



THE UNITED STATES ATTORNEY'S OFFICE
MIDDLE DISTRICT *of* FLORIDA

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Department of Justice

U.S. Attorney's Office

Middle District of Florida

FOR IMMEDIATE RELEASE

Monday, June 4, 2018

**Fort Myers Pain Management Physician Pleads Guilty To
Healthcare Offenses And Agrees To \$2.8 Million Civil
Settlement With The United States**

Fort Myers, FL – Dr. Michael Frey, M.D. (46, Fort Myers) has pleaded guilty to two counts of conspiracy to receive healthcare kickbacks. He faces a maximum penalty of five years in federal prison for each count. Dr. Frey also faces a term of supervised release of up to three years for each count. A sentencing date has not yet been set.

In addition to his guilty plea, Dr. Frey has agreed to a civil settlement under which he will pay \$2.8 million to the United States to resolve allegations that he violated the False Claims Act in a number of ways, including receiving illegal kickbacks and by ordering medically unnecessary laboratory tests.

During the relevant period, Dr. Frey was a practicing interventional pain management specialist and one of the two principal owners of Advanced Pain Management Specialists, P.A., which is located in Fort Myers.

According to the plea agreement, beginning in 2010, Dr. Frey conspired with the owners of A&G Spinal Solutions, LLC, a durable medical equipment provider operating in Fort Myers, to receive compensation in exchange for referrals to A&G Spinal. Dr. Frey was paid a percentage of A&G Spinal's profits based on his referrals and referrals from other providers at Advanced Pain. A&G Spinal rewarded Dr. Frey through checks made payable to his wife. Through this arrangement, A&G Spinal created the impression that Mrs. Frey was an employee of A&G Spinal, when she was not. The two principals of A&G Spinal, Ryan Williamson and William Pierce, have pleaded guilty to conspiring to pay healthcare kickbacks to Dr. Frey and are currently awaiting sentencing.

In addition, from 2013 to 2015, Dr. Frey also received cash payments from Ryan Williamson in exchange for referrals of compound pharmaceutical pain cream prescriptions. Williamson has also pleaded guilty for his role in this arrangement.

In his plea agreement, Dr. Frey also admitted that he had received kickbacks in the form of speaker fees paid to him in connection with his participation in largely bogus Insys Therapeutics, Inc. speaker event programs. Insys manufactures a fentanyl sublingual spray known as SUBSYS. Insys paid kickbacks to Dr. Frey to induce him to write prescriptions for their product.

The civil settlement announced today also resolves allegations that, between 2013 and 2016, Dr. Frey caused the submission of false claims to Medicare and TRICARE by ordering definitive Urine Drug Testing (“UDT”) in circumstances where such testing was not reasonable and medically necessary. Definitive UDT testing was financially lucrative for the Advanced Pain physicians because it was performed at Advanced Pain’s own in-house laboratory and was billed by the practice.

In addition, the civil settlement resolves kickback allegations associated with anesthesia services provided by Anesthesia Partners of SWFL, LLC that was owned by Dr. Frey and his partner Dr. Jonathan Daitch. Anesthesia Partners provided anesthesia services exclusively for the procedures performed by the Advanced Pain physicians. They contracted with Certified Registered Nurse Anesthetists (“CRNAs”) to provide the anesthesia services. These CRNAs were paid a contracted rate, and Anesthesia Partners would bill Medicare and TRICARE directly for the anesthesia services they provided. This arrangement resulted in improper reimbursements to Dr. Frey as one of the owners of Anesthesia Partners. The United States contends that Dr. Frey’s ownership interest in Anesthesia Partners, and the funds he received through this ownership interest, induced him to refer his patients for anesthesia services to Anesthesia Partners.

“This was an alarming case of a physician who abused his position of trust for money,” said U.S. Attorney Chapa Lopez. “This global resolution is a great example of a coordinated healthcare fraud enforcement effort by our criminal and civil divisions, and of our commitment to hold healthcare providers accountable when they violate the law.”

“Dr. Frey deluded himself into believing that accepting thinly-veiled bribes was an easy path to riches. Instead he faces years in prison and a multi-million dollar settlement,” said Shimon R. Richmond, Special Agent in Charge for the Office of Inspector General of the U.S. Department of Health and Human Services. “Dr. Frey’s fate shows, yet again, that those intent on stealing from government health programs will be held accountable.”

“This plea agreement and settlement demonstrates the effectiveness of investigations by the Defense Criminal Investigative Service and our law enforcement partners to ensure that medical service providers do not unjustly enrich themselves by wasting and diverting precious taxpayer dollars. DCIS protects the integrity of DoD programs by rooting out fraud, waste, and abuse that negatively impacts critical programs such as TRICARE,” said Special Agent in Charge John F. Khin, Southeast Field Office.

This case is being prosecuted criminally by Assistant United States Attorneys Rachel Jones and Simon Eth and civilly by Assistant United States Attorney Kyle S. Cohen, with assistance from the

Defense Criminal Investigative Service, the Department of Health and Human Services Office of Inspector General and the U.S. Postal Service Office of Inspector General.

Today's resolution illustrates the government's commitment to combating improper practices that implicate the nation's federally subsidized health care programs, using all statutory and common law remedies available to address such schemes. Tips from all sources about potential fraud, waste, abuse, and mismanagement can be reported to the Department of Health and Human Services, at 800-HHS-TIPS (800-447-8477). The claims resolved by the settlement are allegations only, and there has been no determination of liability.

Topic(s):

False Claims Act
Financial Fraud
Health Care Fraud

Component(s):

USAO - Florida, Middle

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