

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

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Department of Justice

U.S. Attorney's Office

Middle District of Tennessee

FOR IMMEDIATE RELEASE

Tuesday, October 15, 2019

16-Count Superseding Indictment Charges Owner Of Pain MD And Three Medical Professionals In Healthcare Fraud Conspiracy

Over \$38 Million Fraudulently Billed to Federal Healthcare Programs

NASHVILLE, Tenn. – October 15, 2019 –A 16-count superseding indictment unsealed today charged Michael Kestner, 67, of Nashville, Tennessee, Brian Richey, 37, of Cookeville, Tennessee, Daniel Seeley, 58, of Batesville, Mississippi, and Jonathan White, 49, of Tullahoma, Tennessee, with conspiracy to commit health care fraud and multiple counts of healthcare fraud, announced U.S. Attorney Don Cochran for the Middle District of Tennessee and Assistant Attorney General Brian Benczkowski of the Justice Department's Criminal Division.

Richey and Seeley, both nurse practitioners, and White, a physician assistant, were indicted in April on one count of healthcare fraud and one count of conspiracy to commit healthcare fraud. Today's superseding indictment charges each with four additional counts of healthcare fraud and also charges Kestner, the owner of MedManagement, Inc. (MMI), with one count of conspiracy and 15 counts of healthcare fraud.

Kestner surrendered to U.S. Marshals earlier today and will be making an initial appearance before a U.S. Magistrate Judge later this afternoon. Richey, Seeley and White are expected to surrender at a later time.

According to the indictment, Kestner was the owner and CEO of MMI and was the majority owner of Pain MD, with a principal place of business in Franklin, Tennessee. Richey, Seeley and White were employed by MMI, which managed Pain MD. Pain MD operated pain and wellness clinics throughout middle Tennessee, Virginia, and North Carolina and Michael Kestner, who has neither medical training nor certifications, served as its President.

Pain MD represented itself to be an "interventional" pain management practice and it claimed to provide procedures, including injections and durable medical equipment ("DME") that were intended to reduce patient reliance on opioids and other narcotic pain medications. The indictment alleges that, in fact, these practices were intended to increase revenues for Pain MD and to personally enrich Pain MD providers.

Between 2010 and continuing through May 2018, the indictment alleges that Kestner, Richey, Seeley and White conspired to enrich themselves and their employers by submitting false and fraudulent claims to Medicare, Medicaid and TRICARE. Kestner and others took steps to ensure Pain MD providers increased

their “productivity” by providing more and more services, without consideration of whether those services were medically reasonable and necessary. These steps included, but were not limited to: paying productivity-based bonuses to providers; locking providers into legally questionable employment agreements that included extended non-compete periods of up to 24 months; threatening providers who had low productivity numbers with termination and other consequences; sending regular emails, sometimes more than once daily, comparing and ranking providers based on the number of injections or DME devices they had provided; providing erroneous clinical trainings to under-experienced providers, instructing them on inappropriate care protocols and anatomically incorrect injection procedures; and sending Richey, Seeley and White out to clinics to “train” providers, who were not providing a high percentage of injections and DME, and how to “control” the patients and get them to agree to receive unnecessary medical procedures, under threats to discontinue their narcotic pain medications if they refused.

Richey, Seeley and White provided services to patients, namely “Tendon Origin Injections,” which were neither medically necessary nor anatomically possible, provided medically unnecessary DME, and then submitted fraudulent claims to Medicare, Medicaid and TRICARE. These services were provided to further the company’s business model by increasing revenues and to personally enrich Pain MD providers and executives.

As a result of the conspiracy, Kestner, Richey, Seeley and White caused the submission of more than \$27,537,383.17 to be billed to Medicare, resulting in approximately \$5,054,525.07 in reimbursement; more than \$8,567,657.00 to be billed to TennCare, resulting in approximately \$101,077.79 in reimbursement; and more than \$2,544,322.01 to be billed to TRICARE, resulting in approximately \$284,458.51 in reimbursement.

If convicted, the defendants face up to 10 years in prison and a \$250,000 fine on each count.

This case is brought as part of the Appalachian Regional Prescription Opioid (ARPO) Strike Force, comprised of U.S. Attorney’s Offices for ten federal districts in six states, as well as law enforcement partners at the U.S. Department of Health & Human Services, Office of Inspector General; the Defense Criminal Investigative Service; the Department of Veterans Affairs, Office of Inspector General; the IRS, Criminal Investigation; and the Tennessee Bureau of Investigation, Medicaid Fraud Control Unit. Assistant U.S. Attorney Sara Beth Myers and Trial Attorney Anthony Burba of the Fraud Section of the Department of Justice’s Criminal Division are prosecuting the cases. The southern hub of the ARPO Strike Force operates out of Nashville.

An indictment is merely an accusation. All defendants are presumed innocent until proven guilty in a court of law.

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Topic(s):

Health Care Fraud

Component(s):

USAO - Tennessee, Middle

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