

Eli's Hospice Insider

Fraud & Abuse: Whistleblower Lawsuits Cost Hospices Big Bucks

Feds focus enforcement resources on hospice industry.

Hospices' efforts to stay off the fraud and abuse hot seat aren't helped by some recent multi-million-dollar fraud settlements.

For example: A four-state hospice chain based in Oklahoma has paid \$4 million to resolve allegations it submitted false claims for hospice patients who were not terminally ill. The settlement is a result of a whistleblower lawsuit.

Good Shepherd Hospice, which operates 12 locations in Oklahoma, Missouri, Kansas and Texas, "engaged in certain business practices that contributed to claims being submitted for patients who did not have a terminal prognosis of six months or less, by pressuring staff to meet admissions and census targets and paying bonuses to staff, including hospice marketers, admissions nurses and executive directors, based on the number of patients enrolled," the **Department of Justice** says in a release.

Further, "Good Shepherd hired medical directors based on their ability to refer patients, focusing particularly on medical directors with ties to nursing homes, which were seen as an easy source of patient referrals," the feds allege. And Good Shepherd didn't train its staff well enough on eligibility criteria, the DOJ adds.

"Health care fraud puts profits above patients, and steals from taxpayers," U.S. Attorney Tammy Dickinson of the Western District of Missouri says in the release. "In this case, company whistleblowers alleged that patients received unnecessary hospice care while Good Shepherd engaged in illicit business practices to enrich itself at the public's expense."

"Being a hospice provider in the Medicare program is a privilege, not a right," Special Agent in Charge **Mike Fields** of the **HHS Office of Inspector General** Dallas Region says in the release. "Hospice providers that seek to boost profits by providing hospice services to Medicare beneficiaries who are not terminally ill compromise both the health of its patients as well as the integrity of Medicare. Our agency will continue to hold such hospice providers accountable for their actions."

The two former Good Shepherd employees who filed the qui tam lawsuits, Kathi Cordingley and Tracy Jones, will receive about \$680,000 from the settlement, the DOJ reveals.

Other recent hospice enforcement actions include:

In Boston: HHA owner **Michael Galatis** has been sentenced to more than seven years in prison following his Medicare fraud conviction last fall. The judge also ordered him to pay \$7 million in restitution and to forfeit proceeds from the scheme, including his \$850,000 house.

Galatis, an RN, caused Waltham, Mass.-based **At Home VNA** to submit more than \$27 million in fraudulent claims to Medicare from 2006 to 2012, according to prosecutors. He trained AHVNA nurses to recruit older patients on Medicare who lived in large apartment buildings. Galatis held "wellness clinics" at large senior apartment buildings, where nurses convinced senior citizens to enroll with AHVNA and have a nurse visit them in their home, according to the Justice Department. Galatis trained AHVNA nurses to manipulate the patients' Medicare assessment forms to make it appear as though the patients qualified for Medicare home health services.

The home health orders were signed by AHVNA's paid medical director, **Spencer Wilking**, who has separately pleaded guilty to fraud. Wilking signed bogus face-to-face forms without seeing patients as well, the DOJ says.

Janice Troisi, also an RN and the AHVNA clinical director, is scheduled to go to trial in July. Dr. Wilking is scheduled to be sentenced Sept. 22.

In Pittsburgh: The chief operations officer for **Horizons Hospice** faces Medicare fraud charges, according to a DOJ release. **Mary Ann Stewart** ran a scheme in which she caused Horizons staff to place non-qualifying patients into hospice care that were not appropriate, and then recertified the patients for continued hospice care, according to the indictment. Stewart also allegedly made false statements before a grand jury.

Last fall, Horizons medical director **Oliver W. Herndon** pled guilty to falsely certifying patients for hospice care (see *Eli's Hospice Insider*, Vol. 7, No. 12). He faces sentencing this summer.

In Indiana: Premier Hospice and Palliative Care paid \$2.7 million to settle allegations that it billed Medicare for patients that were ineligible for the hospice benefit, the OIG says on its website. **SP Management Inc.** and **Jeff L. Smith** owned the hospice when the alleged conduct began. They sold the hospice to **Abode Healthcare Inc.** on Dec. 31, 2012, and shortly after, Abode self-disclosed potential violations of the Civil Monetary Penalties Law to the OIG, the watchdog agency says.

In New York: Compassionate Care Hospice of New York has agreed to pay \$6.5 million to settle fraud charges □ \$4.9 to Medicare and \$1.6 to the state. The hospice also entered into a Corporate Integrity Agreement with the OIG.

"CCH-New York accepted responsibility for failing, at its Bronx location, to treat patients according to an individualized plan of care, failing to meet the needs of certain patients, failing to make nursing services available 24 hours a day and seven days a week as required, and failing to maintain adequate clinical records," the DOJ says in a release.

The government's complaint alleges that nurses employed by CCH-New York routinely missed visits required by the plan of care, then, at the direction of management, falsified nursing notes in patients' files in order to make it appear as though the visits had been performed.

In South Carolina: A South Carolina chain is facing whistleblower allegations of admitting ineligible beneficiaries.

Former employees at **Agape Hospice Inc.**'s Rock Hill location claim that the company admitted patients who didn't have a six-month prognosis, among other wrongs, reports *The State* in Columbia. However, the government declined to intervene in the recently unsealed qui tam suit filed by **Brianna Michaels** and **Amy Whitesides**.

In a related lawsuit, ex-Agape employee Kim Stroud, who worked for Agape from 2007 to last August in Columbia, alleges the company fired her for cooperating with the **FBI** when it was investigating the whistleblower lawsuit, the *State* says.

Agape's CEO and founder, **Scott Middleton**, disputes the allegations and says they come from "two disgruntled former employees," according to a statement cited by *The State*.

In Texas: Sometimes hospices are on the receiving end of fraud. A Dallas area woman who impersonated a hospice nurse is scheduled for sentencing next month. **Jada Necole Antoine** pled guilty to stealing the identity of a registered nurse to get nursing jobs at eight different hospice companies from 2009 to 2012, including **Heart to Heart Hospice of Texas, Odyssey Healthcare, Community Hospice of Texas, Elysian Hospice, Hospice Pharmacy Solutions, New Century Hospice, Keystone Custom Care Hospice, and Silverado Senior Living Hospice**, the **FBI** says in a release.

Antoine caused Heart to Heart, Odyssey and other hospice agencies to submit about \$2.3 million in hospice claims to Medicare for services purportedly performed by Antoine while she was impersonating the victim RN, the **FBI** notes. Antoine received compensation of \$5,077 from Heart to Heart and \$49,851 from Odyssey.