

THE UNITED STATES ATTORNEY'S OFFICE
DISTRICT *of* NEW JERSEY

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Department of Justice

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District of New Jersey

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Federal Health Care Fraud Takedown In Northeastern U.S. Results In 54 Defendants Charged And Convicted

NEWARK, N.J. – The Justice Department today announced a coordinated health care fraud enforcement action across seven federal districts in the Northeastern United States, involving more than \$800 million in losses and the distribution of over 3.25 million pills of opioids in “pill mill” clinics and doctors’ offices. The takedown includes new charges and convictions by guilty plea against 54 defendants for their roles in submitting nearly \$800 million in fraudulent claims made to federal payers, including 15 doctors or medical professionals, and 24 defendants are charged for their roles in diverting opioids.

The cases prosecuted by this Office in connection with the takedown reflect all of the different facets of our health care and opioids work. Doctors, marketing executives, pharmacists, and the owners and operators of a genetic testing laboratory have been charged with, or have plead guilty to a range of criminal conduct, including: the criminal prescription of highly-addictive opioid pills to patients with no medical need, the paying of kickbacks and other fraud related to unnecessary genetic testing, fraud and abuse in the compounded medicines business, and other crimes that victimize federal health care programs like Medicare and Medicaid, as well as patients across New Jersey who need medical care.

Today’s enforcement actions were led and coordinated by the Health Care Fraud Unit of the Criminal Division’s Fraud Section in conjunction with its Medicare Fraud Strike Force (MFSF), as well as the U.S. Attorney’s Offices for the District of New Jersey, Eastern District of Pennsylvania, Western District of Pennsylvania, Eastern District of New York, Western District of New York, District of Connecticut, and District of Columbia. The MFSF is a partnership among the Criminal Division, U.S. Attorney’s Offices, the FBI and HHS-OIG. In addition, IRS-Criminal Investigation, DOD-DCIS, FDA-OIG, the Medicaid Fraud Control Unit, and other federal and state law enforcement agencies participated in the operation.

The charges involve individuals contributing to the opioid epidemic, including medical professionals involved in the unlawful distribution of opioids and other prescription narcotics, a particular focus for the Department. According to the Centers for Disease Control, approximately 115 Americans die every day of an opioid-related overdose.

Today’s arrests and guilty pleas come one-year after the Department of Justice announced the formation of the Newark/Philadelphia Regional MFSF, a joint law enforcement effort that brings together the resources and expertise of the Health Care Fraud Unit in the Criminal Division’s Fraud Section, the U.S. Attorney’s

Offices for the District of New Jersey and the Eastern District of Pennsylvania, as well as law enforcement partners. The Strike Force focuses its efforts on aggressively investigating and prosecuting complex cases involving patient harm, large financial loss, and the illegal prescribing and distribution of opioids and other dangerous narcotics.

“Rooting out and prosecuting abuses within our health care system is a top priority for my office,” Craig Carpenito, U.S. Attorney for the District of New Jersey, said. “In New Jersey, these illegal activities run the gamut from over-prescribing dangerous opioids, to running pharmacies improperly, to mis-prescribing unnecessary medications, to tricking patients – often the elderly or vulnerable – into seeking expensive genetic testing or compounded prescriptions they don’t need. Today’s message should be clear: We are dedicated to combatting all forms of illegal activity in the health care arena. If you put patients’ health at risk with criminal intent, you will be dealt with as a criminal.”

“Physicians and other medical professionals who fraudulently bill our federal health care programs are stealing from taxpayers and robbing vulnerable patients of necessary medical care. The medical professionals and others engaging in criminal behavior by peddling opioids for profit continue to fuel our nation’s drug crisis,” said Assistant Attorney General Brian A. Benczkowski of the Justice Department’s Criminal Division. “The Department of Justice will continue to use every tool at our disposal, including data analytics and traditional law enforcement techniques, to investigate, prosecute, and punish this reprehensible behavior and protect federal programs from abuse.”

“The FBI does not care about your status in life, your professional standing, your level of income, or your personal connections when you break the law,” Assistant Special Agent in Charge Wayne Jacobs of the FBI’s Newark Field Office said. “If you try to scam the system, if you exploit your professional license just to pad your pockets, if you mortgage your morals just to inflate your bank account, you will only find yourself in deeper debt. We are committed to protecting the public; we are intent on rooting out fraud and corruption; we are duty-bound to track down and arrest anyone who is breaking our federal laws. Don’t be next.”

Among those charged in the District of New Jersey are the following:

Two Doctors Mis-Prescribing Opioids

- Evangelos Megariotis, 66, of Clifton, New Jersey, an orthopedic surgeon who owns and operates Clifton Orthopedic Associates in Clifton, New Jersey. Megariotis was charged by complaint with prescribed large amounts of controlled substances, such as oxycodone, Percocet, Xanax, and promethazine with codeine outside the usual course of medical practice and without a legitimate purpose. He wrote these allegedly illegal prescriptions to patients he knew were abusing opioids. In two years, Megariotis allegedly prescribed more than 1.4 million tablets of oxycodone and over 450 gallons of promethazine with codeine cough syrup to his patients. The Government is represented by Assistant U.S. Attorney Erica Liu, Deputy Chief of the Criminal Division.

- Joseph Santiamo, 64, of Staten Island, New York, a doctor who specialized in geriatric care, was charged by complaint with prescribing powerful opioids to patients he knew were addicted. According to the complaint, Santiamo also solicited sexual favors from some patients in return for writing them an opioid prescription. In a recorded statement to agents, Santiamo admitted he knew his prescriptions were being abused, but kept writing them anyway. Just twenty of Santiamo’s patients allegedly received more than 100,000 oxycodone pills for no legitimate medical purpose. The Government is represented by Assistant U.S. Attorney Brian Urbano of the Criminal Division.

Ex-Sales Rep. Committing Compounding Fraud:

- Kent Courtheyn, of Kent, Ohio, a former medical device sales representative, indicted for his alleged role in marketing compounded (i.e. customized) medicines to patients who didn't need them. Courtheyn allegedly steered prescriptions for these expensive compounded medications to his conspirators, and took a cut for his role. The indictment alleges that the scheme caused at least \$10 million in losses to participating health care plans, at least \$3.5 million of which was paid by TRICARE, the federal program that pays for health care services for veterans. The Government is represented by Assistant U.S. Attorney Erica Liu, Deputy Chief of the Criminal Division.

PrimeAid Pharmacy Indictment:

- Yana Shtindler, 44, and Samuel "Sam" Khaimov, 47, both of Glen Head, New York; Alex Fleishmakher, 33, of Morganville, New Jersey; and Ruben Sevumyants, 36, of Marlboro, New Jersey, charged by indictment. From 2009 through August 2017, Prime Aid Pharmacies (located in Union City, New Jersey and Bronx, New York) engaged in a slew of fraudulent activities including: (a) paying illegal bribes and kickbacks to doctors and doctors' employees in exchange for prescription referrals to Prime Aid; (b) billing health insurance providers for medications that were never actually provided to patients; and (c) opening new pharmacies and concealing the true ownership of those pharmacies to obtain lucrative contracts they otherwise would not have obtained. The scheme of billing for medications that were never dispensed to patients was so egregious that Prime Aid received reimbursement payments of over \$65 million for prescription medications that it never even ordered from distributors or had in stock. In total, Prime Aid's multiple schemes defrauded Medicare, Medicaid, and private insurers out of at least \$99 million. The Government is represented by Assistant U.S. Attorneys Joshua L. Haber and Jason Gould of the Criminal Division.

Empire Pharmacy Criminal Complaint:

- Eduard "Eddy" Shtindler, 36, of Paramus, New Jersey, charged by complaint with conspiracy to commit health care fraud and conspiracy to pay illegal kickbacks to a doctor. From 2012 through at least 2017, Shtindler owned and operated Empire Pharmacy in West New York, New Jersey. For most of that time, Shtindler allegedly paid bribes to a psychiatrist in Hudson County, New Jersey, to induce the doctor to send prescriptions to Empire. On occasion, Shtindler secreted cash bribes in pill bottles that were delivered to the doctor. In exchange for these bribes, the doctor steered patients to Empire pharmacy. In addition, starting in 2015, Empire – at Shtindler's direction – perpetrated a fraudulent scheme to induce doctors to send expensive specialty medication prescriptions to Empire. Specialty medications often required "prior authorization" before being approved for reimbursement by Medicare, Medicaid, and some private insurance providers. To receive prior authorization approval more quickly and successfully than any other pharmacies, Empire employees, including two pharmacists, repeatedly falsified prior authorization forms for medications for various conditions, including psoriasis and Hepatitis C. In total, Empire defrauded Medicare and Medicaid out of at least \$2 million. The Government is represented by Assistant U.S. Attorney Joshua L. Haber of the Criminal Division.

Ark Labs Genetic Testing Indictment:

- Dr. Matthew S. Ellis, 53, of Gainesville, Florida; Edward B. Kostishion, 59, of Lakeland, Florida; Kyle D. McLean, 36, of Arlington Heights, Illinois; Kacey C. Plaisance, 38, of Altamonte Springs, Florida; Jeremy Richey, 39, of Mars, Pennsylvania; and Jeffrey Tamulski, 46, of Tampa, Florida. Kostishion, Plaisance, and Richey operated Ark Laboratory Network LLC (Ark), a company that purported to operate a network of laboratories that facilitated genetic testing. Ark partnered with Privy Health, Inc., a company that McLean operated, and another company to acquire DNA samples and Medicare information from hundreds of patients through various methods, including offering \$75 gift cards to patients, all without the involvement of a treating health care professional. Ellis, a physician based in Gainesville, served as the ordering physician who authorized genetic testing for hundreds of patients across the country that he never saw, examined, or treated. These included patients from New Jersey and various other states where Ellis was not licensed to

practice medicine. Through this process, Ellis, Kostishion, Plaisance, and McLean submitted and caused to be submitted fraudulent orders for genetic tests to numerous clinical laboratories. These orders falsely certified that Ellis was the patients' treating physician and, in many cases, contained false information indicating that a patient had a personal or family history of cancer, when, in fact, the patient had no cancer history whatsoever. In 2018 alone, Medicare paid clinical laboratories at least approximately \$4.6 million for genetic tests that Ellis ordered in this manner. In addition, Kostishion, Plaisance, Richey, and Tamulski entered into kickback agreements with certain clinical laboratories under which the laboratories would pay Ark a bribe in exchange for delivering DNA samples and orders for genetic tests. The bribe payments were based on the percentage of Medicare revenue that the laboratories received in connection with the tests. Among other things, Kostishion, Plaisance, Richey, and Tamulski concealed these kickback arrangements through issuing sham invoices to laboratories that purportedly reflected services provided at an hourly rate even though the parties had already agreed upon the bribe amount, which was based on the revenue the laboratories received. In 2018, the clinical laboratories paid Ark at least approximately \$1.8 million in bribes. The Government is represented by Assistant U.S. Attorney Bernard Cooney of the Criminal Division.

Doctor Pleads Guilty in Compounding Case

- Bernard Ogon M.D., 46, of Burlington, New Jersey, pleaded guilty on September 25, 2019 to one count of health care fraud conspiracy for his participation in a vast compounded medication telemedicine conspiracy. As part of the conspiracy, Ogon admittedly signed prescriptions for compounded medications (that is, medications with ingredients of a drug tailored to the needs of a particular patient) without having established a doctor-patient relationship, spoken to the patient or conducting any medical evaluation. Ogon often signed preprinted prescription forms—with patient information and medication already filled out—where all that was required was his signature. Then, instead of providing the prescription to the patient, Ogon would return the prescriptions to specific compounding pharmacies involved in the conspiracy. Ogon was paid \$20 to \$30 for each prescription he signed, and his participation in the conspiracy caused losses to health care benefit programs of over \$24 million, including losses to government health care programs of over \$7 million. The Government is represented by Assistant U.S. Attorney Jason Gould of the Criminal Division.

The Fraud Section leads the Medicare Fraud Strike Force. Since its inception in March 2007, the Medicare Fraud Strike Force, which maintains 15 strike forces operating in 24 districts, has charged nearly 4,000 defendants who have collectively billed the Medicare program for more than \$14 billion. In addition, the HHS Centers for Medicare & Medicaid Services, working in conjunction with the HHS-OIG, are taking steps to increase accountability and decrease the presence of fraudulent providers.

U.S. Attorney Carpenito also thanked special investigators from his office for their work on these cases.

A complaint, information or indictment is merely an accusation, and all defendants are presumed innocent until and until proven guilty.

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