



Department of Justice

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## **Justice Department Files False Claims Act Complaint Against Six Physicians in Texas Relating to Alleged Kickbacks and Improper Laboratory Testing Claims**

The Justice Department amended its complaint in a laboratory testing fraud case to add six physicians in Texas. The case alleges False Claims Act violations based on patient referrals in violation of the Anti-Kickback Statute and the Stark Law. The amended complaint further alleges that the six physicians caused claims to be improperly billed to federal health care programs for medically unnecessary laboratory testing.

According to the United States' complaint, the six physician defendants received thousands of dollars in kickbacks in return for their referrals of laboratory testing. The complaint alleges that laboratories True Health Diagnostics LLC (THD) and Boston Heart Diagnostics Corporation (BHD) conspired with small Texas hospitals, including Rockdale Hospital dba Little River Healthcare (LRH), to pay physicians to induce referrals to the hospitals for laboratory testing, which was then performed by THD or BHD. As alleged in the complaint, the hospitals paid a portion of their laboratory profits to recruiters, who in turn kicked back those funds to the referring physicians. The recruiters allegedly set up companies known as management service organizations (MSOs) to make payments to referring physicians that were disguised as investment returns but were actually based on, and offered in exchange for, the physicians' referrals. The complaint alleges that laboratory tests resulting from this referral scheme were billed to various federal health care programs, and that the claims not only were tainted by improper inducements but, in many cases, also involved tests that were not reasonable and necessary.

"The Department of Justice is committed to holding accountable health care providers, including physicians, who commit fraud," said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department's Civil Division. "Improper financial arrangements involving physicians and laboratories can distort physicians' medical judgments, waste taxpayer dollars and subject patients to unnecessary testing or other services."

The Anti-Kickback Statute prohibits offering, paying, soliciting or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid and other federally-funded programs. The Stark Law forbids a hospital or laboratory from billing Medicare for certain services referred by physicians that have a financial relationship with the hospital or laboratory. The Anti-Kickback Statute and the Stark Law seek to ensure that medical providers' judgments are not compromised by improper financial incentives and are instead based on the best interests of their patients.

The United States' amended complaint alleges that, in addition to the previously named defendants, the following six physicians received kickbacks from MSOs in return for their laboratory testing referrals:

- Doyce Cartrett, Jr., M.D., of Silsbee, Texas, allegedly received over \$320,000 from LRH and two MSOs, Ascend MSO of TX LLC (Ascend) and Eridanus MG LLC (Eridanus), in return for his referrals.
- Elizabeth Seymour, M.D., of Corinth, Texas, allegedly received over \$280,000 from two MSOs, Ascend and Eridanus, in return for her referrals.
- Emanuel Paul "E.P." Descant, II, M.D., of Spring, Texas, allegedly received over \$125,000 from two MSOs, North Houston MSO and Tomball Medical Management Inc., in return for his referrals.

- Frederick Brown, M.D., of Missouri City, Texas, allegedly received over \$190,000 from two MSOs, Ascend and Indus MG LLC (Indus), in return for his referrals.
- Heriberto Salinas, M.D., of Cleburne, Texas, allegedly received over \$75,000 from two MSOs, Ascend and Herculis MG LLC (Herculis), in return for his referrals.
- Hong Davis, M.D., of Lewisville, Texas, allegedly received over \$70,000 from two MSOs, Ascend and Herculis, in return for her referrals.

“Schemes that funnel health care referrals do not work without the participation of physicians,” said U.S. Attorney Brit Featherston for the Eastern District of Texas. “They are not merely passive players in these elaborate schemes, but an integral part, without which the scheme could not exist. Our office is committed to rooting out health care fraud by pursuing all players involved in the scheme, from the laboratories and their leaders to the marketers and the physicians who make it all possible. Naming these physicians in the complaint is evidence of that commitment.”

“Patients deserve reasonable and necessary care from providers without improper motivations,” said Special Agent in Charge Miranda L. Bennett of the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG). “Collaborating with our law enforcement partners, we will continue to investigate and hold accountable physicians accepting payments for referrals.”

“The Department of Defense Office of Inspector General’s Defense Criminal Investigative Service (DCIS) is committed to rooting out fraud schemes that waste taxpayer resources and impact mission readiness,” said Acting Special Agent in Charge Gregory P. Shilling of the DCIS Southwest Field Office. “DCIS will continue to work with our partners to hold those accountable who undermine the integrity of the health care system that supports our nation’s service members, retirees and their families.”

The United States’ amended complaint was filed in connection with a lawsuit originally filed under the *qui tam* or whistleblower provisions of the False Claims Act by STF LLC, whose members are Felice Gersh, M.D. and Chris Riedel. The United States intervened in the *qui tam* action in December 2021 and filed a complaint under the False Claims Act in January 2022 against former THD CEO Christopher Grottenthaler, former BHD CEO Susan Hertzberg, former LRH CEO Jeffrey Madison, and others. Under the False Claims Act, a private party can file an action on behalf of the United States and receive a portion of the recovery. The Act permits the United States to intervene in such lawsuits and add claims and defendants, as it has done here. The *qui tam* case is captioned *United States, et al. ex rel. STF, LLC v. True Health Diagnostics, LLC, et al.*, No. 4:16-cv-547 (E.D. Tex.). If a defendant is found liable for violating the act, the United States may recover three times the amount of its losses plus applicable penalties.

This case is being handled by attorneys Christopher Terranova and Gavin Thole in the Civil Division’s Commercial Litigation Branch (Fraud Section) and Assistant U.S. Attorneys James Gillingham, Adrian Garcia and Betty Young in the U.S. Attorney’s Office for the Eastern District of Texas. Investigative support is being provided by HHS-OIG and DCIS. As a result of its efforts, the United States has already recovered more than \$31 million relating to conduct involving BHD, THD and LRH, including False Claims Act settlements with 29 physicians, two health care executives and a laboratory company.

The United States’ pursuit of this lawsuit illustrates the government’s emphasis on combating health care fraud. One of the most powerful tools in this effort is the False Claims Act. Tips and complaints 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 in the complaint are allegations only, and there has been no determination of liability.*

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**Topic(s):**

False Claims Act

**Component(s):**

Civil Division

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