we will vigorously pursue them."

Haven Hospice President **Gayle Mattson** said the hospice agreed to the settlement "without any admission of liability in order to avoid delay and the expense of litigation," adding that hospice care is a "complex and constantly changing industry" where it is common to have differing interpretations of regulations, reports The Florida Times-Union newspaper in Jacksonville.

Last month, Haven affiliate **VNA and Hospice of the Florida Keys** in Key West announced it was closing, largely due to financial hardship brought on by Hurricane Irma. The agency serving 11 home health patients and 20 hospice patients in the keys will close next month, thanks in part to financial hardship brought on by Irma, according to press reports. The agency already had been struggling, and affiliated with end-of-life care provider **Haven** based in Gainesville in 2015 to try to survive, reports WLRN.

The closure of the agency, which began furnishing hospice services in 1984, will leave the Lower Keys with no hospice coverage, reports The Keynoter newspaper. Haven officials said the fraud settlement did not affect the VNA and Hospice's closure, according to press reports.

Medical Director Mayor Faces Fraud Charges In South Texas

A South Texas fraud case alleging kickbacks for certifying ineligible patients for home health and hospice services has caught mainstream press attention, mainly because the physician indicted is also the mayor of a South Texas town.

Rodney Mesquias owned and controlled the **Merida Health Care Group**, a collection of health care entities throughout Texas that provides hospice and health care services, the DOJ says in a release. **Henry McInnis** and **Jose Garza** helped control, manage, and oversee Mesquias's various entities, and licensed physician **Francisco Pena** was Merida's medical director.

In a fraud conspiracy involving more than \$150 million in false Medicare claims, "Mesquias, McInnis, and Garza caused kickbacks and bribes to be paid to medical directors, including Pena, for the Merida Group's affiliated entities in exchange for certifying that patients qualified for services when, in fact, they did not, and for referring patients for such services," the DOJ claims.

"Mesquias, McInnis, Garza, and Pena also fraudulently kept patients on hospice services for multiple years in order to increase revenue from Medicare."

The defendants laundered the proceeds from the scheme, prosecutors allege. And "Mesquias and McInnis used proceeds derived from the scheme to purchase expensive vehicles such as a Porsche, expensive jewelry, luxury clothing from high-end retailers such as Louis Vuitton, exclusive real estate and season tickets for premium seating to see the San Antonio Spurs," according to the release.

Pena is also accused of giving a false statement to the **FBI** and obstructing the investigation. A "confidential source" (CS) allegedly paid Pena a total of \$5,000 in cash kickbacks for illegal referrals of hospice patients, but when Pena was interviewed by the FBI, he denied ever accepting kickbacks in exchange for patient referrals. "After the FBI interview, Pena then allegedly contacted the CS and directed the CS to mislead the FBI in the event that the CS was interviewed about the cash kickbacks," the DOJ says.

Plus: "During the course of the investigation, Pena allegedly told a cooperating witness that, with respect to hospice patients, 'the way you make money is by keeping them alive as long as possible,'" the DOJ says.

When a federal grand jury subpoenaed Merida's records, Mesquias and McInnis "allegedly instructed their co-conspirators to manufacture false records ... to obstruct the grand jury's investigation," the DOJ adds.

Residents of Rio Bravo have asked the Webb County Attorney to remove Pena from office, KGNS reports. Pena's four-year term as mayor is scheduled to end this year.