Eli's Hospice Insider

Fraud & Abuse: Hospice Catches The Fraud Spotlight In Recent Enforcement Actions

Texas, California cases finger hospice fraudsters.

The Department of Justice isn't done with two hospice fraud convicts.

Recap: Merida Group owner **Rodney Mesquias** and Administrator **Henry McInnis** ran a $150 million scheme in Texas in which they aggressively enrolled patients with long-term diseases who had limited mental capacity and/or resided in group homes and other facilities; falsely told patients they had six months to live and helped them prepare for death; fired employees who didn't go along with the scheme; falsified records; and more. Mesquias and McInnis were convicted in 2019 and sentenced to a 20-year and 15-year prison sentences, respectively. Mesquias was also ordered to repay $120 million (see Hospice Insider, Vol. 14, Nos. 3 and 4).

Now the feds have named Mesquias and McInnis in a civil whistleblower suit covering the same ground. "The civil complaint … alleges Mesquias and McInnis conspired to violate the civil False Claims Act by submitting false and fraudulent claims to Medicare for medically unnecessary hospice and home health services," the DOJ says in a release. "It also alleges they paid illegal kickbacks to Merida medical directors for patient referrals and created false patient medical records in support of the false and fraudulent claims," Justice continues.

"The United States is … entitled to recover triple the damages for violations of the civil False Claims Act as well as civil monetary penalties between $11,803 and $23,607 for each false claim submitted to Medicare," the release points out.

Meanwhile, The 5th U.S. Circuit Court of Appeals has affirmed Mesquias' and McInnis' health care fraud and conspiracy convictions, as well as their respective 20-year and 15-year sentences, Reuters reports. Mesquias and McInnis argued that their convictions were based on insufficient evidence, since physicians had certified that the patients were eligible for home-health or hospice care, and their sentences should be reduced based on the number of claims specifically examined in the case. The appeals court shot down both arguments.

Two other recent cases, both in California, are:

Case #1: Authorities arrested 14 individuals in connection with a $4.2 million Medicare and Medicaid fraud scheme run through New Hope Hospice Inc. and Sterling Hospice Care Inc. in San Bernadino County. Two defendants remain at large.

Among the 16 defendants are two married couples who operated the hospices, **Ralph Canales** and **Rochell Paragados Canales**, and **Giovanni Ibale** and **Maureen Ibale**, reports the Los Angeles Times. Los Angeles County's number of hospices multiplied sixfold in the last decade, accounting for more than half of the state's roughly 1,200 Medicare-certified providers in 2020, says the newspaper, which has run a series of articles highlighting hospice fraud in recent years.

From 2015 to 2021, the defendants allegedly billed the programs for patients who were not terminally ill and were often enrolled in the hospice benefit without their knowledge. The hospices paid kickbacks to recruiters for the referrals, falsely represented what services patients would receive, and switched patients between hospices to avoid detection, California Attorney General **Rob Bonta** says in a release.

"Numerous ineligible patients were incorrectly certified as terminally ill and tricked into receiving hospice services, which would have made access to potentially lifesaving medical care difficult in the event that any of them required it," the release says.

"The crimes allegedly committed by the defendants against their patients, Medicare, and our state's Medi-Cal program will not be tolerated," Bonta says in the release.

As of Jan. 1, California now has a minimum one-year moratorium on new hospice licenses, largely due to the Times coverage, the newspaper claims. In an HHS Office of Inspector General report, California and Texas had the highest number of "poor performer" hospices in the country, note attorneys **Alexander Foster** and **Hedy Silver Rubinger** with law firm Arnall Golden Gregory in Atlanta, in online legal analysis.

The moratorium's end is tied to a forthcoming report from the California State Auditor on hospice licensure, Foster and Silver Rubinger note. But the moratorium will last a minimum of one year.

"The moratorium on new licenses will effectively make California akin to a certificate of need (CON) state," Foster and Silver Rubinger believe. And accordingly, it may push up the price of acquisitions there.

Watch out: "Additionally, both transactions and day-to-day operations will be affected as providers contend with increased scrutiny from the state," the attorneys caution.

Plus: "Hospice providers around the country will also be thinking about the old saying: 'as California goes, so goes the nation,'" Foster and Silver Rubinger expect.

Case #2: Authorities have arrested physician **Victor Contreras** and marketer **Callie Jean Black** on Medicare fraud charges related to a $30 million hospice fraud scheme, the DOJ says in a release. Arcadia Hospice Provider Inc. owner **Juanita Antenor**, also implicated in the case, remains at large and is believed to have fled to the Philippines. Antonor also controlled Saint Mariam Hospice Inc.

Arcadia and Saint Mariam submitted claims for patients who were not terminally ill and for services they never provided, the indictment alleges. Both hospices are in Pasadena.

Contreras, who was already on probation imposed by the California Medical Board, provided fraudulent certifications, including for patients he claimed to have examined but never actually saw, the DOJ says. Antonor paid marketers, including Black, for referrals.